CLE Webcasts on Traffic Court, Asset Protection, and Health Care Powers of Attorney Free for CCBA members on April 5, April 25, and May 11 respecitvely See pages 7 and 10



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Administrative Law



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Baseball & Ballet Ticket Offers

See pages 14 and 16



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For more information about our publication's editorial calendar, deadlines, editorial policy, author guidelines, ad rates, ad specifications, and deadlines, contact the publisher at Clark County Bar Association, 717 S. 8th Street, Las Vegas, Nevada, 89101-7006. Phone: (702) 387-6011.

Editorial Calendar Cover Date Topic of Articles Closing Date January 2023 Five Things 12/1/2022 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 June/July 2023 Membership Matters 5/1/2023 Real Estate August 2023 7/1/2023 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 the *Communiqué* are subject to change without notice.

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Legal Services Corporation Notice of Grant Funds Available for Calendar Year 2024

The Legal Services Corporation (LSC) announces the availability of grant funds to provide civil legal services to eligible clients during calendar year 2024. In accordance with LSC's multiyear funding policy, grants are available for only specified service areas. On or around March 14, 2023, LSC will publish the list of service areas for which grants are available, and the service area descriptions at https:// www.lsc.gov/grants-grantee-resources/our-grantprograms/basic-fieldgrant/lsc-service-areas. The Request for Proposals (RFP), which includes instructions for preparing the grant proposal, will be published at https:// www.lsc.gov/grants-grantee-resources/our-grantprograms/basic-fieldgrant on or around April 14, 2023. Applicants must file a Pre-Application and grant proposal through LSC's grants management system to participate in the grants process.

Please visit https://www.lsc.gov/grants-granteeresources/our-grant-programs/basic-field-grant for filing dates, applicant eligibility, submission requirements, and updates regarding the LSC grants process. Please email inquiries pertaining to the LSC grants process to LSCGrants@lsc.gov. •

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Bar Activity

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

Donations to support American Foundation for Suicide Prevention Tax ID: 13-3393329]

Clark County Bar Luncheon Highlights

sponsored by Bank of Nevada, First Legal, and Dillon Health, held at the Las Vegas Country Club on March 23, 2023. The luncheon was hosted by CCBA President Brandon Kemble and featured a swearing-in ceremony, a special guest speaker, and the presentation of volunteer appreciation awards.



Parraguirre, Douglas Herndon, Lidia

Stiglich greet CCBA President Brandon

Chief Justice Lidia Stiglich presented a brief yet detailed update about the Supreme Court of Nevada. She included interesting statistics relevant to the court's caseload and demographics. She also presided over the swearing-in ceremony for the CCBA Executive Board let by Brandon Kemble (President), Paul Ray (President-Elect), and Joel Henriod (Secretary-Treasurer).

Brandon noted that CCBA Past President Nedda Ghandi was unable to attend the event, and he recognized her and several members of the bar for their

tremendous efforts made to support the organization during the past year.

CCBA's Volunteer Appreciation Awards

Award winners:

Kemble.

- Michael Wendlberger Volunteer of the Year
- Marshal S. Willick Circle of Support, CLE Committee
- Benjamin Gordon Circle of Support, Community Service Committee
- Angela Cook Circle of Support, Diversity and Inclusion Committee for Equity (DICE)
- **Joshua Dresslove** Circle of Support, New Lawyers Committee
- Jennifer Roberts Circle of Support, Publications Committee
- Minjia Yan Ambassador of the Year
- Bank of Nevada Sponsor of the Year
- **Brandon Kemble** Board Member of the Year

Recognition of Committee chairs:

- Michael Wendlberger (CLE)
- Alicia May and Benjamin Gordon (Community Service)



CCBA Board Member Annette Bradley and DICE Committee Chair (2022) Sheri Ann Forbes

- Sheri Ann Forbes and Michael Nuñez (Diversity and Inclusion Committee for Equity)
- Josh Dresslove and Christena Georgas-Burns (New Lawyers)
- Alia Najjar and Jennifer Roberts (Publications)

40 Year Club Luncheon

Mark your calendars for May 18, 2023, when we will host the 40 Year Club Luncheon to celebrate CCBA members who have practiced law in Nevada for 40, 45, 50, & 55 years. This popular annual event typically sells out early. Learn more on page 16. **C**

March luncheon sponsors









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

he 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.

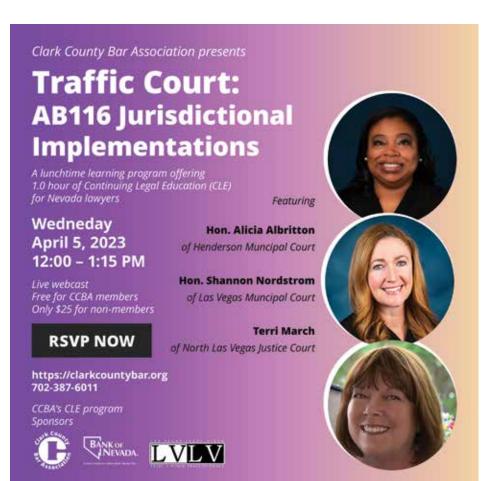
Activities are planned throughout the day with presentations to be made by Nevada lawyers, community partners, and law enforcement agencies. Bar members will be volunteering during this special event.

For more information, contact the CCBA office at 702-387-6011. **Q**

Law Day Photo

Image courtesy of the Creech Legal Office for editorial use by the Clark County Bar Association.

The appearance of U.S. Department of Defense (DoD) visual information does not imply or constitute DoD endorsement.





Traffic Court CLE for Nevada Lawyers Set for April 5, 2023

On Wednesday, April 5, 2023, Judge Alicia Albritton of Henderson Municipal Court, Clerk and Court Administrator Terri March of North Las Vegas Justice Court, and Hearing Commissioner Shannon Nordstrom of Las Vegas Municipal Court will make a special presentation for the continuing legal education of Nevada lawyers in a lunchtime learning program produced by Weldon Havins, MD, Esq. of the CCBA's CLE Committee.

The panelists will present "Traffic Court: AB116 Jurisdictional Implementations" and address important information on topics relevant to their jurisdiction.

Judge Albritton's topics:

- How AB116 is implemented in Henderson Municipal Court
 - Review of "AB116 Overview for Attorneys"
- Ongoing Issues and Concerns
 - Public Confusion
 - Misinformation from the media
 - Traffic misdemeanor citations and civil infraction citations have different laws/ rules that apply
 - Important issues not addressed in the bill
 - Juvenile offenders
 - Unresolved citations
- Brazos (system used for ticket writers)

Terri March's topics:

Challenges associated with the implementation of case management systems

Hearing Commissioner Nordstrom's topics:

- What's new with LV Muni Court Traffic
- New court rules and where to find them
- Attorney sessions
- Arraignments and trial settings
- Payment options

The live presentation of "Traffic Court: AB116 Jurisdictional Implementations" will be held online via Zoom, from 12:00 to 1:15 p.m., Wednesday, April 5, 2023. The program will offer 1.0 CLE credit to Nevada lawyers. All RSVPs must be made to the CCBA at least 48 hours be-

fore the event starts. Pricing of the live webcast event is included with the 2023 CCBA membership. Non-CCBA members may attend this CLE provided they make payment of \$25.00 to the Clark County Bar Association.

Pricing of the live event via Zoom 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).

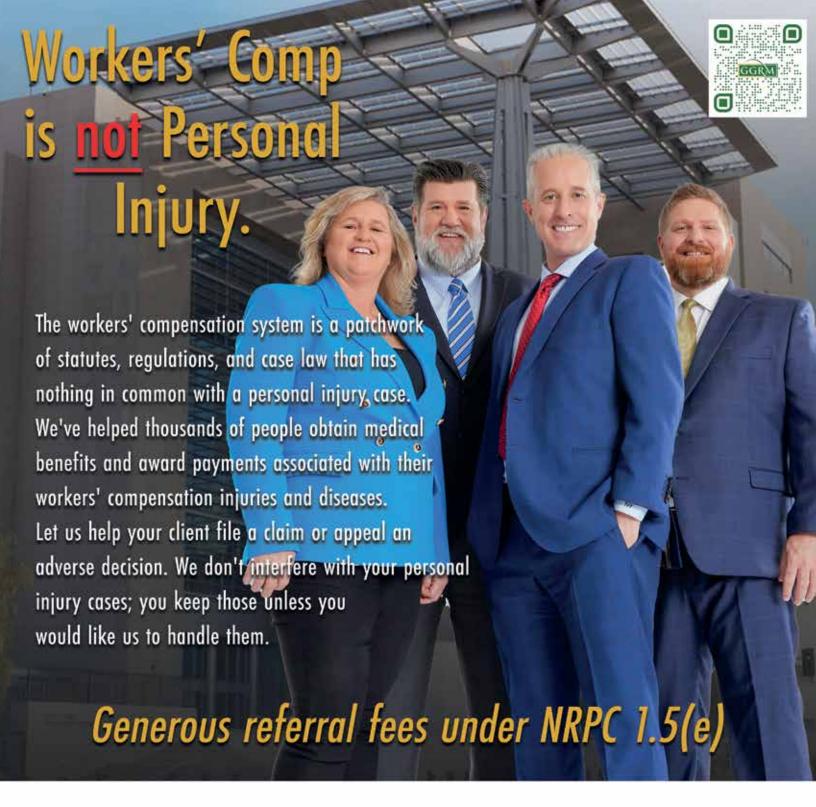
For more information and to RSVP for this event, contact Donna Wiessner at Donnaw@clarkcountybar.org, (702) 387-6011.

CCBA's CLE programming sponsors



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Health Care Power of Attorneys CLE for Nevada Lawyers Set for May 11, 2023

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

n Thursday, May 11, 2023, elder law attorney Carol Kingman will make a special presentation for the continuing legal education of Nevada lawyers in a lunchtime learning program produced by the Clark County Bar Association and the Southern Nevada Senior Law Program.

Carol Kingman is originally from Glendale, Arizona, but has lived in Las Vegas since 1987. She graduated from Brigham Young University with a bachelor's degree in education and from the University of Nevada, Las Vegas with a master's degree in history. Prior to attending law school, she taught history at UNLV on a part-time basis and then, when the Boyd School of Law was established at UNLV, had the opportunity to be one of the first students to graduate from there with a juris doctorate. Carol has continued to teach at College of Southern Nevada in their paralegal studies program while working full-time as an elder law attorney at the Southern Nevada Senior Law Program, which serves citizens in southern Nevada who are 60 years of age or older at no cost. Carol has three grown children and four young grandchildren.

Carol will present the CLE program "Basic Estate Planning Components – Focus on Health Care POAs" and will review the basic components of an estate plan, with emphasis on the Durable Power of Attorney for Health Care Decisions (DPOAH). Carol will focus on the types of decisions the DPOAH requires and the various factors to consider in making those decisions. The presentation is designed to assist practitioners in guiding clients through this challenging document.

The live presentation of "Basic Estate Planning Components – Focus on Health Care POAs" will be held online via Zoom, from 12:00 to 1:15 p.m., Thursday, May 11, 2023. The program 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. Non-CCBA members may attend this CLE provided they make payment of \$25.00 to the Clark County Bar Association.

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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. •



Carol A. Kingman, Senior Staff Attorney at the Senior Law Program

Event sponsor





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Bruce A. Edwards, Esq.



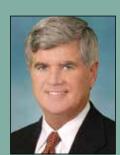
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David S. Lee, Esq.



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Hon. Philip M. Pro (Ret.)



Hon. David Wall (Ret.)

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Meet Your Law Students Mixer Set for April 6, 2023

ar members and law students are invited to attend the 2nd Annual Meet Your Law Students Mixer to be held at Claggett & Sykes Law Firm, from 5 to 7:30 p.m. on Thursday, April 6, 2023. This special event is being organized by the Clark County Bar Association (CCBA) and UNLV William S. Boyd School of Law.

The event celebrates law students who are interested in meeting members of the bench and bar including managing and hiring partners from law firms in Clark County, Nevada. Attendees can meet representatives from Nevada law firms and the members of the CCBA's Board of Directors, Diversity and Inclusion Committee for Equity (DICE), Community Service Committee, and New Lawyers Committee.

Managing and hiring partners are invited to meet and greet with law students at this private indoor/outdoor event featuring complimentary food and drink tickets while supplies last. There is no fee to attend this event; however, space will be limited to those who RSVP to the CCBA. Sponsorships are available to selected companies.

Participating sponsors will have their company's name and a short statement (of less than 25 words) to describe the firm will be included in the follow up article about the event in an upcoming issue of Communiqué, the official publication of the CCBA. Additional perks depend on the level of sponsorship.

The event celebrates law students who are interested in meeting members of the bench and bar including managing and hiring partners from law firms in Clark County, Nevada. This is a private indoor/outdoor event featuring complimentary food and drink tickets while supplies last. There is no fee to attend this event; however, space will be limited to those who RSVP to the CCBA.

RSVP to the CCBA is required by March 31, 2023. For more information, contact Stephanie Abbott at StephanieAbbott@clarkcountybar.org or 702-387-6011. **G**

Event Sponsors





Brownstein













clark county bar association 5th Annual

Pub Grawl

Thursday, April 27, 2023

Featuring complimentary drink ticket (1 per person) available at each venue and snacks at 18bin and NV Brew Works (while supplies last) for members of the Clark County Bar Association (CCBA).

Hop on / off at any point:

1st Stop: **18bin** – 5 to 5:45 p.m.

2nd Stop: **Cornish Pasty** – 6 to 6:30 p.m.

3rd Stop: **ReBar** – 6:45 to 7:15 p.m.

4th Stop: **SerVehZah** – 7:30 to 8 p.m.

5th Stop: **Nevada Brew Works** 8:15 to 9 p.m.

Follow us on Insta @ccbanv

Event Sponsors



Leavitt Legal Services, P.C.





RSVP required to Donnaw@clarkcountybar.org by April 26, 2023.

Sponsorship opportunities available. No minors allowed. Crawl, network, and visit responsibly.



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Red Panda Systems 702-553-2500 CCBA@redpandasystems. com



CCBA Baseball Tickets Special Offer

he Clark County Bar Association (CCBA) holds a limited number of tickets to select **home** games for the 2023 Las Vegas Aviators season schedule. CCBA is pleased to offer* use of our available tickets to current and paid CCBA members on a first come, first served basis. To request use of the CCBA tickets, CCBA members need to submit a request, via email to DonnaW@clarkcountybar.org, with the following information:

- CCBA member name
- Email address
- 1st, 2nd, and 3rd choices of home game day (select from list below)

Las Vegas Aviators Schedule (Home games)

(All times PST – Times subject to change)

April

April 4 Tue OKLAHOMA CITY 7:05PM

April 5 Wed OKLAHOMA CITY 7:05PM

April 6 Thu OKLAHOMA CITY 7:05PM

April 7 Fri OKLAHOMA CITY 7:05PM

April 8 Sat OKLAHOMA CITY 7:05PM

April 9 Sun OKLAHOMA CITY 12:05PM

April 11 Tue SALT LAKE 7:05PM

April 12 Wed SALT LAKE 7:05PM

April 13 Thu SALT LAKE 7:05PM

April 14 Fri SALT LAKE 7:05PM

April 15 Sat SALT LAKE 7:05PM

April 16 Sun SALT LAKE 12:05PM

April 25 Tue TACOMA 7:05PM

April 26 Wed TACOMA 7:05PM

April 27 Thu TACOMA 7:05PM

April 28 Fri TACOMA 7:05PM

April 29 Sat TACOMA 7:05PM

April 30 Sun TACOMA 12:05PM

May

May 9 Tue ALBUQUERQUE 7:05PM

May 10 Wed ALBUQUERQUE 7:05PM

May 11 Thu ALBUQUERQUE 7:05PM

May 12 Fri ALBUQUERQUE 7:05PM

May 13 Sat ALBUQUERQUE 7:05PM

May 14 Sun ALBUQUERQUE 12:05PM

May 30 Tue EL PASO 7:05PM

May 31 Wed EL PASO 7:05PM

More game days are included in the home game schedule; however, this is all we have room to list in this issue of the Communiqué.

*Restrictions apply to the CCBA Baseball Tickets Offer. Use of tickets are restricted to paid CCBA members. CCBA's tickets are not available for use by persons with a free membership type (e.g. law student members). Participating members may only attend one game per season. Available tickets will be provided electronically via a transfer from our account to the CCBA member's account via the Las Vegas Ballpark Account Manager. Participating CCBA members will need to access tickets on the Summerlin App and login to your Las Vegas Ballpark account. If you have an account set up with the Las Vegas Ballpark Account Manager, access tickets at account at https://am.ticketmaster.com/aviatorslv/. For more information about accessing tickets, see digital guide at https://www.milb.com/las-vegas/tickets/digitalticketguide. Be sure to stay up to date on the Las Vegas Ballpark's health and safety guidelines. Learn more at https://www.milb.com/las-vegas/ballpark/health-safety-guidelines.



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9 OKC 12:05pn		11 SL 7:05pm	12 SL 7:05pm	13 SL 7:05pm	14 SL 7:05pm	15 SL 7:05pm	14 ABQ 12:05pm	15	¹⁶ SL	SL.	18 5L	"SL	SL 2D
16 SL 12:05pn	17 n	SUG	sug	SUG	SUG	SUG	\$L	22	TAC	TAC	TAC	TAC	TAC
SUG	24	TAC 7:05pm	TAC 7:05pm	27 TAC 7:05pm	TAC 7:05pm	TAC 7:05pm	TAC	29	30 ELP 7:05pm	31 ELP 7:05pm			
30 TAC 12:05pm													





Clark County Bar Association

40 Year Club Luncheon

Celebrating CCBA members admitted to practice law in Nevada for 40, 45, 50, 55, and 60 years.

Thursday, May 18, 2023 12:00 - 1:30 PM

Event sponsors









RSVP to the Clark County Bar required before Friday, May 12, 2023.

702-387-6011 https://clarkcountybar.org/

40 Year Club Luncheon

This year, we will induct members who were admitted in 1983 and honor members admitted in 1978, 1973, 1968, 1963.

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

J. Michael Oakes

Hon. Gloria S. O'Malley

Nicholas J. Santoro

Randa Reiff Shea

Hon. Gloria J. Sturman

Hon. Valorie J. Vega

Sheri "Sugar" C. Vogel

Honorees (Admitted 1978)

Sylvia G. Beller Donald J. Campbell Gregory T. Hafen

William S. Kemp

Lynda S. Mabry

John F. Marchiano

Steven R. Scow

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

Ballet Ticket Offer

Nevada Ballet Theatre

The Wizard of Oz

Sat. 5/13/2023 (7:30pm)

Sat. 5/20/2023 (2:00pm)

Reynolds Hall, The Smith Center for the Performing Arts

Offers:

•CCBA GROUP TICKETS: Order tickets for The Wizard of Oz performance on Saturday 5/13/203 (7:30pm) at the CCBA group rate of \$72.50 per ticket. Seating: Parterre Center. To order tickets as part of CCBA's group, complete to form at https://clarkcountybar.org/ events/ccba-group-nightat-the-wizard-of-oz/.

•DISCOUNT ON TICKETS: CCBA Members may order tickets and get value pricing on select performances of the Nevada Ballet Theatre using a special discount code available from donnaw@clarkcountybar.

*Restrictions apply to the CCBA Ballet Tickets Offer. Use of the tickets will be restricted to paid CCBA members and will be provided on a first come first serve basis to members whose membership is paid for the same membership year of the scheduled performance.

For more information, contact Donna at the CCBA office, (702) 387-6011.

NEVADA BALLET THEATRE



"An over-the-top and wildly eclectic production!"

-THE INDEPENDENT (KANSAS CITY)

NEVADA BALLET THEATRE

"Imaginative, playful, and wonderfully optimistic!

- CINCINNATI ENQUIRER

Court News

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 the inquiry to EJDCBench-Bar@gmail.com.

District Court Administrative Order 23-02 to Establish Committee to Examine Minor Guardianship Case Type

On February 22, 2023, an order in

the matter of the formation of a committee to examine the minor guardianship case type was filed in the Eighth Judicial District Court. See Administrative Order 23-02.

Administrative Order 23-02 order cites the NRS 3.025, EJDR 1.30(b), EDCR 1.30(b)(16), and notes the large number of adult and minor guardianship cases pending. Also, the order mentions an issue that "concern has been raised by our community partners in Southern Nevada suggesting that the minors who are subject to this case type, and their families, struggle with the process, due to 1) procedural hurdles; 2) lack of resources and information, and 3) "hidden foster care."

Administrative Order 23-02 establishes a committee, selects the chair of the committee, and lists representatives to be considered voting members as part of the committee.

The following district court indi-

viduals are appointed to the committee: Judge Jerry Wiese, Judge David Gibson, Judge Linda Marquis, Judge Denise Gentile, Judge Rhonda Forsberg, Judge Ali Ritchie, Court Executive Officer Steve Grierson, Assistant Court Administrator DeNeese Parker, the Assistant Court Administrator responsible for minor guardianship cases, and Clerk - Kris O'Conner.

The order also states, "Judge David Gibson be appointed as chair of the committee. The committee must hold its initial meeting by March 17, 2023. The chair shall be responsible for the agenda, coordinating staff assignments through the Court Executive Officer, and preparing reports of findings and recommendations. The chair shall invite community partners to participate. Representatives of Legal Aid of Southern Nevada, the Department of Family Services, Clark County Manager, the Clark County



District Attorney's Office, the Public Defender's Office and the Office of Parents' Counsel, are considered voting members as part of the Committee."

For more information about the rules and administrative orders of the Eighth Judicial District Court, see http://www.clarkcountycourts.us/general/court-rules-and-administrative-orders/.

Justice Court Dept 6 Calendar Time Change

Effective April 11, 2023, Las Vegas Justice Court Department 6 will be moving the Civil Calendar times as follows:

- Civil Motion Calendar-9:30am
- Unlawful Detainer Trials/ OSC- 10:00am

Any matters currently set will remain at the time/date set. The new times will take effect for any new filings.

Source: Shelby Lopaze, Judicial Executive Assistant to Judge Jessica Goodey, Justice Court, Department 6. 3/7/2023.

US District Court Conference

Registration for the 2023 District of Nevada's Federal District Conference is now open and will close on April 28, 2023.

This year's conference is set on Thursday, May 11, 2023, at the Renaissance Reno Downtown Hotel & Spa at One South Lake Street, Reno, Nevada. The tickets are priced at \$175 for general admission, \$100 for government attorneys, and \$50 for law clerks, plus the Eventbrite fee.

Renowned presenters will speak on various topics relating to our theme, "Federal Practice Basics and Beyond." These topics include an annual U.S. Supreme Court overview, how to use artificial intelligence as evidence in civil and criminal proceedings, effective witness preparation for any court hearing, and the science of persuasion to improve your oral argument skills in any court hearing. The conference will conclude with civil, criminal and bankruptcy breakout sessions with panel discussions with judges from the District of Nevada sharing their tips and thoughts on practicing in federal court.

For more information, visit the event website at www.nvd.uscourts. gov/DistrictConference2023. **c**



The Winds of Change

By Judge Cynthia Cruz

new year often brings change, and 2023 heralded a variety of changes to Las Vegas Justice Court, including my transition to Chief Judge.

Perhaps the largest change involved five new judges joining the bench. With the addition of a sixteenth department, our growth allowed us to expand from having two civil departments to three departments handling civil matters, including small-claims cases. We started a Resort Corridor Court and implemented smartphone-based technology for pretrial participants assigned to the Pretrial Compliance Unit. But unfortunately, not all change is good. Sadly, our court experienced the loss of former Judge Melanie Tobiasson in January of this year.

The start of the new year also brought the implementation of AB 116 and significant changes to traffic citations throughout the state. Like many other courts of limited jurisdiction, Las Vegas Justice Court has encountered numerous challenges in the rollout of AB 116 while we were still recovering from the impact of COVID-19 on our traffic matters and the volume of cases that built up. While we continue to work on resolving those issues, Las Vegas Justice Court will resume holding traffic pre-trial hearings in late March. All of the criminal departments will be handling traffic pre-trials hearings on a weekly basis, which will help to diminish the number of unresolved cases over the coming months.

Administratively, our court has transitioned into having committees comprised of judges and court staff who

will work together to handle our growing internal needs. This gives the court more avenues to handle operational problems as they come up and more points of contact for the legal community to apprise the bench of procedural or operational issues.

If you would like to provide input as to procedural or operational issues in a particular area, I would invite you to reach out to me or to the committee chairs listed below:

Committee	Chair
Executive	Chief Judge Cynthia Cruz
Civil	Judge Melissa Saragosa
Criminal	Judge Elana Graham
Pre-Trial Services	Judge Rebecca Saxe
Rules	Chief Judge Cynthia Cruz
Specialty Courts	Judge Melisa De La Garza
Traffic	Judge Ann Zimmerman

In the interest of fostering and maintaining a culture that further enhances the public's trust and confidence in our court, it is my desire to improve communication with our justice partners so that we can continue to improve the court system as a whole. Understanding and appreciating the growing needs of our community, this means looking into how we can be more effective in our operations and how we can continue to be innovative as a court. I look forward to what 2023 will bring us and what we can accomplish while working together. **©**



Judge Cruz was elected to Las Vegas Justice Court Department 5 in 2012 and reelected in 2018.

What's New with LV Muni Court Traffic?

By Hearing Commissioner Shannon Nordstrom

AB116, bringing new processes within the court and for cited individuals related to some traffic violations. It is impossible to include all the changes in this short article, but it will try to cover those changes most relevant to attorneys representing individuals with traffic matters.

We have court rules! At the end of 2022, Las Vegas Municipal Court instituted the Las Vegas Municipal Court Traffic Rules (LVMCTR) which govern both traffic misdemeanor and civil infraction citations. A link to the rules is located on the court's website at https://municourt.lasvegasnevada.gov/.

Attorney sessions. The process for attorneys setting arraignments for an attorney session in Department 20 remains the same. Attorney sessions continue to be at 8:05 a.m. and 3:45 p.m., and are available to resolve both traffic misdemeanor and civil infraction citations. Any proofs for reduction or dismissal are due at the time the matter is resolved with the City Attorney.

Arraignments and trial settings. All contested cases will be set for court to provide an opportunity for resolution prior to setting the matter for trial. If the matter isn't resolved, the contested citations will be set for trial in normal course.

For civil infractions, the new statutory process requires the posting of bail prior to receiving a trial date. Individuals who are unable to post bail can complete a fee waiver affidavit. Fee waiver affidavits are freely given and liberally approved for those unable to post bail. Once approved, the matter can be set for trial.

No changes have been made regarding the setting of traffic misdemeanor trials. No bail is required to be posted.

Trials. Traffic misdemeanor trials in Department 20 will continue to take place on Wednesdays, and civil trials will take place on Tuesday afternoons and every other Thursday afternoon.

90 Days is key for civil. As provided in the statutory process, individuals have 90 days from the date of the citation to resolve their cases. Any cases that remain unresolved, absent specific order by a judge, will result in the court entering liability and assessing the monetary penalty and administrative assessments for the particular infraction.

Payment options. All individuals who have traffic cases with the court will continue to have three options for payment, payment in full within 30 days, setting up a payment plan and making monthly payments, or signing up for the work program to work of their fines and fees.

Resources. The court's website will be undergoing some changes in the near future to help make some of the new information easily available. The homepage will contain a navigation menu with links to the new rules, the current fine/fee schedule, and other helpful information. **©**



Shannon Nordstrom serves as a Hearing Commissioner/Alternate Judge in Department 20 of Las Vegas Municipal Court and as the Fresh Start Traffic and Fresh Start Court Judge.

Tips for Practicing Administrative Law

By Erin Houston, Esq.

he practice of administrative law in Nevada may be an experience with which you have very little familiarity whether you are brand new to the practice of law or a seasoned attorney with several years under your belt. Administrative law practice differs crucially from civil or criminal proceedings in that each administrative proceeding is governed not just by general provisions contained in Nevada law but also by agency-specific administrative rules found throughout the Nevada Administrative Code (NAC).

The general provisions governing contested administrative actions in Nevada are found in NRS 233B.121-150. From there, most state-level administrative agencies have promulgated rules of procedure for administrative actions that vary widely between each agency and which are completely dependent on the type of administrative action filed.

For example, the Secretary of State's Securities Division is governed by the Nevada Securities Act, which is codified in NRS 90. All corresponding regulations relating to an administrative action brought under the authority of the Securities Act are found in Nevada Administrative Code Chapter 90 (NAC 90). The Nevada Securities Act governs the purchase and sale of securities in Nevada as well as the licensing of individuals and firms who are authorized to either sell securities or recommend as to the advisability of the same.

NAC 90 provides general procedure for administrative actions within the Securities Division.

Violations of the Securities Act are category B felonies (NRS 90.650). However, NRS 90.790 also allows the Division Administrator to commence administrative proceedings at any time "with respect to a matter within the Administrator's jurisdiction." In practice, that means that violations of the Securities Act often result in administrative complaints as opposed to criminal prosecution.

NAC 90 provides general procedure for administrative actions within the Securities Division. For example, NAC 90 describes requirements for service, responsive pleadings, motions, discovery, the location and conduct of the hearing, and provisions for rendering an order as well as granting or denying a petition for rehearing. All respondents are entitled to be represented by counsel. Although, in order for out-of-state counsel to appear at a hearing, they must associate with counsel admitted to practice in Nevada.

Most administrative agencies similarly initiate contested cases by filing an administrative complaint. Before responding to an administrative complaint, properly re-



Erin M. Houston, Esq. was appointed Securities Administrator and Deputy Secretary of State in January 2019. She oversees the Securities Division of the Secretary of State's office and is the chief regulator of the securities industry in Nevada. Before that, she worked in private practice primarily in the areas of bankruptcy, domestic relations, guardianship, and estate planning. She has been an active member of the State Bar of Nevada since 2010.

search the corresponding administrative code to the relevant chapter of the Nevada Revised Statutes upon which the complaint is based. If there are procedural areas that are unclear even after reviewing the provisions found in NRS and NAC, then follow the provisions of NRS 233B governing adjudication of contested administrative matters for state agencies within the executive department of the state government. However, that chapter is not intended to abrogate or limit additional requirements from state agencies, but to provide regulations where the agency-specific rules are silent or simply do not exist.

The wide variations for administrative rules across various state agencies can present as a challenge to the process of advocating for a client that has been made the subject of an administrative process. However, a careful review of the specific administrative agency's rules will provide most information required to respond timely and effectively.

When in doubt, consider contacting the administrative agency directly for specific information on from where they are deriving their legal authority and the administrative rules relevant to that proceeding. **©**



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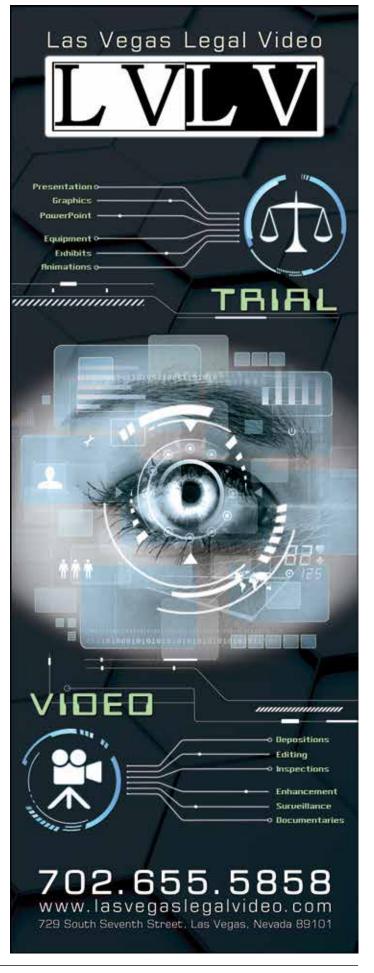
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Challenging an Agency Rule or Regulation: Where Do You Start?

By Paul E. Larsen, Esq.

ou have discovered that an agency rule, policy, or regulation is problematic. Perhaps the rule exceeds the authority of the agency, is unconstitutional, or otherwise unlawful. You ask yourself: "do I have a way to challenge the questionable regulation?" The answer is yes in most instances.

This article is not intended to provide a guide for such substantive challenges to an agency regulation, rather this article provides a high-level outline for the process of making such a legal challenge. The terse format precludes a detailed discussion, but we can attempt to identify areas for further inquiry by the diligent attorney.

The first question one must always consider is whether the policy or rule is reviewable. In making that determination, the first question one should ask is whether the policy or rule is a "regulation."

Guidance can be found in the Nevada Administrative Procedure Act (APA), NRS Chapter 233B. Under the APA, a "regulation" is defined as "an agency rule, standard, directive or statement of general applicability which effectuates or interprets law or policy, or describes the organization, procedure or practice requirements of any agency" as well as "the general application by an agency of a written policy, interpretation, process or procedure to determine

Guidance can be found in the Nevada Administrative Procedure Act (APA), NRS Chapter 233B.

whether a person is in compliance with a federal or state statute or regulation in order to assess a fine, monetary penalty or monetary interest." NRS 233B.038(1). These standards define a regulation, even if the agency has not gone through the formal adoption process mandated for regulation. Indeed, in many instances courts have set aside "ad hoc" regulations where the agency in question is required by law to use only the formal adoption process. See procedures mandated by NRS Chapter 233B for enacting regulations.

Caution should be taken to apply the APA definition, however. Some agency actions are specifically excluded from the definition of "regulation," thereby implicitly exempting the agency from the requirement of formally adopting regulations. Specific examples of agency standards of general applicability that are not "regulations" include interagency memoranda and written internal management policies. *See* NRS 233B.038(2) for more examples.



Paul E. Larsen is an administrative & regulatory attorney with the law firm of Black & Wadhams. Larsen's experience includes serving as General Counsel to a publicly traded MSO, and more than 25's years' experience in regulatory practice with firms including Lionel Sawyer & Collins and Snell & Wilmer. Larsen has successfully challenged multiple government rules on procedural and substantive grounds.

Equal caution should be taken in applying the APA definition to agencies that are specifically excluded from the APA (like the Nevada Gaming Control Board) or to agencies whose actions in specific instances are excluded from the APA such as the "adoption, amendment or repeal of rules governing the conduct of contests and exhibitions of unarmed combat by the Nevada Athletic Commission..." See NRS 233B.039(1)(c) and (5)(g). Interestingly, the Athletic Commission exemption arose specifically from ad hoc rulemaking by the Athletic Commission, which was set aside by a reviewing district court for failing to formally adopt the regulations according to APA procedures; the legislature later granted the agency an exemption from formal rulemaking requirements.

Odd hybrid situations also present a situation that calls for caution. For example, the Cannabis Compliance Board (which licenses and regulates cannabis business operations) is exempt from the APA, but the regulations for the taxation of cannabis are adopted and administered by the Department of Taxation under the procedures and standards mandated by the APA, so the referenced APA definition of "regulation" specifically applies to Nevada's system of taxation of cannabis in both formal and ad hoc contexts. See NRS 233B.039(1)(n); also, compare NRS 678A.440 (enumerated powers of Cannabis Compliance Board do not include taxation regulations) to NRS 372A.050 (the Department of Taxation is charged with adoption of regulations to implement the tax on cannabis). See e.g., https://tax.nv.gov/uploadedFiles/taxnvgov/Content/ Forms/0825-Tax-Fundamentals-for-Cannabis-Establishments.pdf and https://tax.nv.gov/uploadedFiles/taxnvgov/ Content/Forms/NVTF-EXC-79%20Wholesale%20 Cannabis%20Return%201.23%20thru%206.23.pdf.

The applicability of the APA is not a merely an academic issue. Before seeking judicial review of a "regulation" promulgated by an agency subject to the APA, an interested party arguably must first request the agency rule on the

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regulation. See NRS 233B.110. Specifically, the statute provides:

The validity or applicability of any regulation may be determined in a proceeding for a declaratory judgment in the district court in and for Carson City, or in and for the county where the plaintiff resides, when it is alleged that the regulation, or its proposed application, interferes with or impairs, or threatens to interfere with or impair, the legal rights or privileges of the plaintiff. A declaratory judgment may be rendered after the plaintiff has first requested the agency to pass upon the validity of the regulation in question.

NRS 233B.110(1)(emphasis added).

A cautious approach suggests the interested party wishing to challenge the regulation first request the agency rule on the issue of whether a policy is invalid (such an ad hoc standard) or exceeds the statutory authority of the agency. While the Uniform Declaratory Judgment Act (NRS 30.101 through NRS 30.160) is specifically named by NRS 233B.110 as the means by which the party seeks judicial review under the APA, it can also be universally used to challenge a formal or ad hoc regulation. However, if one has an administrative remedy such as NRS 233B.110(1)'s requirement to request the agency review of the regulation, the exhaustion doctrine might preclude judicial review if one omits that step.

This issue is important because both the APA and other statutes governing the procedure for formal adoption of regulations also requires the agency to submit to the Legislative Counsel Bureau (LCB) or Legislative Commission for formal review before the regulations take effect. See e.g., NRS 233B.064 (Legislative Commission must approve draft formal regulations); NRS 233B.067 (LCB must approve formal regulations before adoption); and 678A.460(8),(9); and (10) (Legislative Commission may review Cannabis Compliance Board regulations before adoption). A careful attorney might also seek to avail themselves of this process, despite it not being an explicit "administrative remedy" under the exhaustion doctrine.

As each agency has its own statutes and procedures, caution must always be taken to make sure one has reviewed the specific statues and regulations prior to simply filing a request to declare the rule improper, void, or unauthorized. \mathbf{c}

The Office of the Labor Commissioner: What to Expect When You're in Labor [Law]

By Brett Harris

y name is Brett Harris, and I became the Nevada Labor Commissioner in September 2022. The Office of the Labor Commissioner ("OLC") in Nevada regulates private employment by enforcement of laws related to wages, overtime, meal periods, break times, and general labor complaints not otherwise specifically designated elsewhere by statute. Its responsibilities include surveying for and setting the prevailing wage, and enforcing regulations governing public works projects. In addition to regulation, compliance, and enforcement, the OLC handles licensing and credentialing for various business types in Nevada.

On the enforcement side, the OLC engages in "regulation by complaint." That means most claims before our office are initiated by a complainant and investigated by our staff. The most common complaint in our office is a wage and hour claim that happens when someone is not paid correctly or timely on their final paycheck upon termination or resignation from employment. After receiving a complaint, the claim is assigned to an OLC investigator who works with the parties to analyze substantiating documentation, identify violations, review defenses, and try to work out a resolution.

When attorneys get involved in claims in front of our office, it is usually regarding a case concerning a significant wage claim violation or, most frequently, a public works project dispute arising from Nevada Revised Statutes Chapter 338, which regulates prevailing wage. For those claims, we commonly receive a complaint about a contractor from a third party who provides notice to the OLC and the respondent about the allegations. The claim is referred to the public body that awarded the project to the contractor. The public body performs a 30-day investigation. If violations are substantiated, the public body issues a determination outlining the alleged violations, the proposed damages, and applicable penalties. The determination is served on the respondent and the OLC, and the respondent gets the opportunity to file an objection. After receiving an objection, the public body can amend its determination. Once an opportunity for objections and amendments occurs, the determination and its supporting documentation will be evaluated by the OLC. If our office agrees with the findings, the determination will be reduced to a Final Order that is issued by the OLC. If the parties disagree with the Final Order, any party can request a hearing in front of the Labor Commissioner—me.

Hearings in front of the Labor Commissioner run similarly to any court or administrative hearing. If a party requests a hearing, our office sets a pre-hearing conference. These meetings are quite informal and usually occur virtually. At the pre-hearing conference, we identify the disputes between the parties and explore the possibility of



Brett Harris grew up in Boulder City, Nevada. She has a Bachelor's from NYU and Juris Doctor from UNLV. She practiced criminal law before being appointed as the Nevada Labor Commissioner. Brett lives in Henderson with her husband, daughter, and dog.

resolving the matter without a full hearing. I treat the prehearing conference like a mini settlement conference: there is no record, all talks of resolution are confidential, and we engage in an open discussion about the reality of the parties' claims and defenses. At this point in the process, I also provide insight into my factually applicable statutory interpretations.

If we still cannot resolve the dispute, the matter is set for hearing. We set deadlines for disclosures and discuss any pre-hearing briefing or discovery matters. The rules for discovery at an OLC hearing are relaxed, so I urge the parties to err on the side of over-disclosure. I want to see everything a party has that backs up their position. If we got this far, someone is probably looking to make law or set precedent, so I want to make a thorough record for when a Petition for Judicial Review inevitably gets filed.

Parties should treat the hearing like any evidentiary proceeding or bench trial. While the rules are relaxed, there is a court reporter, so I advise parties to govern themselves accordingly. All the regular decorum standards apply, and parties should admit evidence, present witnesses, and state clear objections in service of the record. Hearings are generally one day, but if the parties need longer, that can be set at the time of the pre-hearing conference.

After the hearing, parties can opt to present closing statements by oral argument or brief. After the conclusion of the hearing and/or submission of closing briefs, the OLC has 30 days to issue a written decision with findings of fact and conclusions of law. Again, generally, if we got this far, someone plans to file a Petition for Judicial Review in the district court. If that happens, the OLC becomes a party, and our Deputy Attorney General takes over representing our findings and conclusions.

In a nutshell, this summarizes what to expect when dealing with our agency. However, the OLC prides itself on its accessibility to the public and its industry partners. We strongly encourage parties to reach out to our office to engage in preventative labor care. We make ourselves available through our website, and we have several claim-specific claim specific email addresses dedicated to answering questions from the public about our regulation. We have upwards of 4,500 claims per year, so I am not interested in squeezing your clients out of every possible penalty penny I can get. So if you find yourself with a client dealing with a labor law issue within our jurisdiction, please reach out! We would love to help you.



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Quiet Quitting and the Clanking Scales of Justice

By David Olshan, Esq.

Quiet Quitting" describes employees who do a minimal amount of work to avoid getting fired. Nevada remains an at-will employment state, however, meaning a quiet quitter may be fired for nearly any reason. Or the quiet quitter may actually quit. This article will explore whether the "Fired Quiet Quitter" (FQQ) or the "Actual Quitter" (AQ) qualify for unemployment benefits (UB) in Nevada.

FQQ would implicate the misconduct standard and, if FQQ violated NRS 612.385, Nevada's misconduct statute would disqualify FQQ from collecting unemployment benefits. AQ poses a different problem. NRS 612.380 denies unemployment benefits to anyone who quits their last or next to last employment without good cause.

We will deal with AQ first. The "good cause" requirement provides some objective standard to judge whether the employee qualifies for UB. One Nevada case addresses the elusive concept of "good cause." In *Dolores v. State*, 416 P.3d 259 (Nev. 2018), the Supreme Court of Nevada held that if an employee is confronted with a "quit or be fired" decision, the quit lacks good cause and the employee would not be eligible for UB. From the broader perspective, quitting because you find no value in your work would also lack good cause.



David Olshan is the Litigation
Director at Nevada Legal
Services, focusing on
unemployment benefits,
pandemic unemployment
assistance (PUA), tenant's
rights, and consumer
matters affecting low-income
residents. Nevada Legal
Services is Nevada's only

statewide nonprofit legal aid organization providing free civil legal aid in every county.

Nevada does not have any other guidance on this issue. California, however, has regulations that track the majority view in the United States. California defines "good cause" as

when a substantial motivating factor in causing the claimant to leave work, at the time of leaving, whether or not work connected, is real, substantial, and compelling and would cause a reasonable person genuinely desirous of retaining employment to leave work under the same circumstances. *Johar v. California Unemployment Ins. Appeals Bd.*, 83 Cal. App. 5th 259, 277-178 (Cal. App. 2022) (citing EDD Regulations, § 1256-3, subd. (b)).

Nevada's Employment Security Division (ESD), the agency responsible for administering UB in Nevada, has a similar, informal policy of requiring the employee to exhaust all reasonable alternatives prior to quitting. See Nevada Unemployment Compensation Program Appeals Handbook (Nov. 2018).

Thus, good cause requires factors beyond your control causing you to quit after exhausting all reasonable alternatives in order to qualify for UB. For example, if AQ has post-traumatic stress disorder (PTSD) that is triggered by loud noises and asked the boss for earplugs or a change in job location to a quieter environment but the boss said no, AQ might qualify for UB because AQ explored reasonable alternatives and the PTSD made less noise necessitous and compelling.

FQQ has a different analysis. If FQQ is fired, then FQQ would not be eligible if ESD determined that FQQ's quiet quitting constituted misconduct. The 1968 case of *Barnum v. Williams* defines "misconduct" as a deliberate or intentional violation of the employer's rules or careless or negligent conduct showing a substantial disregard of the employer's interests. 436 P.2d 219, 222 (Nev. 1968). Inefficiency or inability to perform the work and "ordinary negligence in isolated instances, or good faith errors in judgment... are excluded in the definition of misconduct."

Id. Therefore, FQQ's quiet quitting would not constitute misconduct because FQQ did not violate any work rule.

On the other hand, FQQ's quiet quitting could be misconduct if it caused the employer to miss critical deadlines, sales, or other important employer interests. For example, we see many soft count casino employees denied UB because they miscounted. While this seems like ordinary negligence, the employee's culpability will be increased if the conduct results in a loss of money. So, most soft count mistakes result in a denial of UB and FQQ might similarly be denied if his quiet quitting directly resulted in the employer losing money.

What can we take away from this article? Quiet quitting deals with a broader issue of respect for employees and allowing them control over their work lives. Yet, simple dissatisfaction with your job would not be good cause for actually quitting for purposes of UB. If you are fired for quiet quitting, then you would be eligible for UB if your quiet quitting did not violate any work rule and did not result in any direct monetary loss to the employer. •



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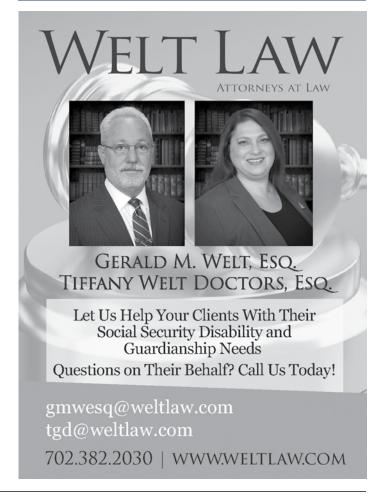
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Pandemic Unemployment Assistance Overview and Overpayment Waiver Guidance

By Elizabeth S. Carmona, Esq.

of the federal Pandemic Unemployment Assistance Program for which many of Nevada Legal Services' clients seek assistance. Because of the resources Nevada Legal Services devotes to handling these types of claims, we are always in need of probono attorney volunteers from outside our organization to assist with the various other types of cases we place.

On March 27, 2020, the President signed the Coronavirus Aid, Relief and Economic Security Act of 2020 (CARES Act). Section 2102 of the CARES Act created the Pandemic Unemployment Assistance Program (PUA), which allows benefits to be paid to "covered individuals." "Covered individuals" are those who are ineligible to receive regular unemployment compensation and who are unemployed, partially unemployed, unable to work or unavailable for work due to one of the eleven Covid-19-related reasons set forth in Section 2102(a) (3)(A)(ii) of the CARES Act. Qualifying Covid-19-related reasons include, without limitation, a Covid-19 diagnosis of either the individual or a household member, a business closure directly caused by the Covid-19 pandemic, long-term health complications caused by a Covid-19 diagnosis that renders the individual objectively unable to perform his or her essential job functions or a Covid-19-related school or facility closure that renders an individual with primary caregiving responsibility unable to work away from home.

With the subsequent passage of the Continued Assistance Act, PUA overpayments became eligible for waiver consideration if the state determines that the overpayment was without fault on the part of the individual and that repayment would be contrary to equity and good conscience. If the Employment Security Division (ESD) assesses an overpayment, a Notification of Overpayment will be posted on the individual's online PUA portal. If the corresponding disqualification is

deemed non-fraudulent and if the individual is financially unable to repay the full overpayment amount, they are entitled to submit an overpayment waiver request on their online PUA portal. The individual will be tasked with answering financial questions regarding their income and debts and they are also encouraged to attach any and all supporting documentation to the overpayment waiver request that further demonstrates financial hardship. The timeline of ESD's review is contingent on overall volume and document review and a decision will be posted on the online PUA portal.

Please do not hesitate to refer someone with a PUA issue to our online intake (www.nevadalegalser-vices.org) for screening. Alternatively, please consider providing pro bono work for Nevada Legal Services or one of Nevada's other four legal aid organizations. •



Elizabeth S. Carmona, Esq., is a Senior Attorney at Nevada Legal Services. Elizabeth has represented countless UI and PUA clients at the administrative level and she has also litigated appeals before the 8th Judicial District Court and the Nevada Supreme Court.

⊁ CAreas of Practice Listings Form

Attorney members of the CCBA can get listed via area of practice (AOP) in the Discovery issue of the *Communiqué* (June/July 2023), if they complete the Areas of Practice Listings Form by May 1, 2023. This service is included with the 2023 CCBA membership!



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If you or a client need a smart, a compassionate attorney that knows how to get results, you need to call Tony Abbatangelo, Esq. At the Vegas lawyers. Tony has decades of experience handling the most sensitive and high-stakes criminal cases. Whether the case involves state or federal charges, Tony can provide a five-star defense.

At 28 years old, Tony became the youngest attorney ever elected to a judgeship in Nevada history. As a judge, Tony presided over thousands of criminal cases and gained tremendous insights into the legal process, including what it takes to win cases. Since leaving "the bench," he has distinguished himself in private practice as a go-to attorney for other lawyers, celebrities, executives and community leaders.

A skilled negotiator and trial attorney, Tony has delivered outstanding results for clients facing significant criminal charges. When there's a law on the line, Get Tony and the Vegas Lawyers.

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