

Free CLE Programs for CCBA Members

Live via Zoom on May 11 and May 19, 2023

See pages 10 and 12



COMMUNIQUE

THE OFFICIAL PUBLICATION OF THE CLARK COUNTY BAR ASSOCIATION

MAY 2023

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The Natural Resources Issue

Nevada and the Shrinking Colorado River

By Steven C. Anderson, Esq.

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Crisis on the Colorado River – How Did We Get Here?

By Christine Guerici, Esq.

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Vegas Night Life of a Different Kind

Civility – Some thoughts on what it is and how we can get there

Spring into Pro Bono

Special Event

40 Year Club Luncheon

May 18, 2023

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THE OFFICIAL PUBLICATION OF THE CLARK COUNTY BAR ASSOCIATION

MAY 2023

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Photo of Colorado River from 2015 courtesy of Heather Anderson-Fintak.



COMMUNIQUE

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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
August 2023	Real Estate	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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Contact: StephanieAbbott@clarkcountybar.org, (702) 387-6011.

Bar Committees

Join a Bar Committee

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

- **Community Service - Friday, May 5, 2023 (12-1pm) via Zoom** - Meeting for CCBA members to plan activities that provide outreach services to the community at large in southern Nevada. Meets: First Friday of the month. Chair: Benjamin Gordon, Esq.
- **CLE Committee - Wednesday, May 10, 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. Meets: Second Wednesday of the month. Chair: Michael Wendlberger, Esq.
- **New Lawyers Committee - Thursday, May 11, 2023 (12-1pm) at CCBA office** - 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. Meets: Second Thursday of the month. Co-Chairs to Josh Dresslove, Esq. and Christena Georgas-Burns, Esq.
- **Publications Committee - Friday, May 12, 2023 (12-1pm) via Zoom** - Meeting for CCBA members to plan content for upcoming issues of the bar journal *Communiqué*. Meets: Second Friday of the month. Chair: Jennifer Roberts, Esq.
- **Diversity and Inclusion Committee for Equity (DICE) - Friday, May 26, 2023 (12-1pm) via Zoom** - Meeting to organize educational programs that facilitate constructive discussion and enhance understanding of diversity issues. Meets: Last Friday of the month. Chair: Michael Nuñez, Esq.

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

Member Benefit Spotlight

CCBA eNews is the CCBA's free e-newsletter and features info and updates about bar services, activities, and news from southern Nevada's local, state, and federal courts.

Subscribe now!

To subscribe, enter your email below or scan the QR code to open the page to subscribe.



Wake up! It's the first of the month! (Again!)

By Brandon Kemble, Esq.

It seems like all the best days of the first part of the year are the first days of the month. January 1st is New Year's Day. February 1st is Groundhog Day eve. March 1st has so many great national days your head will spin — national peanut butter lover's day, national hotel slipper day, national stop bad service day, but my favorite of the March 1st national days, is National March 1st Day. It's very meta. I'm still unpacking the full meaning of a day celebrating a day on the day of the day.

Of course, April 1st, is the day we all scare the innocent and trusting by telling them their deepest fears have come true — their pets have died, their jobs are being eliminated, etc. — then we wipe their pain and trauma away with a hearty "April fools!" Sometimes, when the target of the April Fool's Day prank is a child, we film their reaction so they can always remember how they felt when we convinced them that we were selling them to another family to pay for their sibling's college. What a day. In fact, many (few or none) of you may have noticed that this column was set to run in last month's edition. We will call that a lame, and unintended, April Fool's Day joke. The cool part though is that my column is still relevant for May.

For lawyers, May 1st is no joke. It's Law Day, proclaimed so by President Eisenhower in 1958. By the time you read this, many of you will have already celebrated Law Day and participated in some Law Day events. Whether

It seems like all the best days of the first part of the year are the first days of the month.

you did or didn't, I think President Eisenhower's Proclamation is worth your time and contemplation:

Now, Therefore, I, Dwight D. Eisenhower, President of the United States of America, do hereby designate Thursday, May 1, 1958, as Law Day.

I urge the people of the United States to observe the designated day with appropriate ceremonies and activities; and I especially urge the legal profession, the press, and the radio, television, and motion-picture industries to promote and to participate in the observance of that day. 🇺🇸



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.

40 YEAR CLUB LUNCHEON

Thursday, May 18, 2023



Join us at this special event 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)

All members of the Nevada bar and bench are invited to attend this special event. However, space will be limited to those who RSVP with payment to the Clark County Bar Association by May 12, 2023.

RSVP to CCBA by May 12, 2023

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

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
Mary Frances McCarthy
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
Brent Larsen
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**

Honoree (Admitted 1963):

Richard H. Bryan

Law Day Launch Highlights



On March 6, 2023, the CCBA's Law Day activity was featured in a live, nationwide, webcast of the "2023 Law Day Virtual Launch" hosted by the American Bar Association (ABA).

Benjamin Gordon, Chair of CCBA's Community Service Committee, and Capt. Ray C. Petty of the Creech Legal Department met at the law firm of Naylor & Braster in Las Vegas and presented information about the plans for the Law Day event at the Air Force base in southern Nevada.

The online event focused on the 2023 Law Day theme of "Cornerstones of Democracy: Civics, Civility, and Collaboration." The program discussed the theme and its significance and highlighted programming opportunities for Law Day 2023. The program was for Law Day planners everywhere and featured speakers from bar associations across the country.

Register to watch the recording on-demand available from the ABA at https://americanbar.zoom.us/webinar/register/WN_1d2EujgVQV2YB-LSIJh-GTQ.

Baseball Ticket Offer

The 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:

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

Las Vegas Aviators Schedule (2023)

May 10 Wed 7:05PM
June 18 Sun 12:05PM
June 28 Wed 7:05PM
June 29 Thu 7:05PM

More game days to be announced soon!

*Restrictions apply. For more information, visit <https://clarkcountybar.org/member-benefits/aviators-baseball-special-offer/>.

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LAS VEGAS BALLPARK

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APR 7 MAY 12 JUNE 16 JULY 2 JULY 3 AUG 11 SEPT 22

REYES DE PLATA EVERY TUESDAY
 BARK IN THE PARK EVERY WEDNESDAY
 \$2 BEER NIGHT EVERY THURSDAY

APRIL

S	M	T	W	T	F	S
					31 RNO	1 RNO
2 RNO	3	4 OKC 7:05pm	5 OKC 7:05pm	6 OKC 7:05pm	7 OKC 7:05pm	8 OKC 7:05pm
9 OKC 12:05pm	10	11 SL 7:05pm	12 SL 7:05pm	13 SL 7:05pm	14 SL 7:05pm	15 SL 7:05pm
16 SL 12:05pm	17	18 SUG	19 SUG	20 SUG	21 SUG	22 SUG
23 SUG	24	25 TAC 7:05pm	26 TAC 7:05pm	27 TAC 7:05pm	28 TAC 7:05pm	29 TAC 7:05pm
30 TAC 12:05pm						

MAY

S	M	T	W	T	F	S
		1	2 SAC	3 SAC	4 SAC	5 SAC
6 SAC	7 SAC	8	9 ABQ 7:05pm	10 ABQ 7:05pm	11 ABQ 7:05pm	12 ABQ 7:05pm
13 ABQ 7:05pm	14 ABQ 12:05pm	15	16 SL	17 SL	18 SL	19 SL
20 SL	21 SL	22	23 TAC	24 TAC	25 TAC	26 TAC
27 TAC	28 TAC	29	30 ELP 7:05pm	31 ELP 7:05pm		



Howard Hughes

GET TICKETS AT AVIATORSLV.COM

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

On 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 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 the College of Southern Nevada in its paralegal studies program while working full-time as an elder law attorney at the Southern Nevada Senior Law Program since 2005. She is currently a Senior Staff Attorney at the 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.

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. 

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



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

Event sponsor



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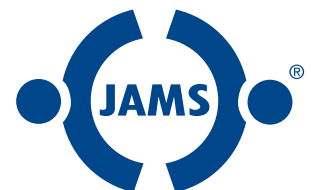


**Hon. David
Wall (Ret.)**

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To schedule an in-person, virtual or hybrid case,
visit jamsadr.com/lasvegas or call 702.457.5267.



Cultural Competency CLE Free for Nevada Lawyers Set for May 19, 2023

On Friday, May 19, 2023, a special presentation of “Cultural Competency in the Legal Profession” will be made by notable members of the Nevada legal community for the continuing legal education of Nevada lawyers during a lunchtime learning program produced by the CCBA’s Diversity and Inclusion Committee for Equity (DICE) and sponsored by ADAMS ESQ and The Vieira Firm.

Panel presenters

- **Sylvia Lazos**, Justice Myron Leavitt Professor of Law of the William S. Boyd School of Law
- **Athar Hassebullah, Esq.** of ACLU of Nevada
- **Dr. Radhika Kunnel, Esq.** of Nevada Attorney General’s Office
- **Moderator: Hardeep “Dee” Sull** of Sull and Associates, PLLC

Topics

- Overview of cultural competency in the legal profession
- Discussion of the challenges lawyers face in addressing cultural competency
- Best practices for developing and delivering cultural competency
- Brainstorming and ideation of ideas for cultural competency
- **Offers:** 1.0 hour of Ethics Continuing Legal Education (CLE) for Nevada lawyers


Sponsors



Event information

- **When:** Friday, May 19, 2023, 12:00 p.m.-1:15 p.m.
- **Where:** State Bar of Nevada (Las Vegas office) Zoom option available for remote attendance.
- **Featuring:** Light refreshments to be served for those who attend in-person at the SBN office.
- **Price:** FREE for Nevada lawyers
- **RSVP Deadline:** Wednesday, May 17, 2023

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 from the CCBA’s Audio Visual Library.

For more information and to RSVP, contact Stephanie Abbott at StephanieAbbott@clarkcountybar.org or (702) 387-6011. 

DICE CLE Series



ADAMS ESQ.
A PROFESSIONAL CORPORATION



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

"Cultural Competency in the Legal Profession"

Friday, May 19, 2023 • 12:00 PM – 1:15 PM

State Bar of Nevada, 3100 W. Charleston Blvd., Las Vegas



Sylvia Lazos
Justice Myron
Leavitt Professor of
Law, William S. Boyd
School of Law



**Athar
Hassebullah,
Esq.**
of ACLU of Nevada



**Dr. Radhika
Kunnel, Esq.**
of Nevada Attorney
General's Office



**Hardeep
"Dee"
Sull, Esq.**
of Sull and
Associates, PLLC

Featuring: Panel discussion relevant to diversity and inclusion made by notable members of the Nevada legal community.

Offers: 1.0 hour of Ethics Continuing Legal Education (CLE) for Nevada lawyers

Price: FREE for CCBA Members and Nevada Bar Members

Attend in person for networking & refreshments!

Zoom option available for remote attendance.

Sponsorships available.

RSVP Now
<https://clarkcountybar.org>
702-387-6011

Bar Activities

CCBA members are invited to participate in planned activities to help the community at large in southern Nevada.

Will-a-Thon for Senior Law Program

- **Date:** Thursday, June 15, 2023
- **Time:** 10:30 am – 2:00 pm
- **Where:** Martin Luther King Senior Center, 2420 N. Martin Luther King, Jr. Blvd., North Las Vegas, NV 89032
- **What:** Clinic to be organized by the Senior Law Program with volunteer support from the CCBA. Training available from the SLP in advance.
- **Notes:** Volunteer attorneys will need to pre-register and take the CLE training in advance of the event. The CLE training will be held via Zoom on June 8, 2023. Volunteers can also get CLE for volunteering to help people at the event.
- **Who:** Nevada lawyers are invited to volunteer as a pro bono attorney.

To become a volunteer, sign up now: <https://clarkcountybar.org/community-service-activities/senior-law-programs-will-a-thon/>, send an email to StephanieAbbott@clarkcountybar.org, or call the CCBA office at (702) 387-6011.

Pet Supply Drive

- **Date:** Now through July 31, 2023
- **What:** Pet food and supplies to benefit Street Dogz
- **Where (various locations to drop-off items):**
 - **Naylor & Braster** – 1050 Indigo Dr #200, Las Vegas, NV 89145
 - **Kaercher Insurance** – 9555 Hillwood Dr #140, Las Vegas, NV 89134
 - **GLB Insurance** – 4455 S Pecos Rd, Las Vegas, NV 89121
 - **Shine A Light Foundation Warehouse** – 2330 Highland Dr, Las Vegas, NV 89102

For more information about the CCBA's community outreach services, contact CCBA Community Service Committee Chair Benjamin Gordon at Naylor & Braster or Stephanie Abbott at the CCBA office. Thank you! 🐾



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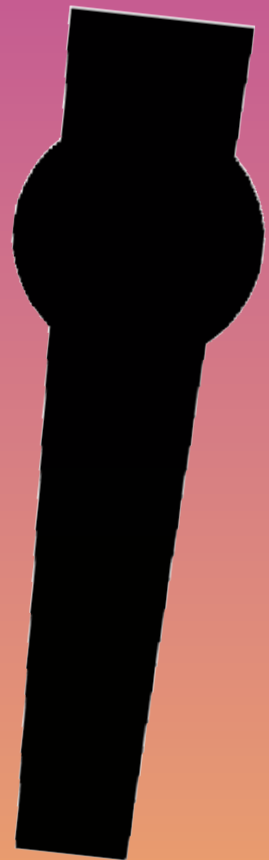
Special offer for CCBA Members

Red Panda Systems can offer a 50% discount on the price of the first month or a 10% discount on monthly pricing for the first 6 months with a signed 1 year or longer contract for managed IT support services to current CCBA members. For a full list of services available to CCBA members, visit <https://www.redpandasystems.com/business/>.

Red Panda Systems
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CCBA@redpandasystems.com



Join us for
**A Toast to
Barbara
Buckley**



Thursday, June 15, 2023 • 5 PM – 7:30 PM
Nevada Brew Works

*Featuring a special limited pour
of NV Brew Works Barbara Buckley
Raspberry Hefeweizen
\$7/pint or \$22/growler*



**Leavitt Legal
Services, PC**



Business Court Bench-Bar Meeting

- **When:** Tuesday, May 23, 2023
- **Time:** 12:00 p.m. to 1:00 p.m.
- **Where:** Regional Justice Center, Courtroom 16A or online via BlueJeans
- **Who:** All interested counsel are invited to attend this meeting either in person or via Zoom.
- **Topic for CLE:** Panel of EJDC Business Court Judges moderated by Jennifer Braster
- **Note:** Lunch will be provided to the first 25 attendees.

Eighth Judicial District Court Administrative Order 23-03

On March 21, 2023, the Eighth Judicial District Court filed an order in the administrative matter of department reassignments. See Administrative Order 23-03. The order reassigns cases in the court as follows:

“Pursuant to the Chief Judge’s authority under EDCR 1.30(b) and NRS 3.025, and Nevada Governor Joe Lombardo’s recent judicial appointments, the following department assignments are implemented:

Effective March 20, 2023, Judge Danielle “Pieper” Chio will preside over Department 7. Department 7 will retain the existing caseload assigned to that department.

Effective March 20, 2023, Judge Jacob A. Reynolds will preside over Department 29. Department 29 will retain the existing caseload assigned to that department.

Approximately 3% (three percent) of existing civil domestic cases will be randomly reassigned to Department C effective March 20, 2023, resulting in a full civil domestic caseload for Department C.

Effective March 27, 2023, Judge Paul Gaudet will preside over Department N. Department N will retain the existing caseload assigned to that department.

Effective March 27, 2023, Judge Regina McConnell will preside over Department O. Department

O will retain the existing caseload assigned that department.”

For more information about this and other Administrative Orders from the Eighth Judicial District Court, visit the court’s website at <http://www.clarkcountycourts.us/>.

Eighth Judicial District Court Civil Bench-Bar Meeting

- **When:** Tuesday, June 13, 2023
- **Time:** 12:00 p.m. to 1:00 p.m.
- **Where:** Regional Justice Center, Courtroom 10D or online via Zoom
- **Who:** All interested counsel are invited to attend this meeting either in person or via Zoom.



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- **Zoom hosted by:** Lincoln, Gustafson & Cercos
- **Note:** The EJDC Civil Bench-Bar does not plan to meet in June or July. Their next meeting is scheduled for September 12, 2023.

Las Vegas Justice Court Civil Bench-Bar Meeting

- **When:** Tuesday, June 27, 2023
- **Time:** 12:00 p.m. to 1:00 p.m.
- **Where:** Regional Justice Center (Courtroom 6B) and via BlueJeans
- **Who:** All interested counsel are invited to attend this meeting either in person or via Blue Jeans:
- By using the following link in any internet browser on

a computer or cellular telephone: <https://bluejeans.com/7026713392>;

- By downloading the BlueJeans application on an iPhone or Android phone and entering the meeting ID: 7026713392; or
- By calling (408) 419-1715 and enter meeting ID 7026713392# when prompted.

Las Vegas Justice Court Administrative Order 23-03


On March 29, 2023, the Las Vegas Justice Court filed an order in the administrative matter regarding Part 7 of the Las Vegas Justice Court Rules of Practice (LVJCLRP). See Administrative Order 23-03.

The order cites JCRLV 6.5(b)(10), how Part 7 relates to “Traffic Criminal Misdemeanor Citations and Civil In-

fractions Citations,” and how portions of the rules in Part 7 need to be **temporarily** altered due to the current issues with the court’s online dispute resolution system.

Administrative Order 23-03, **temporarily** alters the LVJCLRP rules listed below:

- Rule 7.5 – Resolution of regulatory violation on or before arraignment date
- Rule 7.9 – Demerit Point Reduction
- Rule 7.10 – Failure to Pay Civil Penalty

To see the detailed temporary alterations to each rule, read Administrative Order 23-03. The order became effective immediately and shall remain in effect until the order is rescinded. For court rules and administrative orders, visit the court’s website at <https://www.lasvegasjusticecourt.us/>. 

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Nevada and the Shrinking Colorado River

By Steven C. Anderson, Esq.

Nevada is the driest state in the country. The Colorado River provides the Las Vegas Valley with 90 percent of its water, which serves roughly 70 percent of Nevada's population, yet consumes just five percent of the state's annual consumption. The Colorado River, however, is threatened by severe and sustained drought, a changing climate, and decades of overuse. As lawyers and residents of southern Nevada, understanding these issues and Nevada's response will help ensure southern Nevada remains healthy and vibrant.

The "Law of the River"

The Colorado River spans seven states and into Mexico, providing water for nearly 40 million Americans. The "Law of the River" is a web of statutes, regulations, interstate compacts, and other laws, that governs the Colorado River. The Supreme Court of the United States has also

The "Law of the River" is a web of statutes, regulations, interstate compacts, and other laws, that governs the Colorado River.

issued numerous opinions pursuant to *Arizona v. California* – an original jurisdiction action over which the Court has retained jurisdiction for nearly 100 years. *See, e.g.*, 292 U.S. 341 (1934) and 547 U.S. 150 (2006). The Colorado River Compact of 1922 among the seven "Basin States" of Wyoming, Colorado, Utah, and New Mexico (Upper Basin) and Nevada, Arizona, and California (Lower Basin) apportioned 7.5 million acre-feet per year ("afy") to the

River *continued on page 20*

Steven C. Anderson is Deputy Counsel for the Southern Nevada Water Authority and the Las Vegas Valley Water District. Steven has been an attorney in Nevada for 13 years. For seven of those years, he has served as in-house counsel for SNWA practicing natural resources and environmental law.

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Upper Basin and 7.5 million afy to the Lower Basin. Mexico is entitled to 1.5 million afy. Of this 16.5 million afy, Nevada receives a mere 300,000 afy, easily the least among the Basin States.

Of this 16.5 million afy, Nevada receives a mere 300,000 afy, easily the least among the Basin States.

The Current Problem

Compact negotiators estimated that 18 million afy were available, but this was determined using a short and abnormally wet dataset. Since 1906, average natural inflow is 14.6 million afy. The basin is now mired in a 23-year megadrought. With average inflows averaging just 12.2 million afy (the driest 20-year period in 1,200 years), the Colorado River system is at a breaking point.

The problem is, therefore, obvious. The sum of allocations (16.5 million afy) exceeds the river's supply (12-14 million afy). This "structural deficit" will require the Basin States, Mexico and Native American tribes to cooperate and reduce use by up to 4 million afy. Additionally, despite the current record snowpack in many Basin States, the supply is not expected to significantly improve. Thus, all who rely on the Colorado River must necessarily reduce their water use.

Stakeholders have been regularly negotiating to find solutions. The Bureau of Reclamation represents the federal government in these negotiations. The Colorado River Commission of Nevada, under the governor's purview, and the Southern Nevada Water Authority (SNWA) are Nevada's representatives. Native American tribes also hold significant rights to Colorado River water and will play a critical role in any long-term resolution. While stakeholders have made marginal progress, no agreed-upon solution to fix the structural deficit and sustainably use Colorado River water is readily apparent.

WHERE THE WATER GOES:

Who Shares the Colorado River?



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Nevada's State and Local Government Response

In the interim, Nevada is acting at the state and local levels. In 2021, for example, Nevada enacted A.B. 356 to conserve water by eliminating nonfunctional turf. At the municipal level, new ordinances concerning evaporative cooling and golf course irrigation will also soon take effect. Also, in the 2023 legislative session, S.J.R. 3 encourages the Bureau of Reclamation to take aggressive action to protect the Colorado River.

Of these efforts, A.B. 356 will result in the greatest water savings. Under A.B. 356, and beginning January 1, 2027, water from the Colorado River generally “may not be used to irrigate nonfunctional turf.” In addition, A.B. 356 directed SNWA to establish a process for the removal of such turf and to form an advisory committee comprised of commercial, industrial, and residential representatives to help define the term “nonfunctional turf” and create other assessment tools. A.B. 356 targets turfgrass because, unlike water used indoors that is ultimately returned to Lake Mead, turfgrass consumes the water so it cannot be reclaimed, treated, or used again. This is why southern Nevada’s conservation efforts are focused on outdoor water

use. Notably, A.B. 356 does not require single-family residences to remove turf.

This is why southern Nevada's conservation efforts are focused on outdoor water use.

Conclusion

Nevada has made extraordinary strides to conserve Colorado River water that provide an example of how to reduce water consumption in urban areas and show that bringing uses in line with water supply will require cooperation and reductions in use from all states and all industries. With such a small apportionment, however, Nevada cannot conserve enough water to significantly impact the structural deficit. The problem will ultimately have to be resolved through a consensus-based approach, unilateral federal action, or litigation. Until then, Nevada will continue its pioneering conservation efforts and urge others to do the same. 🇺🇸

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Crisis on the Colorado River – How Did We Get Here?

By Christine Guerci, Esq.

The Colorado River is facing historical drought conditions. The Colorado River serves millions of people in seven states, numerous tribes, sustains wildlife, and produces low-cost electricity through the use of hydroelectric plants. Clark County, Nevada gets about 90 percent of its water supply from the Colorado River. This historic drought threatens that water supply and the production of hydroelectric power. How did we get here?

The Colorado River played a major role in western history and the development of the western states. From the initial discovery by the Spanish in the mid-1500's until the Reclamation Act of 1902 and the harnessing of the river beginning in 1909, to the Colorado River Compact and the Boulder Canyon Project Act, the Colorado was of critical importance in the settlement of southern Nevada both in terms of water and energy.

Allocations of water as well as the river's operations are governed by a series of agreements, regulations, interstate compacts, and court decisions collectively referred to as the "Law of the River." The foundational agreement is the 1922 Colorado River Compact negotiated and signed by the seven basin states – Nevada, California, and Ari-

Allocations of water as well as the river's operations are governed by a series of agreements, regulations, interstate compacts, and court decisions collectively referred to as the "Law of the River."

zona (the "Lower Basin" states) and Wyoming, Colorado, Utah, and New Mexico (the "Upper Basin" states). Each basin was allocated 7.5-million-acre feet ("MAF"), and in 1944, Mexico was allocated 1.5 MAF through an international treaty, totaling 16.5 MAF. An acre foot of water equals about 326,000 gallons, or enough water to cover an acre of land one-foot deep.

Christine Guerci provides legal representation specializing in economic development and complex transactional problems. She practiced for many years with the Nevada Attorney General's Office and the City of Henderson.


Those initial allocations made in the 1920's reflected the agricultural uses of the water and the population levels in the southwest at that time. Since that time, population levels in Arizona and Nevada have exploded – Clark County had 3,284 people living in it in 1900 while current-day estimates are a population of 2.3 million people.

Further, it was assumed that average annual flows on the river would total 16.4 MAF. However, historical annual flows were actually around 14.7 MAF, and between 2000-2020, the average annual flow was around 12.4 MAF. Therefore, the river was over-allocated from the beginning, with the results of that over-allocation being exacerbated by the exponential growth in the southwest and the current drought. The past twenty years have been the driest in the Lower Basin, with eight of the 20 driest years on record having occurred since 2000.

Recognizing that the river was over-allocated and the need for greater stability in the water supply, the U.S. Secretary of the Interior, in conjunction with the Basin states, adopted the 2007 Interim Guidelines for Coordinated Operations for Lake Powell and Lake Mead. This contained some curtailments of the previous allocations and created the concept of “Intentionally Created Surplus,” where the Lower Basin states could store water, saved through con-

servation efforts, in Lake Mead, thereby helping to maintain elevation levels.

Following the Interim Guidelines, the United States and Mexico entered into Minute 323 in 2017, which provided for potential cutbacks on water deliveries to Mexico, as well as giving Mexico the ability to store conserved water in Lake Mead. Thereafter, in 2019, after much negotiation, the Basin states and the U.S. Bureau of Reclamation finalized the Drought Contingency Plan (DCP). The Lower Basin DCP requires some potential additional curtailments of water deliveries for Arizona, California, and Nevada at certain trigger points, *i.e.*, when lake elevations drop below a certain targeted amount. The DCP also provides for additional methods to increase voluntary conservation with that conserved water being stored in Lake Mead.

With the continuation of the drought, there is a need to further reduce the use of Colorado River water. The Basin states and the U.S. government are working toward an agreement for further cuts with the goal of stabilizing the water supply. 

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Vegas Night Life of a Different Kind

By John Mowbray, Esq.

Over the past two weeks, I have received several inquiries regarding the two 'strange lights' appearing in the western night sky just after sunset. So . . .

Venus and Jupiter have aligned again just like they did back in February 1999 when I was able to capture the conjunction on 35 mm film.

Last evening, I decided to leave the office at 5:00 p.m. and return to one of my favorite platforms on our planet to chronicle the wonders of our universe, the overlook in the Red Rock Canyon National Conservation Area just 45 minutes from downtown Las Vegas.

Venus is the brighter of the two planets, the second from our Sun and the closest to Earth. Only 400 miles smaller in diameter, it comes the closest in size to any other planet to Earth. Jupiter is the fifth planet from the Sun, nearly 11 times larger than Earth and the largest in our solar system.

Arriving at my spot, I photographed Venus with an apparent magnitude of -4.0, (only the Sun (-26.7) and the Moon (-12.7) are brighter).

The Wilson Cliffs Thrust of the Keystone Fault system is pictured in the foreground. Once the floor of an ocean more than 225 million years ago, the fault was thrust above what had become a desert floor about 65 million years ago

Once the floor of an ocean more than 225 million years ago, the fault was thrust above what had become a desert floor about 65 million years ago when two crustal plates of the earth's surface collided and minerals imbedded in its sandstone layers oxidized giving its distinctive multicolored signature.

when two crustal plates of the earth's surface collided and minerals embedded in its sandstone layers oxidized giving its distinctive multicolored signature. Fifteen years ago when I was on the faculty of the College of Southern Nevada teaching an astronomy lab I was asked to take astronomer John Dobson who was in town to lecture on the 'big bang' theory out to Red Rock Canyon. (His name may



John Mowbray is the Managing Partner of the Spencer Fane Las Vegas office and is a distinguished member of Nevada's legal community. As a past president of the State Bar of Nevada and Clark County Bar Association, he is well-regarded throughout the region for his knowledge of law and high level of dedication to client service. John concentrates his practice on commercial litigation as well as real estate and ethics and professional responsibility.



Photo of Venus and Jupiter by John Mowbray.

sound to be familiar as he designed the Dobsonian telescope, a low cost portable Newtonian reflector.) During his lecture, the evening before he hypothesized that a large meteorite had struck the Yucatan Peninsula in southern Mexico around 66 million years ago, about the same time the large dinosaurs disappeared from the Earth and that the impact may have been the cause of their extinction. Once we arrived at Red Rock Canyon, he told me he wished he had more time to explore the vista, as he was positive evidence of the Yucatan extinction event was waiting to be discovered on the face of the thrust. I then drove him to the airport and he returned to San Francisco. Known internationally as the ‘Sidewalk Astronomy Evangelist,’ he died in 2014 at the age of 98. Of all the celebrities I have had the good fortune of meeting during my career I place him high on my list.

Astronomy, paleontology, and geology we have it all here in the desert with enough food for thought to keep the curious mind engaged for a lifetime.

So wherever you are, when you drive home this evening, if you are still wondering what those two bright objects in the western night sky are, just remember Las Vegas has much, much more to offer than the illumination on the Strip. ●



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Lawyer's Pledge of Professionalism



Adopted in 1991 by the Clark County Bar Association

In my role as a counselor, advocate, and officer of the court, I aspire to a standard of conduct that warrants the term "professional." I seek to earn a reputation for honor, trustworthiness, and professionalism among my clients, the legal community, and the community at large. As a lawyer dedicated to the professional and ethical practice of law, I will conduct myself in accordance with the following Pledge of Professionalism: I recognize and will abide by the principle that the legal profession is devoted to public service, improvement of the administration of justice, and the uncompensated assistance to persons who cannot afford representation;

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

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

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

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

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

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

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

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

Civility – Some thoughts on what it is and how we can get there

By John M. Naylor, Esq.

Civility seems to be a hot topic. The Board of Governors recently adopted a Creed of Professionalism and Civility which complements the promise of civility that the Supreme Court of Nevada added to the attorney oath in 2014. The creed featured prominently in the public comments during the recent hearing on proposed changes to the Nevada Rules of Professional Conduct. *See, e.g.*, Hearing on ADKT 608, March 21, 2023, Comments of Dennis Kennedy, Esq. But why do we strive for civility, and how do we get there?

Why Civility?

In addition to the inherent value of being professional towards each other, we can also point to concrete positives. Incivility can cost clients, and *In re: the Marriage of Davenport*, 194 Cal.App.4th 1507 (Cal.App. 2011) is a cautionary tale. The court lists specific examples of attorney behavior that violated the California Attorney Guidelines of Civility and Professionalism (2007) (which are similar to Ne-

vada’s new creed). This opinion is a good reference guide as to how not to behave. The court used the violations of the guidelines to help justify a \$100,000 sanction plus a fee award against the client. Space limitations do not permit a greater discussion of this case, but it is worth reading.

It Does Not Involve Just the Lawyers

While the creed is aimed at lawyers, two other groups play no less an important role in promoting civility. Chief Justice Burger said that principles of incivility must be instilled early on in law school. (Comments of Chief Justice Warren Burger before the American Law Institute, 52 F.R.D. 211 (May 18, 1971)). This idea seems to be picking up some traction. How to do this is a lengthy topic, and Prof. Nancy Rapport’s article “Training Law Students to Maintain Civility in Their Law Practices as a Way to Improve Public Discourse,” 98 N.C.L.Rev. 1143 (2020), is a good primer for this topic.

The other group that Chief Justice Burger pointed to were judges, and in particular, trial judges. He recognized that they often bear the brunt of rude behavior from lawyers. He urged judges to resist the urge to snap at counsel, which he recognized as being quite difficult to do at times.

Chief Justice Burger’s point was that no single group was to blame and civility requires the hard work of all three participants in the legal process – judges, lawyers, and the law schools. With that, more civil discourse is within our reach. **☛**

Read the State Bar of Nevada’s “Creed of Professionalism and Civility”

Adopted January 19, 2023, State Bar of Nevada Board of Governors

See <https://nvbar.org/for-lawyers/ethics-discipline/creed-of-professionalism-and-civility/>

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



Spring into Pro Bono

By Michael Wendlberger, Esq.

There are 42 children in dependency court without a voice. Fourteen inmates need help addressing medical and safety concerns in federal court. Eight individuals need a divorce so that they can start a new life. Four elderly individuals need protection in guardianship hearings. These are just some of the clients at the Legal Aid Center of Southern Nevada you can help. All you need is to *spring* into action.

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To help attorneys spring into action, the Clark County Bar Association created the Pro Bono Corner in the *Communique*. Many of us read the Pro Bono Corner each month and feel inspired but fail to act. Life gets in the way. Without action, our good intentions remain silent. We are all waiting for the perfect time. That perfect time is now, spring.

Spring is the best time of the year, full of hope and beauty. The air is fresher, and long walks feel effortless. Outside, the birds are calling to us. Bees are buzzing, flowers are blooming, and spirits are rising. Nature is inviting us all to spring into action. A few hours of your time can change someone's life forever, and the feeling you get during your pro bono matter will raise your spirit.

Spring is also a time when we start gathering in the community. As part of the pro bono program, attorneys who take a case are never alone. There is support at every step, from mentors, sample pleadings, fee waivers, free CLEs, malpractice insurance, litigation support services, lunches, and a boost to your mental health. You can change someone's life. As attorneys, we are part of a small group with specialized skills. A pro se litigant often needs someone with specialized skills to overcome that last hurdle. You can be this person.

The only decision left is deciding whom to help. So please take a case and Spring into Pro Bono. 🇨



Michael Wendlberger, Esq. is the Director of the Pro Bono Project at Legal Aid Center of Southern Nevada. The Pro Bono Project pairs volunteer attorneys with screened clients in the areas of family, consumer, landlord tenant, civil rights, immigration, bankruptcy, and other areas

of law. Interested attorneys should contact Michael at 702 386-1429 or mwendlberger@lacs.org.

The graphic is a dark-themed advertisement for Las Vegas Legal Video (LVLV). At the top, it says "Las Vegas Legal Video" in a white sans-serif font, with "LVLV" in large, bold, white letters below it. To the right of the "LVLV" text is a circular icon of a scale of justice. Below this, a list of services is shown: "Presentation", "Graphics", "PowerPoint", "Equipment", "Exhibits", and "Animations", each with a small circle to its left. To the right of this list is a circular icon of a camera. Below the list and camera icon, the word "TRIAL" is written in a large, green, stylized font. In the center of the graphic is a large, detailed image of a human eye, surrounded by various digital and technical icons like a person icon, a bar chart, and a play button. Below the eye, the word "VIDEO" is written in a large, green, stylized font. To the right of "VIDEO" is a circular icon of a video camera. Below this, a list of services is shown: "Depositions", "Editing", "Inspections", "Enhancement", "Surveillance", and "Documentaries", each with a small circle to its left. At the bottom of the graphic, the phone number "702.655.5858" is written in a large, white, sans-serif font, followed by the website "www.lasvegaslegalvideo.com" and the address "729 South Seventh Street, Las Vegas, Nevada 89101".

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Choose Association Health Plans for Better Rates!

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Large Group Benefits for Small Employer Groups

- A range of coinsurance options
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- Statewide HMO open access
- National PPO network access

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PARTICIPATING AREAS INCLUDE: Clark County and Nye County

PROMINENCE ASSOCIATION HEALTH PLANS

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

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Call Prominence today at 855-400-3686 or ask your broker for our Association Health Plans!



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