

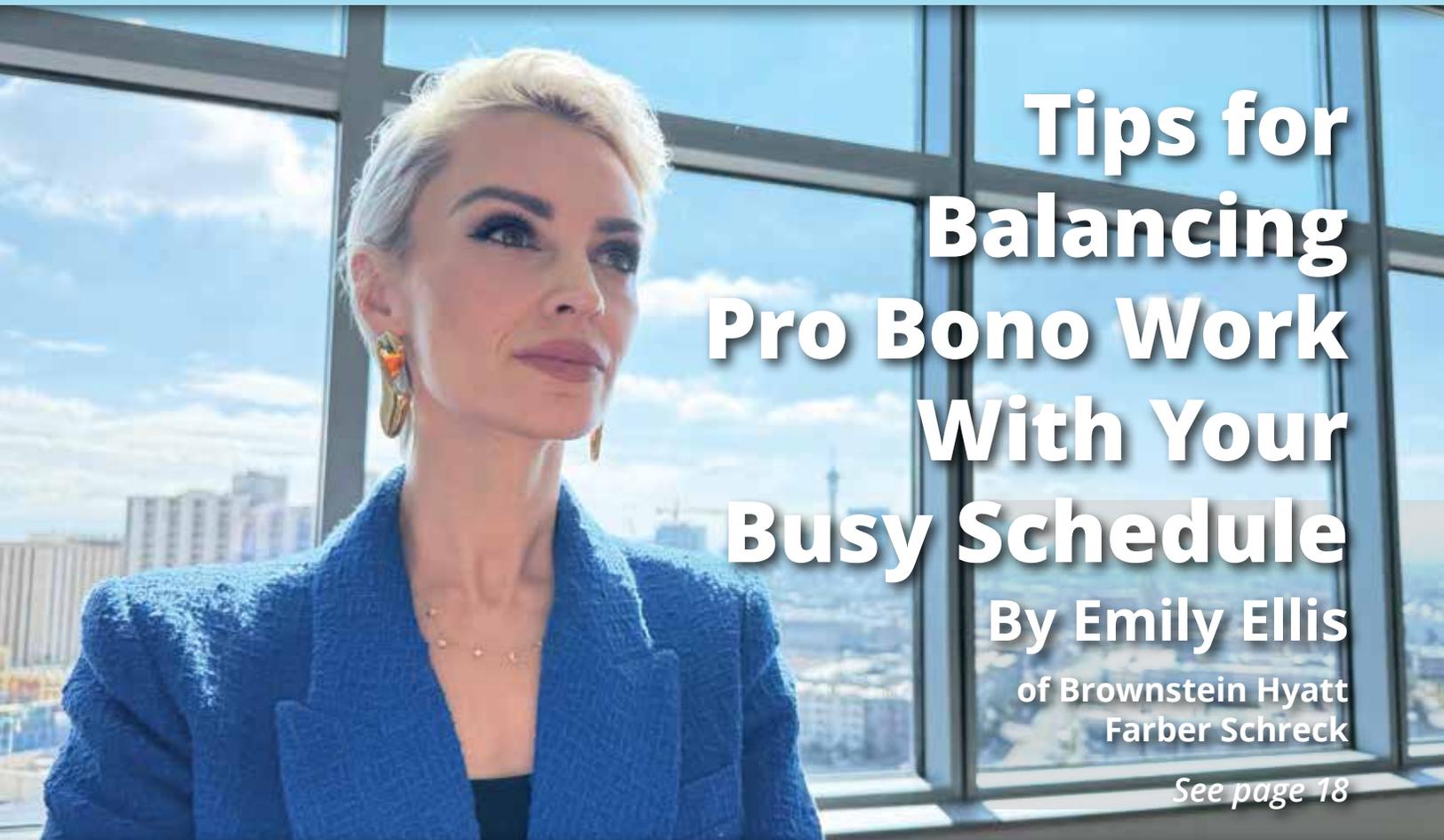


# COMMUNIQUE

THE OFFICIAL PUBLICATION OF THE CLARK COUNTY BAR ASSOCIATION DECEMBER 2023

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The Pro Bono Issue

A photograph of Emily Ellis, a woman with blonde hair, wearing a blue blazer and large earrings, looking out a window with a city view.

## Tips for Balancing Pro Bono Work With Your Busy Schedule

By Emily Ellis

of Brownstein Hyatt  
Farber Schreck

See page 18

### Highlights

Bar Committees  
Bar Luncheon  
CCBA Election  
CLE Programs  
Bench-Bar Meetings  
Appellate Court Summaries  
Bar Benefits & Services

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- Pro Bono Opportunities at Senior Law Program
- Gaining Valuable Experience Through Pro Bono: An Example from Civil Forfeiture
- Pro Bono Needs in a Changing Community
- Nevada Legal Services Pro Bono Programs

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DECEMBER 2023

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*Emily Ellis, Esq., shareholder at Brownstein Hyatt Farber Schreck.*

*Photo courtesy of Stephanie Abbott.*





# COMMUNIQUÉ

THE OFFICIAL PUBLICATION OF THE CLARK COUNTY BAR ASSOCIATION

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January 2024	Five Things	12/1/2023
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March 2024	Criminal Law	2/1/2024
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September 2024	Labor & Employment Law	8/1/2024
October 2024	Law of Medicine	9/1/2024
November 2024	Constitutional Law	10/1/2024
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\*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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**Join a Bar Committee**

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

- **Community Service Committee** – Meets: First Friday of the month. Chair: Benjamin Gordon, Esq.
- **Continuing Legal Education (CLE) Committee** – Meets: Second Wednesday of the month. Chair: Michael Wendlberger, Esq.
- **Diversity and Inclusion Committee on Equity (DICE)** – Meets: Last Friday of the month. Chair: Michael J. Nunez, Esq.
- **New Lawyers Committee** – Meets: Second Thursday of the month. Co-Chairs: Co-Chairs to Benjamin Doyle, Esq. and Alexandra Matloff, Esq.
- **Publications Committee** – Meets: Second Friday of the month. Chair: Jennifer Roberts, Esq.

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

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# All Night Long!

By *Brandon Kemble, Esq.\**

**T**ime flies when you're having fun. And this year has indeed flown by.

I, like many presidents of many organizations, came into office with a bold vision for the CCBA. I leave with much undone but happy with my time at the helm. My biggest regret was not finding my way onto the cover of every edition of the *Communiqué*. If you share in my disappointment, please send an email to the editorial board with a cc to Stephanie Abbott.

I have not often been described as modest or humble. That is likely because I am not. But even I am humbled to add my name to the list of past presidents of the CCBA. The Clark County bar is unique, and amazing, and has a rich history. You may not recall the list of past presidents, but the story of our bar can be told simply by reviewing the list of past CCBA presidents and recalling a personal or secondhand story you have heard about them. They are judges, legal legends, trailblazers, change makers, and pioneers and pillars of our legal community. See for yourself: <https://clarkcountybar.org/about/past-presidents/>

As humble as I am not, I know my star won't shine as bright as many of those on the list. But I do hope that the message I tried to spread this year won't fade fast. I've written about it, I've talked about it, and I believe in it – the Clark County Bar is the fun bar. It is important for the lawyers of this bar to have fun together, and it was especially important over the last few years to reconnect with that special element of our bar.

And we got back to having fun this year. We lunched together. We learned together. We mixed together. We bar-crawled together. We walked together. We served together. We toasted together. We rocked out together. We did indeed have a lot of fun together. I know my friends on the CCBA board are going to keep the good times rolling, and I look forward to sharing them with you.

Thank you all for having fun with me this year. I leave you with better words than my own to say farewell. You can laugh with me, or at me, or roll your eyes for my selection, but please have fun doing it.

*Well, my friends, the time has come  
To raise the roof and have some fun  
Throw away the work to be done  
Let the music play on  
(Play on, play on)*

*Everybody sing, everybody dance  
Lose yourself in wild romance  
We're going to party  
Karamu, fiesta, forever  
Come on and sing along!*

*We're going to party  
Karamu, fiesta, forever  
Come on and sing along!*

*All night long.*

- *Lionel Richie*

**C**



*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.*

*\*First CCBA President to implement texting to converse with bar staff.*

**SPECIAL EVENT**

**Thursday, January 25, 2024 | 5 to 7 PM PT  
State Bar of Nevada (Las Vegas)**

*Clark County Bar Association and  
State Bar of Nevada Appellate Law Section presents*

# **“How to Argue: Motions and Appeals”**

*Featuring*

**Dan Polsenberg**

*Partner, Lewis Roca*

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how to emphasize certain legal  
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## “Bankruptcy for the Non-Bankruptcy Practitioner” CLE Program

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

- **Sponsors:** Bank of Nevada and Las Vegas Legal Video
- **Speaker:** Candace Carlyon of Carlyon Cica Chtd.
- **Date:** Wednesday, December 6, 2023
- **Time:** 12:00 to 1:15 p.m.
- **Location:** Online via Zoom
- **Credits:** 1.0 General CLE Credit (NV)
- **Price for Live webcast (via Zoom):** FREE for CCBA Members (2023) only
- **Price for recorded materials rental:** \$25/CCBA Member or \$50/non-member
- **RSVP to the CCBA by 12/4/2023:** <https://clarkcountybar.org/marketplace/cle-programs/>



## 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 to the CCBA required by 12/7/2023:** <https://clarkcountybar.org/bar-luncheon-rsvp-form/> or (702) 387-6011.



## CCBA 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 one uncontested

race and one contested race. The uncontested race features five incumbents running to retain their seats on the board. The contested race features three 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

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

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

- **Benjamin Doyle** of Hooks Meng & Clement, PLLC
- **Jeffrey Luszeck** of Solomon Dwiggin & Freer, Ltd.
- **Michael Wendlberger** of Legal Aid Center of Southern Nevada

## 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.

## 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 Bita 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 Nevada Attorney General's Office
- **Paul Lal\*** of NV Energy

\*Denotes person currently serving on the board. 



# Bar Renewal Notice

## Become an active CCBA Member for 2024

### **CCBA Memberships Expire December 31**

We welcome members of the Nevada bar, bench, and our supporting legal community to become active members of the Clark County Bar Association (CCBA).

We are accepting applications and renewals for the 2024 CCBA Membership year.

Please join/renew by completing the form on the bar's website at <https://clarkcountybar.org/marketplace/join-renew/>.

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



# Appellate Law Presentation Featuring Dan Polsenberg on January 25, 2024

Appellate lawyer Dan Polsenberg will make a special presentation of “How to Argue: Motions and Appeals” for the continuing legal education of Nevada lawyers in a special program produced by the Appellate Litigation Section of the State Bar of Nevada and the Clark County Bar Association.

Dan Polsenberg is a partner in Lewis Roca’s Appellate Practice Group. Based in Las Vegas, Dan also frequently works out of their Reno office.

Dan is the lawyer to see for a big appeal. Past President of the State Bar of Nevada and the CCBA, Dan is the first Nevadan named a fellow of the prestigious American Academy of Appellate Lawyers and served as the group’s national president last year. Dan has 40 years of experience in appeals ranging from tort to tax and constitutional to commercial law. He has personally argued 297 appeals and has written briefs in hundreds more. Dan has over 250 reported decisions. In addition to issues of public importance, he often handles appeals regarding large awards, punitive damages, and *pro bono* cases.

Attendees will learn how to effectively argue motions at hearings in district court and when presenting oral arguments before the Supreme Court of Nevada and the Nevada Court of Appeals. Be prepared to learn the Top 5 “Polsenberg Tips”:

1. The most important part of an oral argument.
2. Developing the one sentence you want the judges to remember.
3. The law versus fairness.
4. Knowing when to stop.
5. Effective use of rebuttal.

Members of the Nevada Bar and the CCBA are invited to participate in this special event featuring food, fun, and collegiality.

## “How to Argue: Motions and Appeals”

- **Speaker:** Dan Polsenberg, Esq., Lewis Roca
- **About:** Learn how to emphasize certain legal points and clarify arguments when presenting your issues in district court and in the appellate courts.
- **Date:** Thursday, January 25, 2024
- **Time:** 5:30 to 6:30 p.m. for CLE with receptions from 5-5:30 and 6:30 to 7 p.m.
- **Location:** State Bar of Nevada, 3100 W. Charleston Blvd., Ste. 100, Las Vegas. Webcast option to be planned.
- **Offers:** 1.0 General CLE credit (NV)
- **Price for CCBA/SBN member:** \$20/person
- **Price for recorded materials rental:** \$20/person



Dan Polsenberg

- **RSVP Deadline:** 1/23/2024  
RSVP to the CCBA: <https://clarkcountybar.org/> or 702-387-6011.

All RSVPs must be made to the CCBA at least 48 hours before the event starts. 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](mailto:donnaw@clarkcountybar.org) or (702) 387-6011. 📞

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## 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 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 to 1:00 p.m.
- **Where:** Regional Justice Center, Courtroom 10D or online via Zoom. Zoom hosted by: Lincoln, Gustafson & Cercos
- **Note:** 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]
- **Time:** 12:00 to 1:00 p.m.
- **Where:** Regional Justice Center, Courtroom [TBA]
- **Note:** To confirm date and location, contact Alex Giuliani at [giulianial@clarkcountycourts.us](mailto:giulianial@clarkcountycourts.us). 📧

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### Opinions Summary (11-1-23)

By Joe Tommasino, Esq.

#### Supreme Court of Nevada

**Title insurance:** (1) The applicability of at-issue endorsements in the title-insurance policy depends on the interpretation of NRS 116.3116, which is unambiguous; (2) under that statute, an HOA's lien for assessment obligations arises when the assessment obligation becomes due; (3) moreover, NRS 116.3116 determines the superpriority of the HOA's assessment lien over the first security interest by reference to the assessment obligation and when it becomes due; (4) applying this understanding of NRS 116.3116 to the allegations in the complaint, the assessment lien that extinguished Deutsche Bank's deed of trust arose roughly seven years after the date of policy; and (5) because the California Land Title Association (CLTA) 115.2 endorsement insures losses resulting from the priority of assessment liens in existence at the date of the policy, this post-policy lien does not fall within the endorsement's scope. The Supreme Court of Nevada has previously recognized that NRS 116.3116 designates a portion of an HOA's lien for assessment obligations as senior to a first deed of trust, and if this "superpriority piece" is foreclosed upon, it "extinguish[es] the first deed of trust." At issue in this appeal is whether, following such a foreclosure, the first deed of trust holder may recover for its loss of interest in the property by making a claim on its title-insurance policy. The underlying dispute arose when an insurer denied coverage as to such a claim, prompting the first-deed-of-trust holder to file a complaint for breach of contract and related claims. The district court dismissed the complaint, determining that there was no coverage and that each of the claims failed as a matter of law. On appeal, the Supreme Court concluded that, without NRS 116.3116, which created a statutory lien

comprised of a superpriority piece, as well as the ability to enforce that piece and extinguish a first security interest, the enforcement of the HOA's assessment lien would not extinguish a first security interest. Therefore, the injury alleged arose not by the existence of an HOA's CC&R or a violation of a CC&R, but by the existence of NRS 116.3116. Because only the statute creates the HOA's superpriority assessment lien and drives the ensuing extinguishment of a first security interest, the CLTA 100 endorsement does not provide coverage for Deutsche Bank's losses. Nor can it be said that a future violation on the land of a CC&R caused the loss under CLTA 100(2)(a), when only the statute allows for the HOA to extinguish a first deed of trust by enforcement of its superpriority assessment lien. Accordingly, operation of NRS 116.3116 precludes coverage under the title-insurance policy endorsements CLTA 115.2 and CLTA 100. Separately, the Court pointed out that, in 1991, the Nevada Legislature adopted the Uniform Common Interest Ownership Act (UCIOA), codified in NRS Chapter 116, to govern common-interest communities like HOAs. At footnote seven, the Court emphasized that "[o]ur Legislature has not amended NRS 116.3116(1) despite the UCIOA commenters' recommendation to do so nearly 30 years ago," and "[i]t is not our role to make changes to statutes the Legislature has not elected to make, and we are aware of no authority for the proposition that we should interpret a uniform act based on comments written after the pertinent statute was adopted in Nevada." *Deutsche Bank Nat'l Tr. v. Fid. Nat'l*, 139 Nev. Adv. Op. No. 45, \_\_\_ P.3d \_\_\_ (October 12, 2023).

#### Nevada Court of Appeals

**Criminal procedure:** (1) The plain language of NRS 179.225(2) requires the district court to inquire, prior to sentencing, into the defendant's ability to pay extradition restitution in light of any existing obligations for child support, victim restitution, or administrative assessments; and (2) the district court's statutory duty is satisfied by asking the defendant whether they have

*Joe Tommasino has served as Staff Attorney for the Las Vegas Justice Court since 1996. Joe is the President of the Nevada Association for Court Career Advancement (NACCA).*

any such obligations that would be impacted by the imposition of extradition restitution and by determining whether the defendant is able to pay such obligations or, alternatively, if extradition restitution would prevent the defendant from satisfying those obligations. In contrast, the plain language of NRS 176.139(7) does not require the district court, *sua sponte*, to conduct a similar investigative inquiry before requiring a defendant to pay for the cost of a psychosexual evaluation. Rather, it is incumbent upon the defendant to object to the psychosexual evaluation cost based on their inability to pay, and the defendant bears the burden to substantiate that inability to pay before the court can reduce or waive the psychosexual evaluation cost. However, once a defendant has done so, the court must make findings on the record as to the extent of the defendant's ability to pay and must impose the cost of the psychosexual evaluation only to that extent. When determining the defendant's ability to pay, the court may consider evidence such as whether the defendant was represented by appointed counsel, a financial affidavit that establishes indigency, the presentence investigation report, the defendant's current or prospective custody status, or other evidence of their financial inability to pay the psy-

chosexual evaluation cost. At footnote ten, the Court of Appeals emphasized that a district court "shall" impose the \$25 administrative assessment mandated by NRS 176.062(1), and the statute does not include any waiver provisions. *Bolden v. State*, 139 Nev. Adv. Op. No. 46, \_\_\_ P.3d \_\_\_ (October 19, 2023).

**Proposed orders: Practitioners and courts must exercise diligence when submitting and adopting proposed orders; practitioners should ensure that proposed orders are factually accurate and legally adequate, and courts should exercise due diligence and judgment when reviewing litigant-drafted orders prior to adoption.** In the Eighth Judicial District Court's Family Division, the court rules expressly contemplate that parties may submit proposed orders for consideration and adoption by the court. Moreover, the Supreme Court of Nevada has recognized that a district court may properly adopt a party's proposed order, provided that the opposing party is apprised of the order and given an opportunity to respond. Further, after entry of the decree in this

**Summaries** *continued on page 16*

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case, both parties had an opportunity, under NRCP 52(b), to request amendments to the decree. The availability of this procedure offers an additional level of protection to litigants in the event that they believe the district court's findings and conclusions are improper. Admittedly, some cases have strongly discouraged the practice of adopting litigant-drafted orders verbatim, but the practice is not in itself an independent basis for reversal. Even when the trial judge adopts proposed findings verbatim, the findings are those of the court and may be reversed only if clearly erroneous. Moreover, asking litigants to submit proposed orders is a customary practice that is often necessary for the timely administration of justice. Although a district court's verbatim adoption of a litigant's entire proposed order is not recommended as sound judicial practice, the Court of Appeals did not conclude that doing so is, inherently, an abuse of discretion. Rather, the Court of Appeals will analyze the content and substance of the proposed order

that was adopted by the district court and decide whether any particular findings of fact and conclusions of law were unsupported by substantial evidence or legally erroneous. *Eivazi v. Eivazi*, 139 Nev. Adv. Op. No. 44, \_\_\_ P.3d \_\_\_ (October 5, 2023). [https://nvcourts.gov/supreme/decisions/advance\\_opinions](https://nvcourts.gov/supreme/decisions/advance_opinions)

## Resources

- "Advance Opinions" are viewable at this link: [http://nvcourts.gov/Supreme/Decisions/Advance\\_Opinions/](http://nvcourts.gov/Supreme/Decisions/Advance_Opinions/)
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# Pro Bono Opportunities at Senior Law Program

By Diane Fearon

**S**outhern Nevada Senior Law Program (“SLP”) is a legal assistance organization that provides no-cost, quality legal services to seniors aged 60 years and older with the greatest economic and social needs.

We help over 2,600 at-risk, older adults each year with direct services and another 2,100 seniors with outreach education in senior centers and senior communities.

There is no income qualification to receive legal services from SLP, which allows us to help low-income seniors along with tight fixed-income seniors who may not qualify for a poverty-based program. It is estimated that 25% of people with a legal need qualify for a low-income-based program, and 35% of people can afford to hire a private attorney. This leaves 40% of vulnerable, older adults with nowhere to go for an \$800 problem that a private attorney would have to charge \$1,000 to do anything about it.

The largest volume of legal services provided to our clients is related to basic estate planning, with an emphasis on the “Power of Attorney for Health Care” (POAH) document. SLP offers basic estate planning/POAH clinics in English six to eight times per month in our office located at Sahara and Buffalo for groups of eight to 12 seniors. In September 2023, we launched a Spanish clinic for groups of six to eight seniors and anticipate making this available once per quarter beginning in 2024. We are grateful for the senior advocate pro bono attorneys who have volunteered to present at these clinics, where 70% of the attendees complete their POAH, which is invaluable to them and their loved

ones financially and emotionally. By becoming a senior advocate and committing to present at three two-hour clinics per calendar year, the attorney earns two CLE credits for service and up to two additional CLE credits for training to become a presenter. Many attorneys choose to volunteer for more than just the three clinics in a year because they enjoy helping seniors, and they recognize how valuable it is to free up our staff attorneys’ time to work on case matters involving evictions, elder abuse and/or exploitation, victims of scams or fraud, Social Security issues, merchant disputes, and more.

Because of the caring pro bono attorneys who have chosen to help SLP help more seniors, we have increased the number of seniors served on an annual basis by 24% and have reduced the average wait time for clients to four and a half months, from six months previously.

Please volunteer your valuable time in making a difference for any of the legal aid organizations that are a match for your priorities, or make a financial contribution in lieu of pro bono for the benefit of our community and its most disadvantaged individuals. **☛**



*Diane Fearon joined Southern Nevada Senior Law Program (SLP) as Executive Director in January 2021. Her background includes serving as a community bank CEO as well as executive roles in various nonprofit organizations. She is committed to ensuring that vulnerable seniors have access to justice.*

# Tips for Balancing Pro Bono Work With Your Busy Schedule

By Emily Ellis, Esq.

It's a balancing act! These are the words most attorneys say when asked how they fit everything into their day. Every time I hear this, I envision an attorney walking a tightrope, holding a child in one hand, a briefcase in another hand, and somehow balancing a basket of laundry on their head while simultaneously appearing for a hearing via video conference. If that attorney were complying with their obligations (wink, wink), tucked in that briefcase would be a file folder for a pro bono matter or two. While there are no hard-and-fast rules on how to ensure those pro bono matters don't send you spiraling off the tightrope, through the years—both from my own experience and witnessing my colleagues—I have gathered some tips and tricks to help “fit” pro bono into your busy practice.

First thing first: Integrate pro bono into your practice early on. It may never feel like the right time to take on a new case, and if you wait until you think you've struck the perfect balance between work and home life, that extra case or two will definitely throw you off. By engaging in pro bono as a new attorney, you're teaching yourself how to make it all work from the get-go, and your practice will begin to feel empty or off-balance without a pro bono matter. Smaller matters may be the perfect place to start to get your feet wet.

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*By engaging in pro bono as a new attorney, you're teaching yourself how to make it all work from the get-go, and your practice will begin to feel empty or off-balance without a pro bono matter.*

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This brings me to my second tip: Don't bite off more than you can chew. You don't need to be Evel Knievel and ride a motorcycle over a rope suspended between two hotels for your first pro bono case. Assess your current capacity, and, if your time feels limited, explore pro bono options that are “bite-sized.” Participating in the Legal Aid Center of Southern Nevada's Ask-A-Lawyer (“AAL”) program or representing a client in a name change application is a great way to have a meaningful impact on the lives of those in need, while providing a clear expectation of your time commitment. We can all find a couple of hours each month, so even if you can't work on a long-term matter given your current schedule, you can keep pro bono in your



*Emily Ellis, Esq., shareholder at Brownstein Hyatt Farber Schreck, focuses her commercial litigation practice on business, construction defect, and real estate disputes. She also has experience in intellectual property litigation, including trademark and copyright matters. She serves as the Las Vegas chairperson of Brownstein's firmwide Karma Committee, the firm's pro bono partner, and chair of its pro bono committee.*

practice by taking on these finite projects. Trust me when I tell you that the incredible feeling you get after hanging up the phone and knowing you helped an AAL client navigate the confusing eviction process will stick with you and make you want to continue volunteering—and maybe even take on a larger matter.

When that urge hits, my third tip will definitely come in handy: Working on a team is key to striking that perfect balance—imagine that tightrope walker attempting the feat without support from their balancing pole! We never want to feel like we are out on that tightrope by ourselves for our billable matters, so it makes no sense to do that to ourselves in pro bono matters. Not only will the client benefit from having a team approach to their case, where associates, partners, and paralegals are engaging in strategy sessions to obtain the best outcome for the client, but also, your team will be invaluable for your stability. If your plate is full one month with deadlines, briefs, and depositions in other matters, and the declaration for your pro bono consumer protection matter needs to be finalized with the client, one of your other team members can take on those responsibilities without the case or client suffering. As an extra bonus, when you take a case from the Legal Aid Center of Southern Nevada, you are assigned a mentor who is always available to assist in any aspect of your matter.

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*... [E]ngage in pro bono matters that are meaningful for you and align with your passions.*

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The last, and in my opinion, most important tip I can give is to engage in pro bono matters that are meaningful for you and align with your passions. For example, maybe helping the abused or neglected child, or the senior citizen obtain justice after being taken advantage of by a slum landlord, is something you are passionate about. If so, it will be easier to “fit” it into your busy schedule. When I am preparing an asylum applicant for their interview with USCIS, I am not burdened by it; rather, I am honored to be helping them and fueling a passion I have inside of me to make a positive impact in their life. If you find cases helping those in your community that you care about and stories that speak to you, I trust that your pro bono cases will be something that ignite you and that you long for in your daily practice—you won’t struggle with trying to “fit” them in. **©**

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# Gaining Valuable Experience Through Pro Bono: An Example from Civil Forfeiture

By John A. Fortin, Esq.

**B**y seeking out and providing pro bono representation, the legal profession is indisputably enriched and young lawyers in particular gain invaluable experience early in their careers. My pro bono practice has thus far been focused on civil rights. I have predominantly represented the rights of my clients when they have faced property forfeitures. Through pro bono work, I have been fortunate to present two oral arguments before the Supreme Court of Nevada, signed an amicus brief which led to a groundbreaking civil rights decision in Nevada, and gained and honed litigation strategy and appellate practice skills that I apply every day to my private practice.

Generally, civil forfeitures of property are authorized by statute and the law relies upon a legal fiction that the property committed the crime. In Nevada, property forfeitures can only occur when a criminal defendant is found guilty at trial or through a plea bargain. Following the criminal proceeding, the property—a home, a car, or the cash found on or near a defendant—may then be forfeited to the government. To be sure, removing the ill-gotten

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*However, as has been well documented, most property forfeitures fall on those least able to defend themselves against the forfeiture as opposed to the well-funded and well-represented El Chapos whom the forfeiture laws are designed to deter.*

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gains of criminal networks is sound public policy. However, as has been well documented, most property forfeitures fall on those least able to defend themselves against the forfeiture as opposed to the well-funded and well-represented El Chapos whom the forfeiture laws are designed to deter.

These impacted individuals (who may be relatives,



*John A. Fortin, Esq., is a commercial litigator and appellate attorney at McDonald Carano. He served for over a decade in the U.S. Navy on active duty and continues to serve in the reserves today.*

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***These impacted individuals (who may be relatives, spouses, or intimate partners and innocent of the underlying criminal conduct) can barely afford to meet their daily needs—let alone afford counsel.***

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spouses, or intimate partners and innocent of the underlying criminal conduct) can barely afford to meet their daily needs—let alone afford counsel. The loss of a home, a car, or even the little cash they might have in their pockets for a few days normally spells disaster. Their challenge involves more than money; it involves time. Property forfeiture proceedings can take years and preventing access to the seized property can truly upend the lives of those most vulnerable and their families.

While there are cases pending before both the Nevada and United States Supreme Courts that could address

some of these issues, more robust fixes likely would involve the state legislature and/or the bar. On the legislative front, our representatives could enact greater innocent property owner protections. Until those underlying reforms happen, the bar is best positioned to consider investing more pro bono resources to support those in need who face property forfeitures. Unfortunately, property forfeiture is an area of law that is often under the radar, but it is an area of law where young lawyers will find an extraordinary opportunity to make a difference at the intersection of law, public policy, and humanity.

My experience in defending claimants and innocent property owners has provided meaningful assistance to those in need, enriched my practice, and truly made me understand the humbling power a license to practice law can provide to our community. **G**

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# Pro Bono Needs in a Changing Community

By Michael Wendlberger, Esq.

**L**egal Aid Center of Southern Nevada adapts to meet the legal needs of the community. During the housing crisis, Legal Aid Center assisted people facing foreclosure. Legal Aid Center did not do this alone; in 2008, pro bono volunteers represented 50 families facing foreclosure. As our economy rebounded, many people faced unbearable debt. From 2010 through 2014, pro bono volunteers represented over 400 people considering bankruptcy to secure a fresh start. As the economy recovered, pro bono attorneys pivoted their attention to the children in our community, helping Legal Aid Center reach its goal of providing representation to every child in dependency court as part of its Children's Attorneys Project.

In 2015, the Supreme Court of Nevada established the Statewide Guardianship Commission to help curtail the abuses in guardianship, including the loss of countless estates. The Legal Aid Center adapted and started its Guardianship Attorney's Project to help those in need. Today, the Legal Aid Center represents over 4,000 adults and minors facing guardianship. Pro bono attorneys can donate their time as well representing adults and minors in the guardianship arena.

After the Route 91 tragedy, Clark County partnered with the Legal Aid Center and other community partners to create the Vegas Strong Resiliency Center ("VSRC"). The center provides assistance to help the survivors of the Route 91 tragedy. Pro bono attorneys again stepped up to help survivors during the darkest

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*To meet this goal, the Legal Aid Center recently announced the creation of the Advocacy and Justice Complex, which will house the VSRC under its new name, the Resiliency and Justice Center, and will serve all survivors of violent crime.*

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times. In 2022, the VSRC started expanding its efforts from assisting Route 91 survivors to helping all victims of violent crime in our community. To meet this goal, the Legal Aid Center recently announced the creation of the Advocacy and Justice Complex, which will house the VSRC under its new name, the Resiliency and Justice Center, and will serve all survivors of violent crime.

During the pandemic, Legal Aid Center and pro bono volunteers pivoted again, assisting thousands of persons facing eviction. Pro bono volunteers made over 3,000 phone calls in 2020 and over 4,400 the following year as part of Legal Aid Center's virtual Ask-A-Lawyer program. Pro bono volunteers continued taking litigation cases meeting with clients virtually and ensured the pandemic did not limit access to justice in our community.

So, where do we go from here? Last year, we faced the



*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.nv.org](mailto:mwendlberger@lacs.nv.org).*

highest inflation in 20 years. Does this mean we will soon see a housing bubble? Or does it mean a record number of bankruptcies are on the horizon? I do not know. I do know that whatever changes our community faces, Legal Aid Center and pro bono volunteers will step up to help our community.

Legal Aid Center offers pro bono opportunities in our Children’s Attorneys Project, guardianship, family law, federal matters, appellate cases, immigration, consumer protection, and the ask-a-lawyer program. Now is the time to take a case in an area that speaks to you. Remember the lemonade quote, and when life throws lemons our way, Legal Aid Center and pro bono attorneys stand ready to make lemonade for our community. **C**



*Congratulations to the Henderson City Attorney's Office on winning our inaugural City Attorney Pro Bono Challenge! Pictured (l-r): Nick Vaskov, Brandon Kemble, and Michael Wendlberger.*

*If you'd like to make a difference by providing free legal assistance to those who can't afford it, please visit [www.lacsn.org/cases](http://www.lacsn.org/cases) or reach out to us through [probono@lacsn.org](mailto:probono@lacsn.org).*



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# Nevada Legal Services Pro Bono Programs

By Morgan Shah, Esq.

As we enter a season of giving, attorneys might be looking for ways to help others, or resolving to do more in the year ahead. Nevada Legal Services (NLS) offers a variety of opportunities to volunteer through our pro bono programs.

## Pro bono case placement

We have cases available for placement in an array of practice areas, such as family law, bankruptcy, simple estate planning and healthcare directives, probate, guardianship, name and gender marker changes, and record sealing. All cases are pre-screened by NLS for eligibility and merit, including those referred for representation after an Ask-A-Lawyer consultation is completed. We are proud to offer ongoing support after placement, providing assistance with service of process and other case-related needs. Attorneys interested in taking a case outside their established practice area also can be matched with a mentor and take advantage of our forms and other resources.

## Ask-a-lawyer sessions and law fairs

Every week, NLS conducts virtual Ask-A-Lawyer sessions on a variety of topics to help meet the needs of both urban and rural residents. Attorneys can sign up for a session on the topic of their choice and complete 30-minute

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*Attorneys interested in taking a case outside their established practice area also can be matched with a mentor and take advantage of our forms and other resources.*

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telephone or Zoom consultations with pre-screened clients conveniently from their own office. Clients may participate in the consultation from their own device, or at one of our outreach events where NLS staff provide the technology and directly coordinate the appointment. This includes monthly sessions serving Laughlin and Pahrump. Additionally, our Lawyer in the School Program facilitates Ask-A-Lawyer sessions for families in need on-campus at Myrtle Tate Elementary School, a Title I school in Las Vegas. NLS also conducts special in-person events throughout the year where attorneys may provide advice or brief services on-site at local community centers. Many practitioners find Ask-A-Lawyer sessions and legal clinics to be very rewarding, and a great way to help even when they are unable to take a case.

## Teaching a CLE or community legal education class

NLS also provides many educational opportunities for both attorneys and the public on topics relevant to the needs of our pro bono clients. Through community education classes, you can help others help themselves by sharing your expertise with no obligation to take a case or provide direct legal advice to attendees. For those who teach CLE courses for Nevada attorneys, you have the opportunity to showcase your expertise while helping colleagues build their skills. As an added bonus, attorneys who teach an ap-



*Morgan Shah serves as Director of Community Engagement at Nevada Legal Services, Nevada's only statewide nonprofit legal aid organization providing free civil legal assistance to low-income residents in every county.*

proved CLE also receive credit for preparing and presenting the material.

## Get involved today!

Although 2023 is rapidly coming to a close, there are still opportunities to volunteer or earn CLE credit through NLS this year. We have several virtual Ask-A-Lawyer sessions scheduled during the month of December, and especially need family law volunteers. We also have a free CLE on debt collection on December 15.

For more information about cases available for placement, upcoming Ask-A-Lawyer sessions, special events, or CLE courses, please contact Susan Myers, Pro Bono Director, at [smyers@nevadalegalservices.org](mailto:smyers@nevadalegalservices.org) or 702-386-0404 Ext. 155. **e**



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# CCBA's Member Benefits & Services

The information provided on these pages are merely an overview of select benefits and services available to current CCBA members. More information about these and additional benefits and services are posted to the bar's website at <https://clarkcountybar.org/>.

\*Any discounts and services provided by a third party and offered as a courtesy to CCBA members are subject to change and/or cancellation by the provider. Additional restrictions apply. For more information, contact Donna at Clark County Bar Association, 717 S. 8th Street, Las Vegas, Nevada, 89101. Phone: (702) 387-6011.

## Advertising discounts

CCBA members can receive discounts for the following types of ad placements:

- 15% off the rate of ad placement or complimentary design for a display ad, available with purchase of a display ad in the printed magazine *Communiqué*.

- 50% off the rate of ad placement for the classified ad format, The Marketplace.

See pages 4, 26.

## Areas of practice listings offer

Attorney members of the CCBA can get listed via area of practice in *Communiqué* (June/July 2024). **CCBA members will need to complete the Areas of Practice Form (print, PDF, or web version) BEFORE 5/1/2024.**

**plete the Areas of Practice Form (print, PDF, or web version) BEFORE 5/1/2024.**

## Ballet tickets offer

CCBA members were invited to request the use of the CCBA's tickets or the special code for discount pricing on the purchase of their own tickets during the Nevada Ballet Theatre 2022-2023 season. Look for announcements for the next available season! See page 28.

## Baseball tickets 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.

## CCBA eNews subscription

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

**Communiqué Services** *continued on page 28*

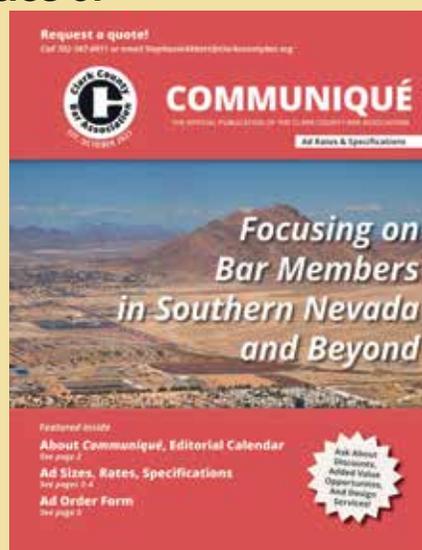
# Advertising Opportunities

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](mailto:StephanieAbbott@clarkcountybar.org) or (702) 387-6011.

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***We proudly announce a retirement savings program that provides members full-service benefits at a competitive cost.***

## **The Clark County Bar Association Multiple Employer Aggregation Program (MEAP)**

Attracting and retaining the best employees is a priority for every employer. We help you do this through innovative and cost-effective programs that make it easy for you to provide top-tier benefits that set you apart from other firms.

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Services *continued from page 26*

## subscription

CCBA members get a subscription to *Communiqué*, the official publication of the Clark County Bar Association. See page 4.

## Continuing Legal Education (CLE) opportunities

- Complimentary attendance to CCBA's lunchtime learning programs (via Zoom)
- Complimentary reporting of attendance to CLE seminars (live or recorded) produced by the CCBA to the NV Board of Continuing Legal Education
- Get discounts to attend CCBA's live programs

- Get even bigger discounts with the purchase of CCBA's CLE Passport (offers 13 hours of live and/or recorded seminars for only \$200)

See pages 7, 8, 10.

## Credit card processing discounts from LawPay

Chase a sunset, not overdue invoices. LawPay, a modern payment solution developed for legal professionals, makes it simple to get paid faster and more reliably. See page 30.

## Event discounts

Get complimentary access or discounted admission to a variety of the CCBA's special events like these:

- 40 Year Club Luncheon
- After Bar Exam Chill
- Bar Luncheons

Services *continued on page 30*



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dave@redpandasystems.com

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### Special offer for CCBA Members

RedPanda 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.**



## 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.

If complimentary tickets are no longer available, current CCBA members can request the discount code for select performances of:

- **The Nutcracker**
- **Balanchine & Robbins**
- **Swan Lake**

**Request tickets or discount code!**

**Send request to Donna at the CCBA office, [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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## Services *continued from page 28*

- CLE Programs
- DICE CLE Series
- Holiday Mixer
- Meet Your Judges Mixer
- Meet Your Law Students Mixer
- Pub Crawl

## Health plans from Prominence

The Clark County Bar Association Health Plans from Prominence have been designed exclusively for our organization membership. Legal practices with 2 – 50 employees can benefit from collective buying power, accessing the comprehensive health benefits, and affordable premium rates typically offered to large employers. **See page 31.**

## Hockey ticket discounts

Occasionally, the CCBA offers\* a special link for CCBA members to purchase tickets at a discounted rate to a single game of the Vegas Golden Knights.

## Individual disability insurance discount from WestPac Wealth Partners

Learn about a special offer for CCBA members from WestPac Wealth Partners. **See page 27.**

## Managed IT service discounts from Red Panda Systems

CCBA members may benefit from reduced pricing for their monthly managed IT services. 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 lon-

ger contract for managed IT support services to current CCBA members. **See page 28.**

## Meeting room space

CCBA members can reserve our classroom or conference room for a special class or client meeting.

## Networking opportunities

CCBA members are invited to attend committee meetings, bar luncheons, mixers, and special events held throughout the year including:

- 40 Year Club Luncheon
- After Bar Exam Chill
- Bar committee meetings
- Bar Luncheons
- CLE Programs
- DICE CLE Series
- Holiday Mixer
- Meet Your Judges Mixer
- Meet Your Law Students

Mixer

- Pub Crawl
- See pages 5, 7-10.**

## Professional portrait service offers

CCBA members are invited to sit for a professional portrait at the CCBA office and get discounted pricing from the photographer. **Next CCBA Picture Day: Wednesday, March 27, 2024.**

## Retirement savings - Multiple Employer Aggregation Program (MEAP)

The CCBA Multiple Employer Aggregation Program (MEAP) is a retirement savings program that provides members full-service benefits at a competitive cost. **See page 27. ☪**

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