



# COMMUNIQUE

THE OFFICIAL PUBLICATION OF THE CLARK COUNTY BAR ASSOCIATION

NOV. 2023

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**The Gaming Law Issue**



*Special features*

## Highlights from the Meet Your Judges Mixer

*See pages 26-29*

**UNLV Law's Dean Leah Grinvald Guest Speaker at CCBA's Annual Meeting & Volunteer Appreciation Luncheon**

*See page 10*

### *Bar Activities*

## Become an Active CCBA Member for 2024

Scan QR Code and renew online now!  
*See page 10*

## Upcoming Bar Activities

*See pages 7, 8, 10, 30*



### *Feature articles*

- **New Cybersecurity Regulations from the Nevada Gaming Commission**
- **Gaming and Technology in Nevada**
- **The Value in a Casino Without a Hotel**
- **Good in Gaming**

*See pages 16, 20, 22, 24*



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*Genevieve Galman, Justice Linda Bell, Barbara Buckley, and Justice Lidia Stiglich at the Meet Your Judges Mixer.*

*For more highlights from the event, see pages 26-29.*





# COMMUNIQUÉ

THE OFFICIAL PUBLICATION OF THE CLARK COUNTY BAR ASSOCIATION

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ments contained in this publication represent the views of the authors and do not necessarily reflect the opinions of the Clark County Bar Association. All legal and other issues discussed are not for the purpose of answering specific legal questions. Attorneys and others are strongly advised to independently research all issues.

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## Editorial Calendar

Cover Date	Topic	Closing Date
December 2023	Pro Bono	11/1/2023
January 2024	Five Things	12/1/2023
February 2024	Civil Rights	1/2/2024
March 2024	Criminal Law	2/1/2024
April 2024	Technology in Practice	3/1/2024
May 2024	Ethics	4/1/2024
June/July* 2024	Memberships Matter	5/1/2024
August 2024	Education Law	7/1/2024
September 2024	Labor & Employment Law	8/1/2024
October 2024	Law of Medicine	9/1/2024
November 2024	Constitutional Law	10/1/2024
December 2024	Pro Bono	11/1/2024

\*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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**Advertising info**

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

**Update to Specifications for Display Ads for *Communiqué***

Effective immediately, the specifications for the graphic design of color display ads submitted for *Communiqué* have been updated to reflect recent changes to software that impact the process of printing the magazine.

All color display ads submitted for the printed publication *Communiqué* will need to be designed and formatted for printing with ink using simple 4-color CMYK values only. All elements used in the design must be converted to CMYK color values. No use of PANTONE, spot, duotone, or monochrome settings will be allowed. No use of RGB, LAB, Index colors will be allowed.

The update to our ad specifications is a result of a recent announcement by Adobe about their “Pantone Color Books | InDesign”:

Standardized pre-loaded color libraries, also known as Pantone Color books, have begun to be phased out of Illustrator, InDesign, and Photoshop in software updates released as of August 16, 2022. With the October 2023 release, all the Pantone Color books are removed from InDesign. Customers who rely on Pantone colors in their creative workflows will need a Pantone license via the Pantone Connect plugin available on Adobe Exchange. See <https://helpx.adobe.com/indesign/kb/pantone-color-books-indesign.html>. (Last updated on Oct 10, 2023).

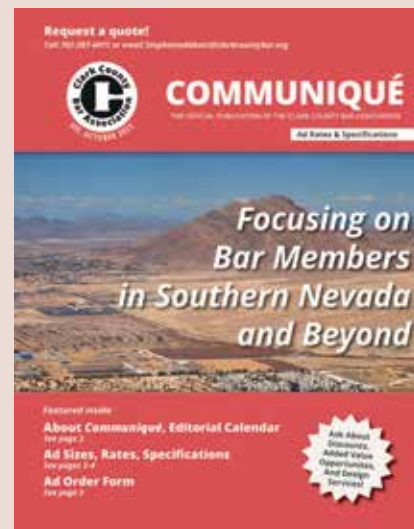
The format for grayscale ads will remain the same (Gray Gamma 1.8 or 2.2). For more information, contact StephanieAbbott@clarkcountybar.org or (702) 387-6011. **e**

**Place an ad in the *Communiqué* to promote your law practice or professional goods and services!**

**Request a quote today!**

Contact Stephanie at the CCBA office, StephanieAbbott@clarkcountybar.org or (702) 387-6011.

All advertisers must adhere to size specifications, standards, and policies contained on the *Communiqué* – Ad Rates & Specifications sheet. Available upon request.



# Helping in Times of Need

By *Brandon Kemble, Esq.*

I've been on this earth for about a half a century. For most of that time, I've experienced the world in a relative state of peace, though certainly not free from conflict. The world seems different lately.

Traditional systems of government are being challenged across the globe. The conflicts are crossing borders, and global powers are aligning at odds to one another in a way that seems more substantial.

I don't know what all this will mean for the world, but I am familiar with one aspect of the fallout. These conflicts have always resulted in significant refugee crises. We, as lawyers and individuals, are helpless to prevent these crises from happening, but we are not helpless in alleviating the suffering of those who are displaced by the horrors of war.

One of the most significant things I think I've done as a lawyer was my pro bono work on behalf of an Afghani asylum seeker. His story was remarkable. As a sixteen-year-old, recent high school graduate, he served as deminer. I had no idea what that was when he shared his story with me. I learned that he drove a transport of men in an area of Afghanistan laden with explosive mines. Their job was to locate and remove the mines. While away from his family doing this work to ensure the safety of coalition forces, he received several death threats from the Taliban.

He eventually returned to Kabul and continued his work there while taking care of his family members, who had to stay behind while their head of household sought special refugee status because of his work as a translator for U.S. forces.

---

***You can make a difference as a lawyer, even if you don't dedicate your life to it.***

---

In the wake of the of the United States' withdrawal from Afghanistan, he and his family destroyed all their possessions and family records that could reveal their involvement aiding coalition forces. They left home and traversed enemy territory to make it to a safehouse, where they stayed in a basement for more than one month. Eventually, they found a way out of Afghanistan and made it to the United States, with only the clothes on their backs.

Fortunately, when they arrived, they found organizations that would assist them in gaining essential aid and help them through the process of obtaining work documents. They also found the Legal Aid Center of Southern Nevada. As a result, I've had the opportunity to help him seek asylum.

It's not been easy learning this new area of law, but I can't imagine what it would have been like for him to go through it without a lawyer. His gratitude is humbling.

I feel helpless, as everyone does, to change the course of world events. However, I no longer feel like there is nothing I can do. You can make a difference as a lawyer, even if you don't dedicate your life to it. I hope every lawyer has the chance to feel what I felt by making whatever difference you can make helping someone in need. **🇺🇸**



*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.*

## Bar Activities

### "Moving In or Moving Out: Landlord Tenant Law in NV" CLE Program

**Live webcast (via Zoom) FREE for CCBA Members (2023)**

- **Sponsors:** Bank of Nevada and Las Vegas Legal Video
- **Speakers:** Alex Cherup, Esq. of Nevada Legal Services and Nick Haley, Esq. of Legal Aid Center of Southern Nevada
- **Date:** Thursday, November 2, 2023
- **Time:** 12:00 to 1:15 p.m.
- **Location:** Online via Zoom
- **Credits:** 1.0 General CLE Credit (NV)
- **RSVP to CCBA by 11/1/2023:** <https://clark-countybar.org/marketplace/cle-programs/landlord-tenant-law-cle-program/>



### Rock for a Cause

**Let's rock and roll to help veterans in Nevada!**

Attend the reception and live music performances at this special event presented by Clark County Bar Association, Lost Vagrants, Nevermore Productions, and Soul Belly BBQ. Enjoy no cover charge and three bands!

- **Live music line-up:**
  - Anna Duerden
  - Stanley Avenue
  - Lost Vagrants
- **Date:** November 11, 2023
- **Time:** Reception starts at 6:30 p.m. Live music starts at 7:00 p.m. and ends at 11:00 p.m.
- **Location:** Soul Belly BBQ on Main Street in DTLV
- **About:** A portion of the proceeds to benefit the NLS Veterans Project.

### 8th Annual Holiday Mixer

**Featuring Ugly Sweater Contest**

- **Sponsors:** Heidari Law Group and Junes Legal
- **Hosts:** CCBA's New Lawyers Committee and Diversity and Inclusion Committee for Equity (DICE)
- **Date:** Thursday, November 30, 2023
- 5:30-8:00 p.m.
- **Location:** Taverna Costera, 1031 S. Main St., Las Vegas
- **RSVP Deadline:** November 25, 2023. RSVP to [donnaw@clarkcountybar.org](mailto:donnaw@clarkcountybar.org), (702) 387-6011.



### Picture Day at CCBA

**Date:** November 8, 2023

**Time:** 9:30 a.m. to 2 p.m. only

**Location:** Clark County Bar Association, 717 S. 8th Street, Las Vegas

#### Special offers:

- 20% off purchases of professional portraits for CCBA members!
- No sitting fees (\$49 value) for this and graduation/family portrait session

**About:** Members of the Nevada bar, bench, law students, and supporting legal staff are invited to sit for a professional portrait during a scheduled session at the Clark County Bar Association office.

**Drop-ins are welcome; appointments are preferred.**

#### RSVP now!

Send an email request to [StephanieAbbott@clarkcountybar.org](mailto:StephanieAbbott@clarkcountybar.org), call the CCBA office at 702-387-6011, or complete the form at <https://clarkcountybar.org/about/member-benefits/professional-portrait-services/>.



**Activities** *continued on page 8*



## 2024 CCBA Executive Board of Directors Election Information

On Thursday, December 14, 2023, the Clark County Bar Association (CCBA) will hold the election for the 2024 CCBA Executive Board of Directors on the same day of the Clark County Bar Association Annual Meeting & Volunteer Appreciation Luncheon. This year's ballot includes two races. The two races features five incumbents running to retain their seats on the board and one or more nominees vying for one open position on the board. The open position was created from the appointment of a current director to serve as secretary/treasurer for the organization next year. Attorney members are invited to cast their vote electronically by visiting <https://clarkcountybar.org> on the day of the event or by absentee ballot before December 14, 2023. See below for more information about the candidates, polling information, absentee ballots, and additional members of the CCBA Executive Board of Directors.

### Candidates (terms to expire 12/31/2025)

*Vote for any (one or more) to retain their current seat:*

- **Annette Bradley\*** of B & B Realty Investment Group
- **Joshua Dresslove\*** of Dresslove Law
- **Jacquelyn Franco\*** of Backus Burden
- **Alia Najjar\*** of Lewis Brisbois Bisgaard & Smith LLP
- **Michael Nunez\*** of Murchison & Cumming LLP

### Candidate (term to expire 12/31/2025)

*Vote for only one to fill one vacant seat:*

- **Open Seat** – *Name(s) to be announced soon (nomination deadline November 14, 2023).*

### Polling information for CCBA's election day

Attorney members may cast their ballot electronically by visiting <https://clarkcountybar.org> on December 14, 2023.

### Absentee ballot information

Attorney members who cannot submit a ballot on December 14, 2023 (as outlined above), may mail, fax, or email a completed absentee ballot declaration and a ballot during a period of five (5) business days preceding the date of the Clark County Bar Luncheon and Annual Meeting to Clark County Bar Association, 717 S. 8th Street, Las Vegas, Nevada, 89101, Fax (702) 387-7867, or Email Executive Director Donna Wiessner at [DonnaW@ClarkCountyBar.org](mailto:DonnaW@ClarkCountyBar.org).

Declarations and ballots will be available from the CCBA's website as an electronic file to download from <https://clarkcountybar.org>, and upon request from the CCBA.

Activities *continued on page 10*

## Nevada Ballet Ticket Special Offers

The CCBA will get a limited number of VIP level seats for select performances of the Nevada Ballet Theatre productions during their 2023-24 season. See below for information on the special offers\* available to current CCBA members.

### Select performances:

#### The Nutcracker

Fri. 12/15/2023 (7:30pm)  
Sat. 12/16/2023 (2:00pm)

#### Balanchine & Robbins

Sat. 1/27/2024 (7:30pm)

#### Swan Lake

Sat. 4/27/2024 (7:30pm)  
Sat. 5/4/2024 (2:00pm)

### Special offers:

#### CCBA's Free Tickets

#### CCBA Discount on Tickets

#### Request tickets or discount code!

Send request to [donnaw@clarkcountybar.org](mailto:donnaw@clarkcountybar.org).

\*Restrictions apply. For more information, call the CCBA office at (702) 387-6011 and see <https://clarkcountybar.org/about/member-benefits/ccba-ballet-tickets-special-offer>.

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DECEMBER 8-24, 2023



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DANCER PHOTO BY BILL HUGHES FEATURING BETSY LUCAS.

## Additional members of the 2024 CCBA Executive Board of Directors

### Officers (terms to expire 12/31/2024):

- President 2024: **Paul Ray\*** of Paul C. Ray, Chtd.
- President-Elect 2024: **Joel Henriod\*** of Henriod Law
- Secretary/Treasurer 2023: **James T. Leavitt\*** of Leavitt Legal Services PC

**Judicial Appointee (term to expire 2025):** The Honorable Bitia Yeager of Eighth Judicial District Court, Dept. 1

**Ex Officio (term to expire 12/31/2024):** President 2023 **Brandon Kemble\*** of City of Henderson

### Directors (terms to expire 12/31/2024):

- **Heather Anderson-Fintak\*** of Southern Nevada Health District
- **Christena Georgas-Burns\*** of Legal Aid Center of Southern Nevada
- **Paul Lal\*** of NV Energy

\*Denotes person currently serving on the board.

## CCBA's Annual Meeting & Volunteer Appreciation Luncheon

**Guest speaker: Dean Leah Grinvald of UNLV William S. Boyd School of Law**

- **Sponsors:** Bank of Nevada and First Legal
- **Date:** December 14, 2023
- **Check-in:** 11:30 am
- **Luncheon:** 12:00-1:00 pm
- **Location:** Morton's The Steakhouse, 400 E Flamingo Rd, Las Vegas, NV, 89169
- **Entrée options:** Grilled 9 oz Ribeye, Chicken Christopher, Ora King Salmon Filet, or Vegetarian/Vegan Pasta w/ Grilled Vegetables
- **Pricing:** \$53 CCBA Member, \$78 Non-member
- **RSVP Deadline:** December 7, 2023. RSVP to the CCBA required by December 7, 2023 at (702) 387-6011 or <https://clarkcountybar.org/bar-luncheon-rsvp-form/>. 📍



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## Bar Renewal Notice

# Become an active CCBA Member for 2024

**CCBA Memberships Expire December 31**

CCBA members are invited to renew online via the bar's website at <https://clarkcountybar.org/marketplace/join-renew/> **before** November 4, 2023, for the 2024 membership year and benefit from our "Early Bird Special Offer."

This online process is designed to reduce costs that would be necessary to print and mail paper invoices. If a member does not renew their membership by November 4, 2023, they will be mailed a traditional invoice to the address on record (via USPS) and they will not be eligible for the early bird offer.

For more information, scan the QR code to open the web form or call the CCBA at 702-387-6011.





# Workers' Comp is not Personal Injury.

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The workers' compensation system is a patchwork of statutes, regulations, and case law that has nothing in common with a personal injury case. We've helped thousands of people obtain medical benefits and award payments associated with their workers' compensation injuries and diseases. Let us help your client file a claim or appeal an adverse decision. We don't interfere with your personal injury cases; you keep those unless you would like us to handle them.

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*GGRM Senior Partners: (L to R) Lisa Anderson, Jason Mills, Toby Yurek, Dillon Coil*

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Las Vegas, Nevada 89109  
702-930-3370

5375 Kietzke Lane  
Reno, NV 89511  
775-522-5025



## Business Court Bench-Bar Meeting

All interested counsel are invited to attend the Eighth Judicial District Court's Business Court Bench-Bar Meeting.

- **When:** Thursday, December 7, 2023
- **Time:** 12:00 p.m. to 1:00 p.m.
- **Where:** Regional Justice Center, Courtroom 16A or online via Zoom. Zoom hosted by: Lincoln, Gustafson & Cercos
- **Topic:** Receiverships with an emphasis on the cannabis industry. Also, Dylan Ciciliano has agreed to compile information on prevailing rates for lawyers who practice business law locally. Committee has agreed to compile lists of commonly suggested receivers, by industry.
- **Panelists:** Michelle Alarie, Emily Anderson, and Matt Dushoff. Moderator will be Ismail Amin.
- Luncheon co-sponsors will be Alarie Law and TALG Law. Lunch will be available for the first 30 people.

## Civil Bench-Bar Meeting

All interested counsel are invited to attend the Eighth Judicial District Court's Civil Bench-Bar Meeting.

- **When:** Tuesday, December 12, 2023
- **Time:** 12:00 p.m. to 1:00 p.m.
- **Where:** Regional Justice Center, Courtroom 10D or online via Zoom.

Zoom hosted by: Lincoln, Gustafson & Cercos

- **Note:** There will be no meeting in November 2023. The 2024 schedule will be announced in December.

## Probate Bench-Bar Meeting

Members of the probate bar are invited to attend the Eighth Judicial District Court's Probate Bench-Bar Meeting.

- **When:** Thursday, [TBA], 2023
- **Time:** 12:00 p.m. to 1:00 p.m.
- **Where:** Regional Justice Center, Courtroom [TBA]
- **Note:** To confirm date and location, contact Alex Giuliani at [giuliani-al@clarkcountycourts.us](mailto:giuliani-al@clarkcountycourts.us).

## Order Stayed in Re Amendments to Justice Court Rules of Civil Procedure

On October 10, 2023, Nevada Supreme Court Justice Stiglich signed an order in the matter of the amendment of the Nevada Justice Court Rules of Procedure. This is due to the courts' receiving several questions related to the extensive amendments to the existing body of rules in the Justice Court Rules of Procedure to align with the corresponding Nevada Rules of Civil Procedure. See ADKT 0607.

The new order stays the amendments to the Nevada JRCPC requested through ADKT 0607 on January 24, 2023, and approved on May 12, 2023, with amendments to take effect on August 10, 2023.

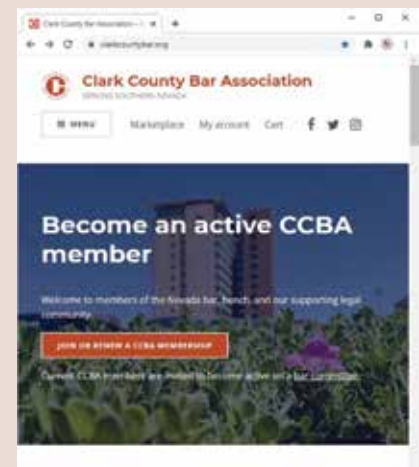
On July 11, 2023, the Nevada Judges of Limited Jurisdiction requested a 90-day extension of the effective date of the amendments, which the Supreme Court of Nevada (NSC) granted.

On October 10, 2023, the Nevada Judges of Limited Jurisdiction filed an amended petition and requested the NSC stay the effective date of the amendments approved in the court's May 12, 2023, order pending the NSC's review and decision regarding the amended petition. Cause appearing, the request was granted. The effective date of the amendments to the Nevada Justice Court Rules of Civil Procedure as set forth in the order dated May 12, 2023, is hereby stayed until further order of the court.

### Court news online

Find updates from local, state, and federal courts in southern Nevada posted to our website.

Visit <https://clarkcountybar.org/>. Search: "Court News."





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# Standing On the Shoulders of Giants

By James A. Fontano, Probate Commissioner

**N**early 350 years ago, Isaac Newton confessed that his successes came as the result of “standing on the shoulders of giants.” Newton’s observation has become synonymous with the recognition that anything we accomplish in this life is in large part built upon the foundation of those individuals that have come before. I have just reached the end of my first year in office as the Probate Commissioner, and Newton’s words ring loudly in my ears. I stand on the shoulders of truly remarkable jurists that have come before me.

My first job out of law school was clerking for the Honorable Valerie Adair. Judge Adair emphasized the need to be right—that we could not just take counsel at their word, but instead we needed to look at the statutes and cases and confirm that what was presented was consistent with the actual law.

Commissioner Don Ashworth’s name was held in the highest regard. He was admired for his knowledge of probate and the way in which he ran the department. His Synopsis on Nevada Probate Law was my handbook when the senior partner handed me my first probate case and instructed me to handle the estate.

Commissioner Wes Yamashita presided over the probate department during a period of remarkable growth—weekly calendars when he started were roughly half the size of what they are now. Commissioner Yamashita was also the architect of Part IV of the Eighth Judicial District

---

*There is a lot of work to do, but I am grateful for the remarkable jurists that have paved the way for me to be here today.*

---

Court Rules, which are the framework for probate practice in Clark County.

The probate department faces considerable challenges today. The growth of Clark County, coupled with the worldwide COVID-19 pandemic and the delays in hiring a new commissioner after Commissioner Yamashita’s retirement has resulted in a nearly 4-month backlog in having cases heard. My staff and I are seeking new and better ways to allow for the “speedy settlement of estates ... at the least expense to the parties.” NRS 132.010. These include implementation of a sales calendar and stipulated petitions for unopposed matters to avoid unnecessary hearings. We are also committed to having *ex parte* petitions processed within 2 weeks.

There is a lot of work to do, but I am grateful for the remarkable jurists that have paved the way for me to be here today. It is a humbling experience to stand upon their shoulders as we navigate this new era in the probate department. **e**



*Commissioner James A. Fontano was appointed as the Probate Commissioner at the Eighth Judicial District Court on October 31, 2022. Prior to accepting this position, Commissioner Fontano’s practice focused on business litigation and transaction, estate planning, and probate.*



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# Gaming and Technology in Nevada

By Scott Scherer, Esq.

Like most industries, the gaming industry strives to keep up with the latest technological developments and, more importantly, consumer preferences. As smartphones become ubiquitous and consumers do more online, the gaming industry continues to explore ways to meet consumer demands for convenience and exciting new technology.

Technologies such as cashless gaming, mobile account wagering for sports betting, iGaming, internet poker, social gaming, and betting on esports are becoming more prominent in the United States and are having an impact on gaming in Nevada.

Nevada's public policy with regard to gaming is about balance, recognizing that gaming is important to the state and that it is important to "foster the stability and success of gaming" while needing to maintain public trust and confidence. NRS 463.0129.

This balance is also seen in NRS 463.673(1)(a), which provides: "To protect and promote the health, safety, morals, good order and general welfare of the inhabitants of this State, and to carry out the public policy declared in NRS 463.0129, it is necessary that the Board and Commission be allowed to react to rapidly evolving technological advances while maintaining strict regulation and control of gaming."



*Scott Scherer, shareholder at Brownstein Hyatt Farber Schreck, uses a unique mix of regulatory, business, policy and legal perspectives to help clients implementing new technologies and systems in the gaming industry, including for payments, sports betting and online gaming.*

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***While most states have substantially similar standards for gaming devices and equipment, Nevada has certain requirements that are unique.***

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Currently, 44 states have some form of casino gaming (either commercial or tribal) and 34 states and Washington, D.C., have legalized sports betting. As Nevada competes with these other states for tourist dollars, providing the experience that customers expect is critical. Today, those expectations include engaging technology and convenience.

In the regulated gaming space, new technologies must comply with numerous standards and undergo thorough testing and final approval. While most states have substantially similar standards for gaming devices and equipment, Nevada has certain requirements that are unique. Some of those unique requirements are the result of how Nevada licenses or taxes gaming activities, but others might be considered antiquated or obsolete. When you are the first and the biggest in any field, it is important to not only assess the competition, but to reassess your own methods, if you want to stay a step ahead.

The Nevada Gaming Control Board (“NGCB”) has recently undertaken a review of its technology approval process to, as NGCB Chairman Kirk Hendrick stated, “streamline the approval process while complying with the law.” What this means is that the NGCB has recognized the importance of new technologies for keeping the Nevada gaming industry vibrant and ahead of all the new would-be competitors in other states. Where it has discretion, it is trying to streamline. Where it is constrained by the Nevada Gaming Control Act or the Nevada Gaming Commission Regulations (the “Regulations”), it must follow or seek to change the applicable law.

In furtherance of this process, the NGCB recently issued a Notice to Licensees indicating that, effective September 1, 2023, the Chair will exercise the discretion granted by the Regulations to “presume that a field test of a new or modified gaming device is not required” if the device is in operation in another jurisdiction with similar standards and at least 10 of the devices have been operated in that other jurisdiction for at least 30 days without any violations. Such a field trial would normally come after the device is certified as in compliance with Nevada standards by an independent test lab and approval by the Technolo-


gy Division. Where the criteria outlined in the Notice to Licensees have been met, the certification and approval requirements will still apply, but the field trial will no longer be required.


At a workshop held on September 27, 2023 (the “Workshop”), the NGCB announced other new initiatives, including one called “ACES” (Approval Categories for Equipment) that divides gaming equipment into three categories and allows licensees to begin using modified equipment in the lowest category (where there is no significant regulatory impact) with notice to the NGCB’s Technology Division and subsequent certification by an independent test lab. Prior approval will no longer be required. In the middle category (where there is some regulatory impact, but no effect on tracking gaming revenue or ensuring that the game is fair to players) approval by the Technology Division will be required, but certification by an independent test lab can follow that approval within six months. Where gaming revenue or fairness are implicated, however, gaming equipment will still be subject to the full certification and approval requirements.


**Gaming** *continued on page 18*

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**Gaming** *continued from page 17*

Another new initiative announced, called “Ante Up,” will allow a manufacturer required to conduct a field trial to make an additional payment to have NGCB agents perform certain procedures that the casino hosting the field trial is currently required to perform. These procedures, which are in addition to the typical internal control processes required of casinos, make it a burden for a licensee to host a field trial and sometimes making it difficult for manufacturers to find willing hosts. The Ante Up initiative is similar to processes in other state and local agencies that allow for expedited processing of certain documents for an additional fee.

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***The Ante Up initiative is similar to processes in other state and local agencies that allow for expedited processing of certain documents for an additional fee.***

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At the workshop, the Association of Gaming Equipment Manufacturers suggested a series of deadlines that both the licensed manufacturers and the NGCB would be required to meet to keep the technology testing and approval process moving. Representatives of a casino operator suggested that certain Technical Standards should prescribe the “what” rather than the “how,” allowing manufacturers the flexibility needed to use innovative ways to meet prescribed requirements. Chairman Hendrick announced that the NGCB would review these proposals and indicated an intent to form a working group to lead that review and suggest possible action.

All of these initiatives and suggestions are positive steps in streamlining Nevada’s approval of new technology. Nevada has long taken pride in being the best gaming jurisdiction in the world, in both the business and regulatory arenas. For better or worse, its thorough regulatory reviews were not keeping up with advancements in technology. Keeping Nevada at the forefront of a more competitive gaming industry and balancing the stability and success of Nevada gaming with public trust and confidence, as prescribed by the Nevada Legislature, requires a reevaluation of how those interests apply to the technology approval process. **G**

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# New Cybersecurity Regulations from the Nevada Gaming Commission

By Kelci S. Binau, Esq.

Gaming is just one of many industries working to strengthen its regulations concerning cybersecurity and privacy. On Thursday, December 22, 2022, the Nevada Gaming Commission (“NGC”) approved and adopted an amendment to its gaming regulations. NGC Regulation 5.260, which became effective January 1, 2023, requires certain gaming operators (“covered entities”) to comply with new cybersecurity regulations on or before December 31, 2023. The new regulations require covered entities to take “all appropriate steps” to “secure and protect” not only their own “information systems,” their own “records” and their own “operations,” but also secure and protect the “personal information” of their patrons and employees. Nev. Gaming Comm’n Regs. 5.260(1). The NGC’s amendment reflects its concern about cybersecurity over the past few years as cyber-attacks continue to increase in frequency and the range of businesses targeted has broadened.

## Covered gaming entities

The amended regulations define “covered entities” as nonrestricted licensees operating or exposing for play games or gambling games and gaming licensees authorized to operate a race book, sports pool, and/or interactive gaming. Nev. Gaming Comm’n Regs. 5.260 (2)(c).



*Kelci S. Binau is an attorney in the Gaming & Administrative Law Practice at McDonald Carano. Kelci also serves as the incoming Secretary and General Counsel of Global Gaming Women.*

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*It is important to note that the definition includes “attempt”—successful or not—which could be interpreted to mean the regulations apply to instances in which a cyber-attack was prevented or defeated by existing cybersecurity measures.*

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## Cyber-attacks defined

The regulations define a cyber-attack as “any act or attempt to gain unauthorized access to an information system for purpose of disrupting, disabling, destroying, or controlling the system or destroying or gaining access to the information contained therein.” Nev. Gaming Comm’n Regs. 5.260(2)(a). It is important to note that the definition includes “attempt” –successful or not– which could be interpreted to mean the regulations apply to instances in which a cyber-attack was prevented or defeated by existing cybersecurity measures.



## Record keeping requirements

Covered entities must create written documentation of “all procedures” for complying with the new regulations – “and the results thereof.” The records must be retained for a minimum of (5) five years and provided to the Nevada Gaming Commission Board (“NGCB”) upon request.

## Risk Assessment, Best Practices and Monitoring

By December 31, 2023, covered entities must (1) conduct an initial risk assessment of its business operations and (2) develop cybersecurity best practices it deems “appropriate.” On an “ongoing basis,” covered entities must monitor and evaluate cybersecurity risks and accordingly modify cybersecurity best practices and risk assessments. The risk assessment, monitoring, and evaluation may be conducted by an affiliate of the covered entity or a third-party expert.

## Actions required after cyber-attack/ incident response

A covered entity that experiences a cyber-attack to its information system which results in a “material loss of control, compromise, unauthorized disclosure of data or information,” must comply with certain requirements. It is important to note that the regulation further states that the same steps are required if a covered entity experiences “any other similar occurrence”. Such language could be interpreted to mean the regulations may also apply to a failed, defeated, or otherwise unsuccessful cyber-attack. The required steps are as follows:

1. Provide written notification to the NGCB as soon as practicable but no later than 72 hours after becoming aware of the cyber-attack. (The NGCB may request additional “specific information.”)
2. Investigate the cyber-attack and prepare a report documenting the results, including the extent and “root cause” of the cyber-attack and any actions taken or planned to prevent “similar events that allowed the cyber attack to occur.”
3. Notify the NGCB of the completed investigation report and make it available to the NGCB upon request. Nev. Gaming Comm’n Regs. 5.260(4)(a-c).

## Additional Requirements for Group 1 Licensees

Group 1 licensees, as defined by Subsection 8 of regulation 6.010, must comply with the following additional requirements:

1. Designate a qualified individual to be responsible for developing, implementing, overseeing, and enforcing cybersecurity best practices and procedures.
2. At least annually, engage a qualified “internal auditor or other independent entity” to conduct and document “observations, examinations, and inquiries of employees to verify” the covered entity is following best practices and procedures. All documents prepared pursuant to this requirement must be retained for (5) five years.
3. At least annually, engage an “independent accountant or other independent entity” to review the covered entity’s best practices and procedures – and attest in writing that they are in compliance. The written attestation and any related documents must be retained for (5) five years.
4. The same “independent entity” may be utilized to perform the requirements in these sections 2 and 3 so long as they are “performed by different employees.”

The graphic features the McDonald Carano logo at the top, with the tagline "YOUR NEVADA LAW FIRM SINCE 1949". Below the logo is a large blue banner with the text "McDonald Carano Celebrates 70+ Years of Legal Services to the Gaming Industry". To the right of the banner is a Venn diagram with three overlapping circles labeled "LICENSING", "COMPLIANCE", and "TRANSACTIONS". To the right of the Venn diagram is a list of "GAMING CLIENTS" including Owners, Operators, Developers, Lenders, Investors, Distributors, Manufacturers, and Service Providers. At the bottom of the graphic, the text "Reno • Las Vegas • Carson City" and the website "www.mcdonaldcarano.com" are displayed.

# The Value in a Casino Without a Hotel

By Chan Lengsavath, Esq.

Residents and visitors of Las Vegas may have seen mega resorts like those on the Strip. These large hotel casinos can have expansive gaming floors, thousands of hotel rooms, conference rooms, and showrooms. Residents have also seen convenience stores and supermarkets that have a few slot machines. Nevada law generally requires casinos to be a part of a resort hotel. However, in counties like Clark and Washoe, there is a group of casinos that has been around before the law was enacted that are now highly coveted establishments.

NRS 463.1605 requires a new nonrestricted casino in counties with a population of 100,000 or more to have “resort hotels” unless the establishment meets certain criteria that would grant a “grandfathered” exception. It is this grandfathering provision, tucked away in the revisor’s notes of Senate Bill No. 535 (1991) and Assembly Bill No. 614 (1993), that attorneys may find interesting when they are representing clients that are looking to purchase or sell certain nonrestricted gaming establishments. Without the exception, a casino would be required to have a resort hotel that includes at least 200 rooms, a bar, and a 24-hour restaurant. See NRS 463.01865.

In Nevada, gaming establishments are licensed as either a restricted or nonrestricted license. See NRS 463.0177 and 463.0189. Restricted licenses are typically approved for taverns, bars, or convenience stores. These lo-

cations will have 15 or less slot machines and no other type of gaming. There are no requirements for restricted licensees to have a resort hotel. Before July 1, 1992, there were no resort hotel requirements for nonrestricted licensees, either. Then, in 1992, NRS 463.1605(1) was enacted and required applicants for a nonrestricted gaming license to have a resort hotel in conjunction with the casino. The legislature did, however, allow an exception to the resort hotel requirement for licensees that filed an application for licensure or held a nonrestricted license prior to July 1, 1992. Once these criteria are met, the grandfathered exception could continue indefinitely unless the establishment ceases gaming operations for more than two years. Additionally, this grandfathered exception runs with the establishment and is transferable to the next owner.

If a client wants to buy an establishment and open a new nonrestricted casino in Las Vegas without having to operate a resort hotel, the client will have to purchase a grandfathered establishment. Otherwise, not only would that new owner have to operate a gaming business, but the owner would also have to operate or construct a hotel, bar, and restaurant. Obviously, those additions can be a costly undertaking for purchasers looking to just provide gaming.

On the other hand, if a client wants to close gaming at a grandfathered location, an attorney may want to discuss with their client the importance of retaining the location’s grandfathered status. Not only would that allow the operator to again conduct gaming in the future without having



*Chan Lengsavath, Esq. has almost 20 years of experience at the Nevada Gaming Control Board and has worked in three different divisions. He is currently the chief of the tax and license division. Chan is a certified public accountant and licensed attorney.*

to be a resort hotel, but the establishment will also retain that status for possible future purchasers that may want to do the same. There is value in locations that have a grandfathered nonrestricted gaming license.

For the reasons above, the grandfathered status can be a highly sought asset. Currently, owners that no longer have gaming at their grandfathered establishments have been known to apply for gaming licenses to operate gaming for one day every two years just so that the grandfathered provision is retained at the establishment. Although a regulator may not have an opinion on the economics of such a transaction, a regulator could argue that operators would not voluntarily go through the Nevada Gaming Control Board's licensing process and pay the fees just to provide gaming for one day every two years (typically at a loss) if it was not significantly worth their time to do so.

Attorneys practicing in Clark and Washoe, especially when advising clients in buying or selling gaming properties, should be familiar with NRS 463.1605 and some of the related grandfathered exceptions. Otherwise, if the exception to the resort hotel requirement is lost, it is lost forever. That oversight can be a costly one for a current owner or future buyer. **Ⓢ**

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# Good in Gaming

By Ogonna Brown, Esq.

Since 2020, I have had the honor of serving on the Nevada Gaming Commission and have had an opportunity to confirm first-hand that Nevada truly sets the gold standard for the gaming industry globally. Nevada’s gaming industry has grown exponentially, contributing significantly to Nevada’s economy. Over the years, I have observed several *pro per* appellants struggling at hearings involving appeals of the Gaming Control Board’s Enforcement Division’s denial of a gaming employee’s application for registration. Each of them would have significantly benefited from the assistance of Legal Aid of Southern Nevada (“Legal Aid Center”).

The administrative process can be difficult to navigate, and the stakes are high. In some instances, appellants must wait one year after the Gaming Commission issues an adverse decision before they are permitted to seek another hearing. Legal Aid Center has assigned gaming matters to attorneys over the years to assist Nevadans in need who are unable to afford representation in the gaming arena. Based on the statistics gathered by Legal Aid Center, the gam-

ing cases assigned through Legal Aid Center in the last six years are as follows:

YEAR REPORTED BY LEGAL AID	NUMBER OF GAMING CASES ASSIGNED AT LEGAL AID
2023	2
2022	2
2021	5
2020	2
2019	2
2018	5

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***Legal Aid Center has assigned gaming matters to attorneys over the years to assist Nevadans in need who are unable to afford representation in the gaming arena.***

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As you can see from these numbers, there is room for improvement. To improve access to justice in these administrative hearings, we need more referrals to the Legal Aid Center and attorneys volunteering their time to represent pro se individuals.

The need for *pro bono* gaming attorneys to assist applicants appears most pressing in two categories. First, during the pre-hearing stages of matters before the Gaming Commission, where pro se parties could benefit greatly from: (1) advice in the administrative process; (2) the appropriate time to present witnesses; (3) legal questions regarding the distinction between administrative hearings versus criminal hearings; (4) explaining the difference between arrests and convictions; and (5) assisting with discovery requests for disputes before the Gaming Commission. Second, pro se parties would benefit greatly from the assistance of *pro*

*bono* counsel at hearings before the Gaming Commission to assist in making compelling and effective legal and factual arguments.

The administrative economy improves by assigning appellants in need to the Legal Aid Center to appoint *pro bono* counsel. A *pro bono* attorney reduces the frustration and misunderstanding attendant with *pro per* applicants with the board. The pro se applicants' stress drops when an attorney is by their side. These hearings have enormous consequences for the pro se parties involved; often, a person is fighting to change their life, chasing a promising future livelihood in Nevada's lucrative gaming. I write this article to encourage practitioners to refer pro se parties who could benefit from the assistance of Legal Aid Center in gaming matters. 🗨️



*Ogonna Brown is an equity partner with the law firm of Lewis Roca in the firm's Litigation and Bankruptcy and Creditors' Rights practice groups. She has served as a Gaming Commissioner since 2020, and pro bono service is an important part of her practice and community service.*



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# Meet Your Judges Mixer Highlights

Special thanks to all who attended the 32nd Annual Meet Your Judges Mixer was held at the Las Vegas Country Club Thursday, September 7, 2023. View highlights from the event on pages 26-29.



*Victoria Cabrales, Cora Butorac, Sean O'Callaghan, Larry and Athena Hill*



*Raven Bridgeman, Paul Ray, Eric Abbott, Dana Nitz, Manny Gurule*



*Alex Provan, Alona Candito, Judge Gloria Sturman*



*Judge Michael Gibbons, Paul Ray, Deborah Westbrook, Jennifer Schwartz, Andrew Goldsmith, Dara Goldsmith, Mary Chapman*



*Judge Noreen DeMonte, Judge Kalani Hoo, Catherine Hoo*



*Julio Vigoreaux, Emily McFarling, Michael Wendlberger, John Fortin*



*Manny Gurule, Michael Nunez, Daniel Klett*





*Justice Elissa Cadish, Brandon Kemble*



*Judges Rhonda Forsberg, Stacy Rocheleau, Greg Gordon, Nadia Krall, Dawn Throne*



*Andrew Guzik, Andrew Green, Cassandra Cummings*



*Judge Cynthia Cruz, Craig Anderson, Mike Federico*



*Victoria Hightower, Fikisha Miller, Judge Crystal Eller*



*Judge Jerry Wiese, Kris Wiese, Amie Aldrich, John Aldrich*



*Judge Tara Clark-Newberry, Commissioner James Fontano*



*Judge Adriana Escobar, Judge Nancy Alf, Dave Thomas, Brian Boschee*

**Highlights** *continued on page 28*



## Meet Your Judges Mixer

Highlights *continued from page 27*



*Craig Renard, Christina Carl,  
Timothy Revero*



*Genevieve Galman, Jon Norheim, LaTeigra Cahill, Dean Leah  
Grinvald, Heather-Rappaport*



*Ben Doyle, Donna Wiessner,  
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*Judge Joseph Sciscento, Kristina Witdeveld, Fran Fine, Judge  
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# 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. See below for a short description about the activities, when they meet, and who leads each committee:

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- **Continuing Legal Education (CLE) Committee** – Creates high quality, low-cost CLE seminars for the benefit of bar members and legal community. Chair: Michael Wendlberger, Esq., mwendlberger@lacs.org.
- **Diversity and Inclusion Committee on Equity** – Promotes and supports diversity, inclusion, and equity within the Nevada Bar, the profession, and

the legal community. The committee’s mission is to organize educational programs that facilitate constructive discussion and enhance understanding of diversity issues. The committee promotes diversity, equity, inclusion, and the removal of barriers to success within the CCBA and the communities we serve. Chair: Michael Nuñez, Esq., mnunez@murchisonlaw.com.

- **New Lawyers Committee** – Coordinates and participates with the William S. Boyd School of Law to produce student competitions. Co- Chairs: Benjamin Doyle, Esq. BenDoyle700@gmail.com. and Alexandra Matloff, Esq., AJMatloff@gmail.com.
- **Publications Committee** – Produces *Communiqué*, the official publication of the Clark County Bar Association. Committee members write articles themselves as well as solicit articles from other professionals on assigned topics. Chair Jennifer Roberts., Esq., jroberts@robertsgaminglaw.com.

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



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