

Product Liability Cases and IP CLE webcast

Free for CCBA members on March 15, 2023

See page 8



COMMUNIQUE

THE OFFICIAL PUBLICATION OF THE CLARK COUNTY BAR ASSOCIATION

MARCH 2023

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The Sports Law Issue



Read the article

Esports in Nevada

By Glenn Light
Karl Rutledge, and Salma
Granich

See page 20



Special Event

Law Day Event at Creech Air Force Base

May 4, 2023

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COMMUNIQUE

THE OFFICIAL PUBLICATION OF THE CLARK COUNTY BAR ASSOCIATION

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Cover Date	Topic of Articles	Closing Date
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February 2023	Civil Rights	1/2/2023
March 2023	Sports Law	2/1/2023
April 2023	Administrative Law	3/1/2023
May 2023	Natural Resources	4/1/2023
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September 2023	Legislative Wrap-up	8/1/2023
October 2023	Gig Economy	9/1/2023
November 2023	Gaming Law	10/2/2023
December 2023	Pro Bono	11/1/2023

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

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

CCBA Ballet Tickets Offer

CCBA members are invited to attend select performances of the Nevada Ballet Theatre.



The Wizard Of Oz

The Smith Center, Reynolds Hall

- **Sat. 5/13/2023 (7:30pm) - CCBA Group Night - Discounted pricing and/or discount code available!**
 - Order for CCBA group tickets for The Wizard of Oz performance on Saturday 5/13/203 (7:30pm) at the CCBA group rate of \$72.50 per ticket while supplies last. Seating: Parterre Center. To order CCBA group tickets, complete to form at <https://clarkcountybar.org/ccba-group-ticket-order-for-the-wizard-of-oz/>.
- **Sat. 5/20/2023 (2:00pm) - Discount code available!**

All sales final; no refunds. No refunds will be accepted. For more information and to request the discount code, contact Donnaw@clarkcountybar.org, 702-387-6011. ☎



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Sports! Coming Into Our Own, Commercially and Artistically like Huey Lewis and the News!

By *Brandon Kemble*

This month, we turn our focus to sports law. I haven't dug up the old issues of the *Communiqué* from ten years ago on the topic, but I'm guessing past authors would be jealous of the sports landscape in Clark County today. We've come a long way from the days of the Wranglers, the 51s, and the Las Vegas Sin. Who could imagine that in such a short time Clark County would be the home of so many professional sports teams and events? We've got something for everyone - football, basketball, Formula 1, MMA, volleyball, soccer, baseball, lacrosse, and more. And how about having two professional hockey teams in the desert?

The economic impact of sports on our community has been significant. By at least one estimate, professional sports in southern Nevada have generated \$3 billion in economic impact and revenue and have created more than 7,000 jobs. The upcoming Formula One Las Vegas Grand Prix race alone is projected to have an overall economic impact of almost \$1.3 billion, and Super Bowl LVIII, which comes to Las Vegas in 2024, is estimated to have an economic impact of more than \$500 billion. According to the Las Vegas Convention and Visitors Authority, sports are now the number 2 reason visitors plan a trip to Las Vegas.

That kind of impact comes with significant opportunities for lawyers, who will help the sports industry navigate the legal landscape in bringing sports organizations and

events to southern Nevada. Last October, Sandra Douglass Morgan—president of the Las Vegas Raiders and the vice chair of the Super Bowl Host Committee—spoke to the members of the Clark County Bar Association and shared the story of her amazing journey to the top of the sports world. We've had other lawyers and leaders from the sports community like Chip Siegel, Chief Legal Officer for the Vegas Golden Knights, and Ike Lawrence Epstein, COO of UFC, share their experiences as well, and we'll be sure to provide our members with future opportunities to gain insight from the lawyers who are leading the sports boom in our community.

This month's authors address cutting-edge issues in sports including NIL (name, image, and likeness) for college athletes, esports, and sports betting software. These topics hint at a near future where southern Nevada is the sports capital of the world.

While being on top of the sports world is new for some, it's a place not unfamiliar to me. In high school, I was third team all-league in tennis and second team all-league in soccer. As an adult male, I bested several children on my way to a third-place finish in my weight class in a judo tournament in Louisville, Kentucky, and for two years running I have won the scoring title among my weekly golf foursome. I look forward to the achievements of the other great athletes in our community, and I look forward to having some fun with you at one of our upcoming events. ●



Brandon Kemble is an Assistant City Attorney in the Civil Division with the City of Henderson. Brandon handles litigation for the City and provides legal advice and legislative support for various City departments. Brandon serves as the CCBA President through December 2023.



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Product Liability Cases and IP CLE Program Set for March 15, 2023

Pricing of the live event via Zoom is included with the 2023 CCBA membership.


On Wednesday, March 15, 2023, Eric L. Abbott will make a special presentation for the continuing legal education of Nevada lawyers in a lunch-time learning program produced by the Clark County Bar Association.

Eric L. Abbott of ERIC ABBOTT LAW PLLC is a registered patent attorney and licensed to practice law in Illinois, Nebraska, Nevada, and Pennsylvania. Eric started practicing law in Nevada in 1996 and spent the first seven years of his attorney career mostly handling various types of civil litigation matters in Nevada courts. Before opening his current practice, over the course of about fifteen years, Eric worked in-house for several different Nevada-based gaming manufactures handling, amongst other legal issues, intellectual property legal issues. Eric's current practice focuses on technology transactions, commercial contracts, intellectual property analysis, and mergers and acquisitions. Eric also serves as Alternate Municipal Court Judge for the City of Las Vegas.

Eric will present information relevant to the pre-filing investigation in a product liability case. The CLE will discuss the following topics: (1) how to spot the different types of intellectual property involved in a product liability case; (2) how to find potentially relevant records regarding this intellectual property on the Internet; and (3) how to understand the content of those records and apply it to a product liability case under Nevada law. Included in the discussion is how to identify, through intellectual property records, the legal names of the entities involved in the design, manufacture, sale, or distribution of a product in a product liability case.

The CLE program, "Product Liability Cases and IP," will be held online via Zoom, from 12:00 to 1:15 p.m., on Wednesday, March 15, 2023. The presentation will offer 1.0 CLE credit to Nevada lawyers. All RSVPs must be made to the CCBA at least 48 hours before the event starts. Pricing of the live webcast event is included with the 2023 CCBA membership. CCBA membership will be verified upon RSVP. During the event, attendance will be taken, and only those Nevada lawyers in attendance will have their attendance reported to Nevada's Board of Continuing Legal Education.

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. 



Eric L. Abbott

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Clark County Bar Committee Meetings

Join in the fun and plan the CCBA's upcoming activities

CCBA members are invited to join bar committees and/or attend their planned activities:

- **Community Service Committee**

Friday, March 3, 2023 (12-1pm) via Zoom

Meeting for CCBA members to plan activities that provide outreach services to the community at large in southern Nevada.

- **CLE Committee**

Wednesday, March 8, 2023 (12-1pm) via Zoom

Meeting for CCBA members to plan CLE programs for the benefit of the Clark County Bar Association and Nevada legal community.

- **New Lawyers Committee Meeting**

Thursday, March 9, 2023 (12-1pm) In-Person at CCBA office, 717 S. 8th Street, Las Vegas

Meeting for new lawyers (admitted to practice in Nevada within the last seven years and regardless of age) to plan social mixers and organize support for law student competitions at the William S. Boyd School of Law.

- **Publications Committee Meeting**

Friday, March 10, 2023 (12-1pm) via Zoom

Meeting for CCBA members to plan content for upcoming issues of the bar journal *Communiqué*.

- **Diversity and Inclusion Committee for Equity (DICE) Meeting**

Friday, March 31, 2023 (12-1pm) via Zoom

Meeting to organize educational programs that facilitate constructive discussion and enhance understanding of diversity issues.

Contact Donna or Stephanie at the CCBA office, 702-387-6011, for more information or to RSVP for a CCBA event.

DICE CLE Series + a Nevada Bar Foundation Matching Challenge!

Sponsor the DICE CLE Series!

The CCBA is producing a series of professional programs designed to address, inform, and educate Nevada bar members regarding diversity, inclusion, and equity.

To help our efforts, the Nevada Bar Foundation (NBF) is pledging a \$5,000 award to provide funding for five DICE CLE programs offered between September 22, 2022, and June 2023. Additionally, the NBF will provide a matching grant of up to \$5,000!

Sign up now!

Contact Donna at the CCBA office at (702) 387-6011 or complete the sponsor form at <https://clarkcountybar.org/>.



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

"Preventing Workplace Discrimination"

A lunchtime learning program offering
1.0 hour of Continuing Legal Education (CLE) for Nevada lawyers

Wednesday, March 29, 2023
12:00 PM – 1:15 PM

Panelists:

Noel Hernandez and Elody Tignor

of Ogletree Deakins Nash Smoak & Stewart PC

Topics:

- Overview and history of anti-discrimination laws including Title VII, ADEA, ADA, Equal Pay Act, Pregnancy Discrimination Act, and 42 USC § 1981
- Employer preventative measures

Offers: 1.0 hour of continuing legal education (CLE) for Nevada lawyers

When: Wednesday, 3/29/2023, 12 p.m.-1:15 p.m.

Where: State Bar of Nevada (Las Vegas office. Zoom option available for remote attendance.

Price: FREE for Nevada lawyers

Attend in person for networking & refreshments!

Sponsorships available.

<https://clarkcountybar.org>
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RSVP NOW

Nevada's Chief Justice Stiglich to Speak at Bar Luncheon on March 23, 2023

RSVP to the CCBA required by March 17, 2023

Special guest speaker Nevada Chief Justice Lidia Stiglich is expected to present an update about the Supreme Court of Nevada at the Clark County Bar Luncheon at the Las Vegas Country Club on March 23, 2023. The special event also will feature:

- CCBA Volunteer Appreciation Awards Presentation
- Swearing-in Ceremony for CCBA Executive Board

CCBA President Brandon Kemble commented, "We are honored to have Chief Justice Stiglich and are excited to learn more about the state of the Nevada Supreme Court and what is in store for the future. The Chief Justice's attendance is fitting for the importance of this event as we honor the CCBA's volunteers. The CCBA owes its success to those that freely give their time and talents to the CCBA and our legal community. Come on out and help us have some fun showing our great volunteers how thankful we are for all they do."

Special thanks to the event sponsors:


- Bank of Nevada
- Dillon Health
- First Legal

The options for entrée are:

- Chicken Angelo
- Salmon Filet w/ Lemon Caper Cream Sauce
- Portobello Stack (Vegan/Vegetarian)

The pricing for people to attend this luncheon is \$45 per CCBA member and \$55 per non-member. The CCBA is pleased to offer a free lunch to CCBA members who actively participated in the committee's activities and attended the majority of the CCBA committee's meetings during 2022. To confirm eligibility, contact Steph or Donna at the CCBA office.

Check-in and networking will begin at 11:30 with the luncheon program to be held from 12:00 to 1:00 p.m. All members of the Nevada bar and bench are invited to attend and congratulate Clark County Bar volunteers and leaders. However, space will be limited to those who RSVP with payment to the Clark County Bar Association by March 17, 2023.

For more information and to RSVP, contact the CCBA office at (702) 387-6011 or complete the RSVP form at <https://clarkcountybar.org/>. 



Chief Justice Lidia Stiglich

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Suicide Awareness and Emotional Well-Being CLE Program Set for March 30, 2023

Pricing of the live event via Zoom is included with the 2023 CCBA membership.

On Thursday, March 30, 2023, Las Vegas psychiatrist Aviv Itzhaki, MD will make a special presentation for the continuing legal education of Nevada lawyers in a program regarding mental and emotional health produced by the Clark County Bar Association and sponsored by WestPac Wealth Partners, Las Vegas Legal Video, and Bank of Nevada.


Dr. Aviv Itzhaki is a Las Vegas native who attended UNLV for undergraduate education, and St. George's University for medical school. He performed his internship and residency at the University of Florida, where he specialized in psychiatry. He graduated medical school with a dual M.D. and Master's Degree in Public Health. He practiced at the Veterans Administration prior to joining Focus Mental Health Solutions, and currently practices a combination of inpatient, outpatient, and emergency room psychiatry. His major focus these days is education, specifically working with residents and medical students as a faculty member for the Southern Hills Hospital residency program.

Join us for a discussion about understanding of mental and emotional health and how we can play a role in preventing suicide in our community.

"Suicide Awareness and Emotional Well-Being" will be held online via Zoom, from 12:00 to 1:15 p.m., Thursday, March 30, 2023. The presentation will offer 1.0 Substance Abuse/Addiction/Mental Health (AAMH) CLE credit (NV) to Nevada lawyers.

Pricing of the live webcast event is included with the 2023 CCBA membership. All RSVPs must be made to the CCBA at least 48 hours before the event starts. CCBA membership will be verified upon RSVP. During the event, attendance will be taken and only those Nevada lawyers in attendance will have their attendance reported to Nevada's Board of Continuing Legal Education.

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 or (702) 387-6011. 



Dr. Aviv Itzhaki

Out of the Darkness Walk

Join us for this community walk to support the American Foundation for Suicide Prevention

Date: 04/22/2023

Start Time: 10:00 am

Location: Sunset Park, 2601 Sunset Rd, Las Vegas, NV 89120

Sign-up for Team CCBA:
<https://supporting.afsp.org/team/ccba>

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40 Year Club Luncheon Set for May 18, 2023

RSVP to the CCBA required by May 12, 2023

Bar members are invited to attend the CCBA's 40 Year Club Luncheon on May 18, 2023. This special event celebrates CCBA members practicing law in Nevada for 40, 45, 50, 55, and 60 years. This year, we will induct CCBA members who were admitted in 1983 to practice law in Nevada and honor members admitted in 1978, 1973, 1968, 1963.

40 Year Club Luncheon

Sponsored by:



Featuring:

- **Master of Ceremonies Dan Polsenberg**
- **Anecdotes & Interviews with inductees and honorees**
- **Plated lunch - Entrée options:**
 - Chicken Marsala
 - Grilled Salmon
 - Penne Vodka
- **When:** Thursday, May 18, 2023
- **Check-in & Networking:** 11:30 a.m.
- **Luncheon Program:** 12 to 1:30 p.m.
- **Where:** Panevino Italian Grille, 246 Via Antonia Ave, Las Vegas, NV 89119
- **Price:**
 - FREE/40 Year Club Inductee
 - \$75/CCBA Member, 40 Year Club Honoree, Guest of Inductee or Honoree
 - \$85/Non-member (\$85)
- **RSVP Deadline:** Friday, May 12, 2023

Check-in and networking will begin at 11:30 with the luncheon program to be held from 12:00 to 1:30 p.m. All members of the Nevada bar and bench are invited to attend and congratulate Clark County Bar volunteers and leaders. However, space will be limited to those who RSVP with payment to the Clark County Bar Association by May 12, 2023.

Sponsorship opportunities are available to law firms and businesses that serve Nevada's legal community.

For more information and to RSVP, contact the CCBA office at (702) 387-6011 or complete the RSVP form at <https://clarkcountybar.org/>.

40 Year Club (2023)

Inductees (Admitted 1983):

Hon. Nancy L. Allf
Mitchell M. Cohen
Hon. Justice Michael L. Douglas (Ret.)
Philip M. Hymanson
Hon. Ronald J. Israel
Christopher R. McCullough
Scott M. Nielson
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Sheri "Sugar" C. Vogel

Honorees (Admitted 1978):

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Hon. Robert W. Teuton

Honorees (Admitted 1973):

Richard G. Barrows
Howard N. Ecker
Gerald M. Gordon
Hon. Philip M. Pro
Gerald M. Welt

Honorees (Admitted 1968):

Paul H. Lamboley
Frank A. Schreck
Kermitt L. Waters

Honorees (Admitted 1963):

Richard H. Bryan



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Law Day Event at U.S. Air Force Base Set for May 4, 2023

Nevada lawyers who are interested in participating should contact the CCBA office at 702-387-6011 for more information.

The U.S. Air Force's (USAF) Creech Legal Office will host its first ever "Law Day" event with attorneys from the Clark County Bar Association (CCBA) on May 4, 2023. The theme per the American Bar Association will be "Cornerstones of Democracy: Civics, Civility, and Collaboration." Law Day will take place in the Owl's Nest at the Creech Air Force Base in southern Nevada.

Activities are planned throughout the day with presentations to be made by Nevada lawyers, community partners, and law enforcement agencies. A morning session with continuing legal education programs for USAF legal personnel will take place in the Creech Legal Office. Topics to be covered will be related to family law and landlord tenant matters relevant to Nevada. In the afternoon, volunteers from the CCBA, Clark County Law Library, Legal Aid Center of Southern Nevada, Nevada Legal Services, Nevada Attorney General's Office of Military Legal Assistance, and Southern Nevada Senior Law Program will present information for service members on the base.


Bring your best Star Wars paraphernalia as the décor will be "May the 4th be with you." Participating agencies will include:

1. Community outreach partners
2. Creech Voter Registration
3. Security Forces
4. Office of Special Investigations
5. Fire Department/ First Responders
6. Creech Legal Office

7. Family Readiness
8. Blood Drive
9. Area Defense Counsel


Creech Air Force Base is home to over 4,000 airmen, civilians, and contractors.

Nevada lawyers who are interested in participating should contact the CCBA office at 702-387-6011 for more information.

The CCBA is organized to encourage the practice of law as a profession; to promote the administration of justice; to encourage a thorough and continuing legal education; to maintain the honor and integrity of the legal profession; to promote high ethical standards of professional conduct; and to cultivate social fellowship and camaraderie among its members. <https://clarkcountybar.org/> 

Volunteers Sought for OMLA's Virtual Lawyer Line

Help with pro bono assistance for civil legal issues to veterans, military members, and their spouses!

OMLA is the Office of Military Legal Assistance, a Division of the Nevada Attorney General. OMLA is looking for attorney volunteers throughout the state and in all areas of practice to participate in their Virtual Lawyer Line. Veterans and military members with qualifying legal questions get a free 1-hour virtual consult with an expert in the needed field of law. OMLA clients present an extremely diverse range of legal questions. Volunteer and help those who serve us. Interested attorneys may contact Special Assistant Attorney General Dawn Jensen at (702) 486-3195 or drjensen@ag.nv.gov. 

Volunteers Sought for Law Day Event at U.S. Air Force Base on May 4, 2023

We need Nevada lawyers to come with us to Creech and meet Airman, civilians, and contractors at this special event. Learn more about the event from the story on page 16.

Nevada lawyers who are interested in participating should contact the CCBA office at 702-387-6011 for more information.

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Civil Bench Bar Meeting

The Civil Bench-Bar Meeting will be on Tuesday, April 11, 2023. This is an opportunity for Nevada counsel to learn about any modifications of processes in the civil department of the Eighth Judicial District Court. The meeting is scheduled to be held via Zoom. To request the link and agenda, send an email to EJDCBenchBar@gmail.com.

District Court Administrative Order 23-01 Outlines Latest Case Reassignments

On January 31, 2023, an order in the administrative matter of department reassignments was filed in the Eighth Judicial District Court. *See* Administrative Order 23-01. The order cites the EJDRC 1.30(b) and NRS 3.025 and makes changes to assignments related to “summary eviction” appeals, Veterans’ Treatment Court, Gambling Treatment Court, and several judicial departments in the Family Division of the Eighth Judicial District Court. For more information, download a copy of the order at <http://www.clarkcountycourts.us/>.

Justice Court Administrative Order 23-02 Regarding Guidelines for Case Assignment Transfers

On February 6, 2023, Chief Judge Cynthia Cruz order in the administrative matter guidelines for case assignment transfers was filed in the Las Vegas Justice Court. *See* Administrative Order 23-02.

The two-page order cites Las Vegas Justice Court Rule 6.5 and states: IT IS HEREBY ORDERED, ADJUDGED, and DECREED that in the interests of judicial economy and to prevent the delay of justice, a Justice of the Peace may retain cases previously assigned to them if said cases are being reassigned under a categorical caseload reassignment and said cases involve complex issues or the Justice of the Peace has done substantive work.

Lawyer Representatives for United States District Court

The United States District Court for the District of Nevada is accepting applications for Lawyer Representatives: one in Reno and two in Las Vegas. Lawyer representatives assist the Court with improving the administration of justice. They provide vital input to the Court on a myriad of issues affecting the operations of the federal courts, including but not limited to rule changes; development of new programs; planning of conferences; and the expenditure of funds from the non-appropriated account. Lawyer representatives also assist with educating members of the Bar generally about conferences and obtaining feedback for future conferences; promoting and judging the Ninth Circuit high school civics contest and local civics outreach; and finding ways to improve the general dialogue between the Court and Bar to make improvements in the judicial system.


The Court has nine lawyer representatives who ensure the lines of communication stay open between the Court and the Bar. The Court holds quarterly meetings with the lawyer representatives and informal meetings as needed. Each year, the Court solicits applications to fill vacant lawyer representative terms, which are three years in duration. The terms are staggered so that one-third of the lawyer representatives are selected each year.

A full public notice for Lawyer Representatives is available on the Court’s website (www.nvd.uscourts.gov). **Letters of interest must be received by 4:00 p.m. on Friday, April 28, 2023.** Questions can be directed to the Clerk of Court at 702-464-5456.

Justice Court Administrative Order 23-01 Regarding Judicial Authorization to Release Defendants on Their Own Recognizance

On January 26, 2023, an order in the administrative matter regarding judicial authorization to release defendants on their own recognizance was filed in the Las Vegas Justice Court. *See* Administrative Order 23-01. It is a joint order with participation by township justice courts from Boulder, Bunkerville, Goodsprings, Henderson, Las Vegas, Laughlin, Mesquite, Moapa, Moapa Valley, North Las Vegas, and Searchlight.

The seven-page order cites Justice Court Rules of Civil Procedure 81(b), Nevada Revised Statutes 178.4851 and 178.453, and the Nevada Pretrial Risk Assessment (NPR). The order includes guidelines that “shall be applied to determine eligibility of persons for a release, without bail, on their own recognizance following an arrest without warrant based upon probable cause. This order specifically does not apply to persons arrested pursuant to an arrest warrant.” *See* Administrative Order 23-01. The order details administration of cases involving misdemeanors, gross misdemeanors, felonies, overriding disqualifications for any authorized release, release orders, and NPRAs overrides.

Administrative Order 23-01 “shall supersede the previous LVJC Administrative Orders 13-01 and 18-04.” The order becomes effective upon the latest date of the signature listed in the order. For more information, download a copy of the order at <https://www.lasvegasjusticecourt.us/>. 

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Esports in Nevada

By Glenn Light, Esq. Karl Rutledge, Esq., and Salma Granich, Esq.

The Nevada gambling market is always evolving and exploring new revenue growth streams. One of the newest and groundbreaking opportunities comes in the way of third-party, electronic sports (esports) betting. In essence, esports is a form of online, skill-based contests where players compete against each other in tournament-style contests on video games played on traditional gaming consoles or computers.

State legislatures and courts have long segregated games of skill from those of chance since the start of this country. *See, e.g., State v. Am. Holiday Ass'n*, 727 P.2d 807 (Ariz. 1986) (describing how different jurisdictions have distinguished between games of chance and games of skill). Skill games avoid prohibition not through an exemption, but rather because they are not gambling. *See, e.g., COLO. REV. STAT. § 18-10-102(2)(a)* (the definition of gambling “*does not include bona fide contests of skill . . . in which awards are made only to entrants or the owners of entries . . .*”) (emphasis added). That is, skill games are carefully designed to avoid the application of gambling laws by remov-

One of the newest and groundbreaking opportunities comes in the way of third-party, electronic sports (esports) betting.

ing the chance element. Unlike gambling games, no person can expect to win a skill game by mere good luck, random moves or pursuant to one or more favorable chance events.

Accordingly, from golf tournaments and trivia contests, the opportunity to win prizes in bona fide competitions of skill has been entrenched in American society. More recently, the Internet and mobile devices have brought a myriad of new opportunities and this sector continues to grow daily with the addition of new skill game operators and games. In 2021 alone, the global esports market exceeded \$1 billion. By the end of 2022, the market is expected to be close to \$1.5 billion, with figures

Glenn J. Light is a Partner and Chair of Lewis Roca's Commercial Gaming Industry Group. He provides counsel on nearly every aspect of commercial gaming transactions, including corporate structure, financing and due diligence.

Karl F. Rutledge is managing partner of Lewis Roca's Nevada offices which include Las Vegas and Reno, and a member of the firm's Commercial Gaming Industry Group providing counsel on gaming, eSports, fantasy sports, sports betting and promotional marketing.

Salma G. Granich is an associate in Lewis Roca's Commercial Gaming Group. Her background includes legal research and writing on commercial and interactive gaming matters and assisting clients with gaming licenses and compliance issues.



exceeding \$5 billion by the end of the decade. The esports market consists of a wide range of revenue streams from sponsorship deals, consumer purchases on video games, in-app spending and merchandise, as well as ticket sales from esports tournaments.

The explosion of esports has had a tremendous impact in the regulated gambling industry as well. This is no more evident than in Nevada, which has seen new laws and regulations arise concerning third-party betting on esports. In particular, during the midst of the COVID 19 pandemic (when no live sports were being played worldwide), the Nevada legislature created the Esports Technical Advisory Committee (“Committee”), which is tasked with providing recommendations to the Nevada Gaming Control Board (“Board”) on what is necessary to safeguard the integrity of third-party wagering on esports in Nevada. Shortly thereafter, the Board approved the placement of third-party wagers on esports competitions with regulated sportsbooks in Nevada on a per-event basis. In essence, any Nevada sportsbook wanting to offer wagers on esports would be required to obtain approval from the Board before taking such bets.

Then late last year, the Committee prepared a draft set of proposed regulations, which would amend Gaming Regulation 22, relating to race books and sports pools, to allow books to accept wagers on esports events in the manner of traditional sporting events so long as the books fulfill certain due diligence requirements.

Such due diligence requirements include obtaining information relating to the video game used for the event, the video game publisher, the event operator used to host the events, technology used to determine the outcome of the event and event rules (the rules must, among other things, demonstrate that the event will be adequately supervised, with effective safeguards in place to protect the integrity of the event and be in compliance with any applicable laws). At the time of writing this article, it is anticipated that the proposed regulations will be discussed by the industry, and ultimately considered for approval by the Nevada Gaming Commission, in the near future.

In short, the esports industry has the potential to attract a new market of audiences for sportsbook operators. However, like other sports currently made available for betting in Nevada, safeguards need to be in place to ensure the integrity of the event. Nevada regulators are again taking the lead in demonstrating their willingness to promote growth in the marketplace and maintain protections in the betting environment. **G**

The advertisement features a dark blue background with a central image of a human eye overlaid with a futuristic, glowing blue digital interface. The interface includes various data points, icons, and lines, suggesting a high-tech or surveillance theme. At the top, the text "Las Vegas Legal Video" is written in a white, sans-serif font, with "LVLV" in large, bold, white letters below it. To the right of the eye is a white icon of a scale of justice. Below the eye, the word "TRIAL" is written in a large, green, blocky font. At the bottom left, the word "VIDEO" is written in a large, green, blocky font. To the right of "VIDEO" is a white icon of a video camera. Below the camera icon is a list of services: "Depositions", "Editing", "Inspections", "Enhancement", "Surveillance", and "Documentaries". At the bottom, the phone number "702.655.5858" and the website "www.lasvegaslegalvideo.com" are displayed in white. Below the website is the address "729 South Seventh Street, Las Vegas, Nevada 89101".

Potential Pitfalls for using Third Party Vendors/ Contractors for Regulated Sports Betting Software

By Eric L. Abbott, Esq.

Sports betting software (some such software is called a computerized bookmaking system) is regulated by state gaming regulators with different regulations in different states.

When sports betting companies expand into new states, these companies would generally like to use the same software across different states **WITHOUT** triggering additional licensing, suitability, or registration requirements of third-party contractors/vendors. The tighter regulation of sports betting software at the same level as a gaming device may, now or in the future, in some jurisdictions, require that the “manufacturer” of that software be subject to increased regulation. Other classifications of sports betting software by gaming regulators can also trigger registration, licensing, or an application for a finding of suitability.

For example, in Nevada, under NRS 463.0136(1), “computerized systems of betting at a race book or sports pool” is “**associated equipment**”. (Emphasis added.) Manufacturers and distributors of associated equipment must register with the Nevada Gaming Control Board (“NGCB”) prior to having such associated equipment

Manufacturers and distributors of associated equipment must register with the Nevada Gaming Control Board (“NGCB”) prior to having such associated equipment made available to a Nevada casino.

made available to a Nevada casino. The NGCB’s Technology Division’s Associated Equipment Approval Request form requires information regarding the identity of both: the holder of any copyrights; and the designer and developer of the software.

The best way to ensure that a sports betting company owns all their third-party contractor/vendor’s intellectual property in the sports betting software is usually to have a written assignment in compliance with applicable law. However, there are potential pitfalls.



Eric L. Abbott, Esq, is Managing Member of Eric Abbott Law PLLC, a registered Patent Attorney, and licensed to practice law in Illinois, Nebraska, Nevada, and Pennsylvania. Eric’s practice focuses on technology transactions; commercial contracts; IP analysis; and M&A. Eric also serves as Alternate Municipal Court Judge for the City of Las Vegas.

The most common mistake in this area is to assume that the copyrights in a “work made for hire” by a third-party contractor are automatically owned by the hiring entity. Under 17 USC § 101, for independent contractors, the work is a work made for hire only if: (1) an express agreement in writing that the work shall be considered a work for hire; and (2) the work itself must be one of the enumerated works in the statute (not all software is necessarily included). Note, as a matter of federal law, works created by US employees in the course and scope of his or her employment are works made for hire which makes the employer the “author” and thus the “owner”. So, for chain of title purposes, if a third-party vendor uses US employees, then, the third-party vendor/contractor is the author and owner. This is true unless in the rare instance that the employees coding the software were hired to perform another job function. If the third-party vendor/contractor uses subcontractors, then there should be written copyright assignments from those subcontractors.

The functionality of software is usually public knowledge, and usually not a trade secret. However, the source code is usually not public and thus can possibly be a trade secret under applicable state law. There could also be patentable inventions in the software. The substance of written assignments of any patents and trade secrets are generally

the province of state law, with, for patents, some Federal legal issues that a practitioner should address.

Generally, written assignments of patents/trade secrets in accordance with applicable law from the subcontractors of third-party vendors/contractors will be necessary for chain of title. For employees, the issue varies by state. But, written assignments in accordance with applicable law would usually be the best practice in most situations.

The good news for Nevada practitioners is that Nevada is the only state that has a clear and relatively automatic statutory provision regarding employer ownership of trade secrets and patentable inventions created by employees:

[e]xcept as otherwise provided by express written agreement, an employer is the sole owner of any patentable invention or trade secret developed by his or her employee during the course and scope of the employment that relates directly to work performed during the course and scope of the employment.

See NRS 600.500.

Open-source software is also used in a lot of software products. That software would be licensed by the third-party vendor/contractor and not owned by the vendor/contractor. Also, third party vendors may use contractors in foreign countries, and, if so, then those laws may apply which makes the legal issues potentially more complicated.

•

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NIL and College Athletes - A New Era for Nevada College Sports

By *Caleb L. Green, Esq.*

College athletes are a crucial part of the sports industry, bringing in billions of dollars in revenue for universities and broadcast networks. Still, despite their importance, college athletes have been denied the right to profit from their name, image, and likeness (NIL) until recently. In 2021, the Nevada legislature passed a new law in Nevada, giving college athletes in the state the right to receive compensation for the use of their NIL. However, a new Nevada new NIL law will impact college athletes and the collegiate sports industry.

What is NIL?

Name, image, and likeness rights, also known as NIL, refer to the rights of an individual to control the commercial use of their name, image, and likeness. This includes the right to control the use of one's name, image, and likeness in advertising, sponsorships, and other commercial ventures. In the context of college athletics, NIL rights allow athletes to earn money from the use of their names, images, and likenesses in connection with their sport.

In Nevada, NIL laws are codified under Nevada's right of publicity statute. Nevada Revised Statutes Chapter 597.790 grants a right of publicity in one's name, voice,

Nevada Revised Statutes Chapter 597.790 grants a right of publicity in one's name, voice, signature, photograph, or likeness.

signature, photograph, or likeness. The right lasts until fifty (50) years after the individual's death, and it requires written consent for third parties to exploit another's name, image, or likeness for commercial purposes.

Historically, college athletes have been denied the right to profit from their NIL. This is because college athletics are considered amateur sports, and athletes are not considered employees of their respective universities. Prior to states like Nevada enacting laws permitting college athletes the right to exploit their NIL, the National Collegiate Athletic Association (NCAA) instituted rules barring athletes from profiting or exploiting their name, image, or likeness rights throughout the vast majority of U.S. sports. As a result, student athletes have been restricted from earning any compensation for their athletic performances, including compensation for the use of their NIL. Meanwhile, universities and television networks have been free to use and



Caleb Green is an Intellectual property Strategist and Sports & Entertainment Attorney in the Las Vegas office of Dickinson Wright PLLC. Caleb also serves as the Treasurer of the Las Vegas Chapter of the National Bar Association.

exploit student athletes' NIL, leaving college athletes disenfranchised. Nevada's law changes that.

Assembly Bill 254 (2021)

With the passage of AB 254 in 2021, Nevada has become one of the first states in the nation to pass a law allowing college athletes to receive compensation for the use of their NIL. Under the new law, college athletes in Nevada are now able to sign endorsement deals, receive compensation for the use of their name, image, and likeness in advertisements, and enter into other commercial ventures.


The new law is seen as a significant victory for college athletes in Nevada, who will now have the opportunity to earn money from their athletic careers. However, the law also has broader implications for the sports industry, as other states may follow Nevada's lead and pass similar laws.

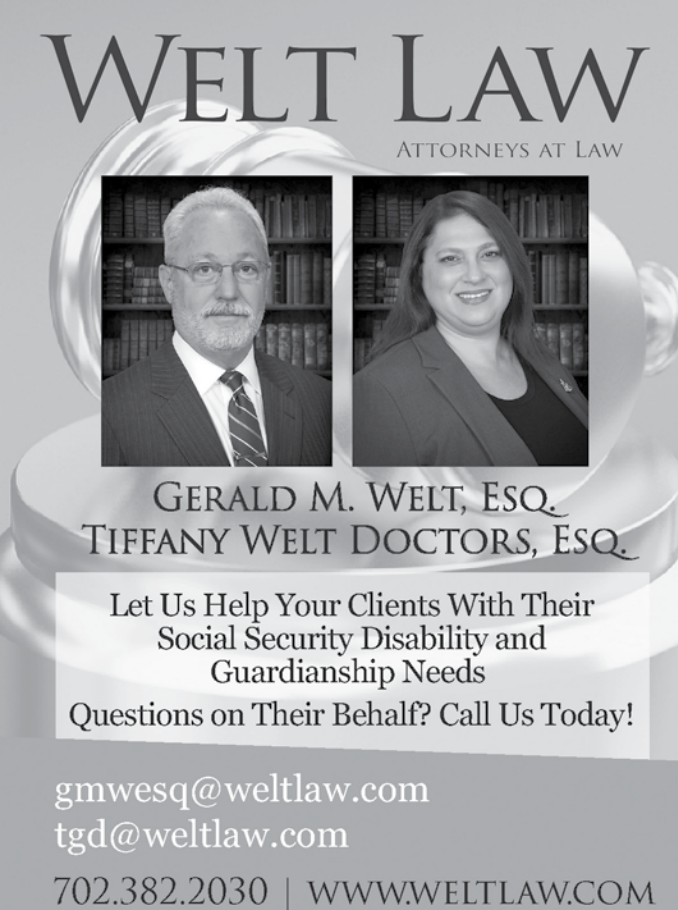
The Impact on College Athletes

While the new law is still in its infancy, its impact could be significant throughout Nevada college sports. With the ability to earn money from the use of their NIL, athletes will be able to generate additional income, which they can use to support themselves and their families. In



many cases, this additional income may be the difference between being able to pursue an athletic career or not.

The new law will also provide athletes with the right to exercise more control over their NIL. Instead of having their name, image, and likeness rights solely controlled by a university athletics departments, athletes will now have the ability to control how their NILs are used and to negotiate compensation for their uses.

However, with great power comes great responsibility. Although college athletes have the power to profit from exploiting their NIL, they should be vigilant to navigate this new era of college sports prudently. For example, college athletes may need to retain counsel to draft, review, negotiate, and explain the nature and terms of any NIL deal the student may consider. Additionally, athletes receiving significant NIL deals may want to consult with legal counsel to properly navigate any reporting requirements and tax laws that may apply 




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A Friendly Sections Challenge

By Paola Armeni, Esq.

We all like challenges, and today, I invite you to join the State Bar of Nevada's Section Pro Bono Challenge. The challenge period is now through May.

This competition is open to every section of the State Bar. The contest will run now through May. The winning section will be honored at the State Bar annual conference in New York City. In addition, the State Bar will feature the winning section in social media and in *Nevada Lawyer*. And there's more; the top volunteer from each of the top ten sections wins lunch with the Supreme Court of Nevada and the Nevada Court of Appeals. But don't worry, there is also a benefit for just participating. Participants will be invited to a reception with either the Eighth or Second Judicial District Court Judges.

To participate in the challenge, visit the State Bar's website to sign up online and select your preferred legal aid provider; Legal Aid Center of Southern Nevada, Nevada Legal Services, Northern Nevada Legal Aid, Southern Nevada Senior Law Program, or Volunteer Attorneys for Rural Nevadans.

Please encourage CCBA members who also members of a State Bar of Nevada Section to get involved in pro bono. Pro bono participation is crucial to expanding access to justice in Nevada.


If you are worried you don't have time to take a case, sign up for an Ask-A-Lawyer session or donate to expand access to justice.

CCBA members who also members of a State Bar of Nevada Section to get involved in pro bono. Pro bono participation is crucial to expanding access to justice in Nevada.

Your service and donations during the challenge period now through May will count towards your section's percent participation for recognition, and signing up online during the challenge period for pro bono service completed **this year** will also count.

Take the Section Pro Bono Challenge

- Learn about the Sections Pro Bono Challenge: <https://nvbar.org/sectionsprobonochallenge/>
- Sign up to volunteer: <https://nvbar.org/volunteer-for-pro-bono-sign-up/>
- Make a donation: <https://www.nevadabarfoundation.org/donate/>

Together we can make change. Thanks! 



Paola Armeni, Esq. is president of the State Bar of Nevada and managing partner of the Las Vegas office of Clark Hill LLP. Paola provides pro bono in Child Advocacy Project cases, sealing criminal records and 1983 civil rights cases through the Federal Pro Bono Program. In 2012, Paola received the distinguished Myrna Williams Pro Bono Award by Legal Aid Center of Southern Nevada Center. She has been recognized multiple times as a member of the Legal Aid Center 50 hour and 100 hour club for her donated service. Paola also serves as a CAP mentor to attorneys who take on new CAP cases.



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Paralegals who are looking to advance their careers, may consider joining the Paralegal Division of the State Bar of Nevada. The division welcomes new members who have an interest in networking, education, and professional growth opportunities. They are proud to announce their continued affiliation with NALA, the Paralegal Association. As part of this affiliation with NALA, the division is seeking a NALA Liaison to facilitate advancing their CLE offerings to the Nevada paralegal community. Additionally, this affiliation with NALA will afford benefits to division members that will enhance their professional legal career. Division membership will offer greater professional distinction as a vital member of the Nevada legal community. The division has ongoing good news and benefits to share with new and existing members.

Interested paralegals may contact division chair, CluAynne M. Corwin at (702) 229-2351 or e-mail nevadabarparalegal@gmail.com with questions. A copy of the membership application is located on the Nevada State Bar’s website at www.nvbar.org.

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Make your order now, and complete the CLE program(s) **BEFORE December 20, 2023**, so we have enough time to report your attendance to the Nevada CLE Board for the 2023 reporting period. See page 31 for more information on CLE reporting services.

Orders for recorded and alternative format CLE programs can be made online at ClarkCountyBar.org or via e-mail to CCBA Executive Director Donna Wiessner via Donnaw@clarkcountybar.org. For more information, see page 31.

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



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LAS VEGAS LEGAL VIDEO



CCBA's Continuing Legal Education (CLE) Library

Index of CLE Programs (Recorded & Alternative Format)

1. Five Reasons You Should Refer an International Client to Consult a Business Immigration Attorney

Speaker: Margo Chernysheva of MC Law Group

Recorded: 1/19/2023

Format: Audio/Video

Offers: 1.0 CLE credit (NV)

Price: \$25/CCBA member, \$50/Non-member

2. Family Law New Rules: EDCR 5

AKA: CCBA Article #14

Author: Marshal S. Willick, Esq.

Published: *Communiqué* (Nov. 2022)

Format: Article (PDF)

CLE: 1.0 CLE Credit (NV)

Price: \$25/CCBA member, \$50/Non-member

3. Family Law 101

Speaker: Lorien Cole of Cole Family Law Firm

Recorded: 11/10/2022

Format: Audio/Video

CLE: 1.0 CLE credit (NV)

Price: \$25/CCBA member, \$50/Non-member

4. Critical Race Theory on Civil Rights and Criminalization

Speakers: Professor Roy L. Brooks, University San Diego School of Law; Professor Frank Rudy Cooper, 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

Recorded: 11/4/2022

Format: Audio/Video

CLE: 1.0 Ethics CLE credit (NV)

Price: FREE for Nevada lawyers

5. An Introduction to Critical Race Theory

Speakers: Professor Roy L. Brooks, University San Diego School of Law; Professor Frank Rudy Cooper, 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

Recorded: 10/14/2022

Format: Audio/Video

CLE: 1.0 Ethics CLE credit (NV)

Price: FREE for Nevada lawyers

6. Is Nevada Cyber Law Keeping Up with National Efforts to Protect its Residents Online?

AKA: CCBA CLE Article #13

Author: Benjamin B. Gordon, Esq.

Published: *Communiqué* (Oct. 2022)

CLE: Offers 1.0 CLE credit (NV)

Price: \$25/CCBA member, \$50/Non-member

7. Hispanic Leaders in Law

Speakers: Judges Cristina Silva, Adriana Escobar, Vincent Ochoa and general counsel for the NV General's Office Leslie Nino Piro

Recorded: 9/28/2022

Format: Audio/Video

CLE: 1.0 Ethics CLE (NV)

Price: \$FREE for Nevada lawyers

8. Ethics From the Desk of Bar Counsel

Speaker: Daniel Hooge, Bar Counsel, of State Bar of Nevada

Recorded: 9/20/2022

CLE: 2.0 Ethics CLE (NV)

Price: \$50/CCBA Member or \$100/non-member

9. Deposition Conduct Rules – Dos & Don'ts

Speakers: Erin Lee Truman and Jay Young, Discovery Commissioners for the Eighth Judicial District Court
Recorded: 8/31/2022
CLE: 1.0 General CLE credit (NV)
Price: \$25/CCBA Member or \$50/non-member

10. State of Play Cannabis Law 2022

Speakers: Shamus Flynn, Daniel Giudici, and A. William "Bill" Maupin of Flynn Giudici, PLLC
Recorded: 8/25/2022
CLE: 1.0 CLE credit (NV)
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11. Working with Your Experts

Speaker: Mark D. Rich, CPA, CFF of Rich, Wightman & Company, CPA
Recorded: 7/20/2022
Format: Audio/Video
CLE: 1.0 CLE credit (NV)
Price: \$25/CCBA member, \$50/Non-member

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

AKA: CCBA Article #12
By John M. Naylor, Esq. of Naylor & Braster
Published: *Communiqué* (June/July 2022)
Format: Article (PDF)
Offers 1.0 Ethics CLE credit (NV)
Price: \$25/CCBA member, \$50/Non-member

13. Someone Subpoenas Your Client Files – What Do You Do Next?

Speaker: John M. Naylor, Esq. of Naylor & Braster
Recorded: June 30, 2022
CLE: 1.0 Ethics CLE (NV)
Price: \$25/CCBA Member or \$50/non-member

14. Preparing Witnesses with Documents: Risks and Rewards

Speakers: Michael J. Gayan, Esq. and Alysa M. Grimes, Esq. of Kemp Jones, LLP
Recorded: May 26, 2022
CLE: 1.0 Ethics CLE credit (NV)
Price: \$25/CCBA Member or \$50/non-member

15. How to Avoid (or Compel) Disclosure of Documents a Witness Reviewed Before Testifying

AKA: CCBA CLE Article #11
By Michael J. Gayan, Esq. and Alysa M. Grimes, Esq.
Published: *Communiqué* (May 2022)
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16. EDCR 5 Update: New Rules Approved

Speakers: Hon. Denise Gentile and Hon. Charles Hoskin of 8th Judicial District Court, Family Division; Marshal Willick of Willick Law Group; Michael P. Carman of Fine Carman Price; Jennifer V. Abrams and Vincent Mayo of Abrams Mayo Law Firm
Recorded: 5/20/2022
Format: Audio/Video
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17. Taking Steps to Improve your Mental Health

Speaker: Aviv Itzhaki MD of Focus Mental Health
Recorded: 4/27/2022
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18. Basics of Handling 1983 Claims

Speakers: U.S. Magistrate Judge Brenda Wexler; Travis N. Barrick, Esq. of Gallian Welker & Beckstrom, L.C.; Philip Lyons, Paralegal
Recorded: 3/30/2022
Format: Audio/Video
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19. Employment Law Class Actions in Nevada

Speakers: Montgomery Y. Paek and Diana G. Dickinson of Littler Mendelson
Recorded: 2/8/2022
Format: Audio/Video
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20. Five Procedures to Keep You Bar Compliant and Client Happy

Speaker: Joel Selik, Esq. of Selik Law Offices
Recorded: 1/19/2022
Format: Audio/Video
CLE: 1.0 Ethics CLE credit (NV)
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21. Landlord Tenant Law in Nevada and the COVID 19 Impact

Speaker: Jim Berchtold of Legal Aid Center of Southern Nevada
Recorded: 12/16/2021
Format: Audio/Video
CLE: 1.0 CLE credit (NV)
Price: \$25/CCBA member, \$50/non-member

22. Probate and the Pandemic: Trust and Estate Legislative Update

Speakers: Alan D. Freer and Jeffrey P. Luszeck of Solomon, Dwiggin, Freer & Steadman, Ltd.
Recorded: 12/1/2021
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