

Pro Bono

Lunchtime Learning CLE Webcasts

Free for CCBA members January 23, 29, February 13, and April 30, 2025

See pages 10, 12, 15

DECEMBER 2024



# COMMUNIQUE

THE OFFICIAL PUBLICATION OF THE CLARK COUNTY BAR ASSOCIATION

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## Celebrating Pro Bono in Southern Nevada



**Barbara Buckley Reflects on 35 Years as a Legal Aid Lawyer and Leader**

See page 26

**Pro Bono Spotlights**

**Senior Law Program**

**Nevada Legal Services**

**Federal Pro Bono Project**

**Legal Aid Center**

See pages 18, 20, 22, 24

Special events

**Bar Luncheon and CCBA's Anniversary Party**

January 30 and February 20, 2025

See pages 9, 11

Highlights

**CCBA President's Message**

**Bar Activities**

**Court News**

See pages 5, 6, 8, 10, 14

**On the cover**



October Bar Luncheon Highlight:  
Back row (l-r): John Mowbray, Monah Kaveh, Paul Ray, Terry Bratton, Bill Curran. Front row (l-r): Jacquelyn Franco, Barbara Buckley, Nancy Allf, Michael Nuñez.

**Highlights**

Bar Luncheon Highlights..... 8

CCBA’s Anniversary Party Set for February 20, 2025 ..... 8

Lunchtime Learning CLE Webcasts Free for CCBA members..... 10

Energy Healing: The Best Kept Secret to Legal Wellbeing & Performance! 10

Five Things to Know When Contemplating a Writ Petition ..... 12

A Busy Law Firm’s Guide to Automation..... 12

Civil Bench-Bar Meeting ..... 14

Administrative Order 24-09 Effective December 2, 2024..... 14

Applications for Vacancy of Eighth Judicial District, Department Y Due December 19, 2024..... 15

**Features**

**Why You Should Consider Pro Bono Service**  
*By William Voy..... 18*

**Why I Think All Attorneys Should Know the Joy of Pro Bono**  
*By Krissta Kirschenheiter..... 20*

**The Federal Pro Bono Project – Yes, you can!**  
*By Austin Barnum..... 22*

**Empower a Child’s Future**  
*By Michael Wendlberger..... 24*

**Columns**

CCBA President’s Message

**Thank You for Your Service**  
*By Paul C. Ray, Esq..... 6*

View from the Bench

**Changes for Justice Court, Las Vegas Township**  
*By Chief Judge Melisa De La Garza ..... 16*

Pro Bono Corner

**Reflections on 35 Years as a Legal Aid Lawyer and Leader**  
*By Barbara Buckley..... 26*

Nevada Appellate Summaries

**Advance Opinion Summary (11-1-24)**  
*By Joe Tommasino, Esq..... 27*

**Spotlights**

Advertising Opportunities ..... 5

Event Calendar ..... 5

Communiq  Subscription Expires December 31 ..... 5

Join a Bar Committee ..... 6

Sponsorship Opportunities ..... 8

Out of the Darkness Las Vegas Walk..... 10

Free Lunchtime Learning CLE Programs..... 12

**Departments**

About Communiq  ..... 4

Editorial Calendar ..... 4

Advertiser Index..... 5

Bar Activities..... 5, 6, 8, 10

Bar Services..... 5

Court News..... 14

The Marketplace..... 30



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### Editorial Calendar

Cover Date	Topic	Closing Date
December 2024	Pro Bono	11/1/2024
January 2025	Five Things	12/1/2024
February 2025	ADR	1/2/2025
March 2025	Family Law	2/1/2025
April 2025	Civil Procedure	3/1/2025
May 2025	Estate Planning & Probate	4/1/2025
June/July 2025	Membership Matters	5/1/2025
August 2025	First Amendment	7/1/2025
September 2025	Legislative Wrap-Up	8/1/2025
October 2025	Science & Technology	9/1/2025
November 2025	Mental Health	10/1/2025
December 2025	Pro Bono	11/1/2025

\*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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 Ara Shirinian Mediation.....24  
 Bailey Kennedy, LLP ..... 14  
 Bank of Nevada ..... 7, 9, 10, 12, 21  
 BDO USA, PC..... 15  
 Business Process Automation  
 Company.....7  
 Davy’s .....7  
 First Legal .....7, 9  
 GGRM ..... 19  
 Heidari Law Group PC.....32  
 Hone Law ..... 22  
 Kemp Jones, LLP ..... 14  
 Kermani Concierge Medicine ..... 9  
 Las Vegas Legal Video..... 10, 12, 25  
 McDonald Carano ..... 13  
 Nevada Ballet Theatre..... 17  
 Portraits to You..... 28  
 Prominence Health Plan.....29  
 Red Panda Systems..... 12, 26  
 Spencer Fane LLP ..... 3  
 State Bar of Nevada.....31  
 Washoe County Bar Assoc..... 15  
 Welt Law ..... 25  
 Worldwide Litigation ..... 7

**Bar Services**

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**Bar Services**

**Communiqué Subscription Expires December 31**

**Renew CCBA Membership Now**

CCBA membership is annual and expires on December 31. *Communiqué* subscription is included with the CCBA membership. Learn more at ClarkCountyBar.org or call the CCBA office at 702-387-6011.



**Bar Activities**

**Event Calendar**

Please join us at these upcoming CCBA events:

- Dec. 5 **Annual Meeting & Volunteer Appreciation Luncheon** – See page 7
- Dec. 5 **Holiday Mixer Featuring Ugly Sweater Contest** – See page 7
- Jan. 23 **Energy Healing: The Best Kept Secret to Legal Wellbeing & Performance!** - Lunchtime Learning CLE – FREE for CCBA members – See page 10
- Jan. 29 **Five Things to Know When Contemplating a Writ Petition** - Lunchtime Learning CLE – FREE for CCBA members – See page 12
- Jan. 30 **Clark County Bar Luncheon Featuring Nevada Supreme Court Update with Chief Justice Herndon** – See page 9
- Feb. 13 **A Busy Law Firm’s Guide to Automation** - Lunchtime Learning CLE – FREE for CCBA members – See page 12
- Feb. 20 **Roaring Since the 20s** – A special event to celebrate CCBA’s 100-ish Anniversary – See page 11
- Apr. 26 **Out of the Darkness Las Vegas Walk** - Join CCBA’s team – See page 10
- Apr. 30 **Cross-County Court Series: Part 2** - Lunchtime Learning CLE – FREE for CCBA & WCBA members – See page 15

Learn more at <https://clarkcountybar.org/events/> or call 702-387-6011.

# Thank You for Your Service

By Paul C. Ray, Esq.

**T**his month Clark County Bar Association honors our volunteers and those who give pro bono service. Do not miss our Volunteer Appreciation luncheon on December 5! What service experiences are you most thankful for?

Besides our own career development, we have the opportunity and responsibility to provide legal services without compensation. We have great pro bono contributors to be thankful for and for the organizations which make it easy to give pro bono service, like Legal Aid Center of Southern Nevada, Senior Law Program, and Nevada legal Services. The Boyd School of Law teaches students the importance of pro bono service and is a great support for the strength of our rapidly growing community.

Our aspirational pro bono Rule 6.1 of Nevada Rules of Professional Responsibility gives us the wonderful opportunity to choose for ourselves how we want to give professional service. In addition to pro bono service, the aspirational rule includes participation in activities for improving the law, the legal system, or the legal profession and delivering services for law-related education.

The CCBA committees do amazing things to improve the legal system and the legal profession: community service activities like Blanket the Homeless; diversity, inclusion, and equity seminars on a wide range of practical, real-life issues; publish helpful magazine articles on timely, innovative subjects; provide continuing legal education on hot topics; and promote social and professional networking opportunities by, for, and with new lawyers.

For enjoyment, professional development, and opportunities to give back, attend CCBA luncheons, mixers, and extraordinary events. This year's favorites included a judicial update from the Supreme Court of Nevada, Meet Your Law Students, the 40-Year Club Induction, Meet Your Judges, and New Admittees swearing-in ceremonies.

This full circle moment is a little bittersweet for me. It has been a joy and a privilege to serve as President of the CCBA this year. This year being President has allowed me the privilege and responsibility to lead at each CCBA meeting I attend. Committee work has long been a fun way to contribute and to socialize. It is both humbling and gratifying to learn about the acts of service people give.

Thank you for serving the people of our community. Thank you for serving each other. Thank you for allowing me to serve with you. 🇺🇸

*Paul C. Ray has practiced business and real estate litigation and appeals for 33 years and is with the law firm of Paul C. Ray, Chtd. Paul serves as CCBA President through December 31, 2024.*



## Bar Activities Spotlight

### Join a Bar Committee

- **CLE Committee** – Plans programming for the continuing legal education of CCBA members. *Meets: 2nd Wednesdays at Noon via Zoom.*
- **Community Service Committee** – Plans activities that provide outreach services to the community at large in southern Nevada. *Meets: 1st Fridays at Noon via Zoom.*
- **Diversity and Inclusion Committee for Equity (DICE)** – Plans activities to facilitate constructive discussion and enhance understanding of diversity issues. *Meets: 3rd Fridays at Noon via Zoom.*
- **New Lawyers Committee** – Coordinates the William S. Boyd School of Law to produce student competitions, pub crawls, and the Meet Your Judges Mixer. The New Lawyers Committee is for attorneys admitted to practice in Nevada within the last seven years, regardless of age. *Meets: 2nd Thursdays, in person (with Zoom option) at Noon.*
- **Publications Committee** – Plans content for upcoming issues of the bar journal *Communiqué*. *Meets: 2nd Fridays at Noon via Zoom.*

To confirm dates, locations, and RSVP, call (702) 387-6011.

Clark County Bar Association

# Annual Meeting and Volunteer Appreciation Luncheon

Featuring guest speaker **Nevada Bar President Richard Dreitzer**  
and **Volunteer Appreciation Awards** and **CCBA Board Election**

**December 5, 2024 • 11:30 a.m. to 1 p.m.**  
Fogo de Chão Brazilian Steakhouse, 360 E. Flamingo Rd., Las Vegas

**RSVP to the CCBA required by 12/2/2024**

Pricing: \$60/CCBA Member, \$75/Non-member

Contact Donna at [donnaw@clarkcountybar.org](mailto:donnaw@clarkcountybar.org), (702) 387-6011



Clark County Bar Association

**9th Annual**

# Holiday Mixer

Featuring **Ugly Sweater Contest** and **Complimentary beverage and appetizers for CCBA members while supplies last!**

**Hosted by the CCBA's New Lawyers Committee and Diversity and Inclusion Committee for Equity (DICE)**

**December 5, 2024 • 5:30 p.m. to 8 p.m. • ReBar+Davy's**  
1225/1221 S. Main St., Enter thru Davy's side (boat on Main St.), Las Vegas

**RSVP to the CCBA required by 12/2/2024**

Contact Donna Wiessner at [donnaw@clarkcountybar.org](mailto:donnaw@clarkcountybar.org), (702) 387-6011



## Bar Activities



**October Bar Luncheon Highlight: Back row (l-r): John Mowbray, Monah Kaveh, Paul Ray, Terry Bratton, Bill Curran. Front row (l-r): Jacquelyn Franco, Barbara Buckley, Nancy Alf, Michael Nuñez.**

### Bar Services

## Sponsorship Opportunities

Opportunities are available to select businesses to sponsor bar activities, including:

- CCBA's Anniversary Party
- 40 Year Club Luncheon
- Bar Luncheons
- CLE Programming
- Meet Your Judges Mixer
- New Admittees Reception

For more information, contact: Donna at the Clark County Bar Association, (702) 387-6011, [donnaw@clarkcountybar.org](mailto:donnaw@clarkcountybar.org).

## Bar Luncheon Highlights

On October 9, 2024, CCBA hosted the Clark County Bar Luncheon at Vic's Las Vegas. The event was sponsored by Bank of Nevada and First Legal and featured a special presentation of "Reflections on 35 Years as a Legal Aid Lawyer and Leader" presented by Barbara Buckley of the Legal Aid Center of Southern Nevada. To learn more about Barbara's presentation, read the Pro Bono Corner on page 26.

Bar members are invited to attend the next two bar luncheons:

1. December 5, 2024 - CCBA's Annual Meeting & Volunteer Appreciation Luncheon. See announcement on page 7.
2. January 30, 2025 - Clark County Bar Luncheon Featuring Nevada Supreme Court Update. See announcement on page 9.

For more information and to RSVP, call the CCBA office at (702) 387-6011 or complete the RSVP forms at [ClarkCountyBar.org](http://ClarkCountyBar.org).

## CCBA's Anniversary Party Set for February 20, 2025

On February 20, 2025, the CCBA will host "Roaring Since the 20s" a special event to celebrate it's 100-ish anniversary in the Underground at the Mob Museum. Bar members are invited to join in the fun as we travel back in time to the Prohibition era for this special event. Dress for the occasion! Wear your finest 20s ensemble! See announcement on page 11.

For more information and to RSVP, call the CCBA office at (702) 387-6011 or complete the RSVP forms at [ClarkCountyBar.org](http://ClarkCountyBar.org).





*Clark County Bar Association presents*

# Nevada Supreme Court Update

*Special presentation during the*  
**Clark County  
Bar Luncheon**

**Thursday, January 30, 2025**  
**Vic's Las Vegas**

*Check-in & Networking: 11:30 a.m. - 12:00*  
*Luncheon Program: 12:00 - 1:00 PM PT*

*RSVP with payment to the CCBA  
required by 1/23/2025*

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**702-387-6011**

**RSVP NOW**



*Featuring*

**Hon. Douglas Herndon**  
*Chief Justice Supreme Court of Nevada*

*And*

**Swearing-in Ceremony of  
CCBA's Board of Directors**

## Bar Activity

# Out of the Darkness Las Vegas Walk

Join CCBA's team in this charity walk to support the American Foundation for Suicide Prevention

- When: April 26, 2025
- On-Site Registration Starts: 9:00 am
- Program Starts: 10:00 am
- Where: Sunset Regional Park, 2601 Sunset Rd, Las Vegas, NV 89120
- Who: CCBA members, friends, and family
- Sign-up now: <https://supporting.afsp.org/team/357531>

For more information, contact Stephanie at 702-387-6011 or [StephanieAbbott@clarkcountybar.org](mailto:StephanieAbbott@clarkcountybar.org).

## Bar Services

# CLE Programs

CCBA offers live webcasts and recorded CLE programs for Nevada lawyers.

To register for an upcoming program or to order a recorded program, visit our website at <https://clarkcountybar.org/marketplace/cle-programs/>



## Bar Activities

# Lunchtime Learning CLE Webcasts Free for CCBA members

By Stephanie Abbott

**D**id you know that the CCBA offers members the opportunity to earn up to 13 hours of CLE programming during the year? That's right! CCBA's live webcasts included with 2025 CCBA membership!

Members get access for up to 13 hours of CLE programming provided via live webcasts (via Zoom) with a current CCBA membership. Offer includes CLE reporting for each completed program. To benefit from this complimentary bar service, the CCBA member must RSVP for the scheduled webcast and login to participate in the live webcast. CLE programs are listed at <https://clarkcountybar.org/marketplace/cle-programs/>.

See below for a short list of live webcasts being held for CCBA members only.

## Energy Healing: The Best Kept Secret to Legal Wellbeing & Performance!

- **Speaker:** Wendy S. Axelrod, Esq., ELI-MP, Empowered Mindset Coach & Energy Healer for Women Legal Professionals and Founder of the Unstuck Axelerator™
- **When:** Thursday, January 23, 2025, Noon to 1:15 p.m.
- **Where:** Online via Zoom
- **Offers:** 1.0 Substance Abuse/Addiction/Mental Health (AAMH) CLE credit for Nevada lawyers
- **Live webcast (via Zoom):** FREE for CCBA Members (2025) only
- **Recorded materials rental:** \$25/CCBA Member or \$50/non-member. Recorded materials are delivered via hyperlink in an email. Please allow up to 6 weeks (after date of original presentation) for delivery.
- **RSVP to CCBA by 1/21/2025:** <https://clarkcountybar.org/> or (702) 387-6011



This CLE program is sponsored by Bank of Nevada and Las Vegas Legal Video.

**Webcasts** continued on page 12

**SPECIAL EVENT**



# **ROARING SINCE THE 20S**

Celebrating CCBA's 100(ish) Anniversary

**THURSDAY, FEBRUARY 20, 2025**

**7 P.M. TO 10 P.M.**

The Underground  
The Mob Museum

**JOIN IN THE FUN • RSVP NOW**

(702) 387-6011, [clarkcountybar.org](http://clarkcountybar.org)



Space will be limited to this exclusive event.  
RSVP to the CCBA required by 2/6/2025



## Bar Services

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See <https://clarkcountybar.org/marketplace/cle-programs/>



## CLE Sponsors



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Webcasts continued from page 10

## Five Things to Know When Contemplating a Writ Petition

- **Speakers:** Chelsea Latino, Partner, and Jane Susskind, Associate, McDonald Carano
- **When:** Wednesday, January 29, 2025, Noon to 1:15 p.m.
- **Where:** Online via Zoom
- **Offers:** 1.0 general CLE credit for Nevada lawyers
- **Live webcast (via Zoom):** FREE for CCBA Members (2025) only
- **Recorded materials rental:** \$25/CCBA Member or \$50/non-member
- **RSVP to CCBA by 1/27/2025:** <https://clarkcountybar.org/> or (702) 387-6011

This CLE program is sponsored by Bank of Nevada and Las Vegas Legal Video.



## A Busy Law Firm's Guide to Automation

- **Speaker:** Petar Petrovic, Partner Account Manager, Partnerships @ Clio
- **When:** Thursday, February 13, 2025, Noon to 1:15 p.m.
- **Where:** Online via Zoom
- **Course description:** With the right technology, law firms can automate many time-consuming tasks—spending less time on administrative work and freeing up more time for billable hours and attention to clients.
- **Offers:** 1.0 general CLE credit for Nevada lawyers
- **Live webcast (via Zoom):** FREE for CCBA Members (2025) only
- **Recorded materials rental:** \$25/CCBA Member or \$50/non-member
- **RSVP to CCBA by 2/11/2025:** <https://clarkcountybar.org/> or (702) 387-6011

This CLE program is sponsored by RedPanda Systems, Bank of Nevada, and Las Vegas Legal Video.

Look for upcoming CLE programs to be listed on our website at <https://clarkcountybar.org/marketplace/cle-programs/>.



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## Civil Bench-Bar Meeting

- **Host:** Eighth Judicial District Court
- **When:** December 10, 2024, Noon-1:00 p.m.
- **Where:** Regional Justice Center, Courtroom 10D and Zoom
- **Topic:** TBA, end of year/holiday observance
- **Contact:** EJDCBenchBar@gmail.com

For more information, visit the court’s website at <http://www.clarkcountycourts.us/>.

## Administrative Order 24-09 Effective December 2, 2024

On November 8, 2024, Chief Judge Jerry Wiese filed an order in the administrative matter of involuntary court-ordered isolation and quarantine case assignments at Eighth Judicial District Court. See Administrative Order 24-09 (AO 24-09).

The order cites the need for the diligent oversight of involuntary confinement cases concerning communicable diseases, isolation, and quarantine is essential to safeguard

the health and welfare of the public and individuals who become subject to the court’s jurisdiction through involuntary confinement proceedings. See NRS 441A.065, NRS 441A.065, NRS 441A.1 15.

Also, departments that are assigned any involuntary confinement cases, including isolation and quarantine cases, will be able to tailor their procedures for the purpose of adjudicating these matters in an efficient and reliable manner. More importantly, AO 24-09 orders case reassignments and orders:

*[P]ursuant to EDCR 1.30(b)(16), effective December 2, 2024, that all involuntary confinement cases, including isolation and quarantine cases filed by the Southern Nevada Health District pursuant to NRS 441A.600 shall be randomly assigned to Department F or Department Q. Should conflict arise preventing both Department F and Department Q from hearing any cases, then those cases shall be reassigned to the Family Court Presiding Judge (Department L).*

*[A]ny existing and currently closed involuntary confinement cases, including isolation and quarantine cases, shall be randomly reassigned to Department F or Department Q. Should a conflict arise preventing both*



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**GIACOMO "JACK" SILVESTRI**

has joined the Firm as an Associate practicing in the areas of litigation, appellate advocacy, and ethics and professional responsibility law.



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Department F and Department Q from hearing an existing case or being assigned a closed case, then those cases shall be reassigned to Department L.

For more information and to get a copy of AO 24-09, visit the court's website at <http://www.clarkcountycourts.us/general/court-rules-and-administrative-orders/>.

## Applications for Vacancy of Eighth Judicial District, Department Y Due December 19, 2024

On November 12, 2024, the Nevada Commission on Judicial Selection made an announcement in regard to Applications Available for Vacancy of Eighth Judicial District, Department Y. See below.

*Governor Joe Lombardo recently announced the retirement of the Honorable Stephanie Charter from the Eighth Judicial District Court of Nevada, Department Y. Judge Charter will retire as of November 15, 2024. The Commission on Judicial Selection will convene to fill the forthcoming vacancy. The application period opens today, November 12th, 2024, and submissions are due by noon on December 19th, 2024.*

*Applicants interested in applying must contact Ms. Margarita Bautista at [mbautista@nvcourts.nv.gov](mailto:mbautista@nvcourts.nv.gov) to receive the required application materials.*

*Application instructions can be found here [https://nvcourts.gov/media/media/folders/committees\\_and\\_commissions/judicial\\_selection/documents](https://nvcourts.gov/media/media/folders/committees_and_commissions/judicial_selection/documents).*



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### Washoe County Bar Association & Clark County Bar Association Present...



30th April 2025 Noon

### CROSS-COURT SERIES: PART 2

Join us in our continuation of the Washoe & Clark Counties Cross-Court CLE webinar series. 1.0 General CLE Credit.

Register on the WCBA Event Calendar for this FREE webinar. [www.wcbar.org](http://www.wcbar.org)



# Changes for Justice Court, Las Vegas Township

By Chief Judge Melisa De La Garza

**T**he elections and 2024 are bringing about many changes for Las Vegas Justice Court. In September, Judge Melisa De La Garza began her term as the chief judge of LVJC. Judge De La Garza was elected to the bench in the primary election of 2018 and initially presided over one of the court's domestic violence tracks. Since then, she has presided over a civil docket, as well as the Community Court Program. She will continue to oversee the Community Court in addition to her duties as chief judge. Judge De La Garza is honored and excited to have been elected by her colleagues to manage the busiest court in Clark County.

On election day, November 5, 2024, Suzan Baucum was elected to serve the remaining term of retired Judge Melissa Stratton, Department 4. Because Judge Baucum will be completing Judge Stratton's term rather than beginning a new judicial term, she will start with the Las Vegas Justice Court on December 2, 2024, rather than January of 2025. Judge Baucum will preside over the Initial Appearance Court, which sets bail for defendants entering the criminal justice system in Las Vegas Justice Court. The bench is excited to have Judge Baucum back.

Also elected in November were Kristal Bradford and Nancy Bernstein. Kristal Bradford comes to the bench from the Clark County Public Defender's Office and Nancy Bernstein will be leaving private practice to join

the bench. Judge Bradford was elected to Department 2 and will oversee a criminal calendar. Judge Bernstein was elected to Department 8 and will preside over one of the domestic violence tracks. Both Judge Bradford and Judge Bernstein will begin their terms in January, 2025. Congratulations to both.

Also starting in January, the court will implement a system of tracking criminal cases known as One Judge/One Defendant. Rather than randomly assigning every case to our criminal judges, a case will be assigned to a specific judge if the defendant has a current open pending case in front of said judge. The goal of the One Judge/One Defendant model is for a judge to have all of a defendant's cases before him or her in order to treat and sentence the person as a whole. Instead of a defendant having three cases in front of three different judges with different attorneys and different prosecutors, the defendant will have one team looking at all three cases and making determinations about how to proceed based upon the totality of the defendant's circumstances. The Las Vegas Justice Court is anticipating success with this new program. **G**

*Chief Judge De La Garza is honored to become the chief judge of the busiest court in Clark County. Las Vegas Justice Court had over 45,000 criminal case filings and nearly 100,000 civil case filings for fiscal year 2023. In addition, the court handled an additional 126,000 traffic matters. The Las Vegas Justice Court has nine specialty courts including drug court, mental health court, veterans' court and DUI court. Judge De La Garza shares a bench with 15 other Justices of the Peace, three hearing masters and over 300 staff. She will continue to preside over the Community Court specialty court as she oversees her duties as the chief judge.*





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# Why You Should Consider Pro Bono Service

By William Voy

**H**ave you ever wondered why *you* should consider pro bono service?

**Rule 6.1** recommends 20–60 hours of pro bono service annually or a \$500 donation to the Nevada Bar Foundation:

- **Only 28 percent** of Nevada attorneys report having done pro bono to the State Bar of Nevada
- **No cost CLE** trainings are available live or on demand
- **Earn CLEs** for pro bono service, one CLE for every three hours of service
- **Mentoring** support from experienced attorneys

Why should you consider pro bono services with Southern Nevada Senior Law Program (SLP)?

- **You care** about helping older adults with the most significant economic and social needs
- **Convenient scheduling** of power of attorney (POA) health care/basic estate planning two-hour workshops for eight to twelve seniors at the SLP office with full training provided
- **You enjoy going into the community** to help older adults – POA health care Seminars, educational presentations, ask-a-lawyer events are held at senior centers and senior communities throughout the year

- **Manageable commitment of time** – you can choose your own two to three-hour (or more) timeslot to do pro bono in the SLP office to assist with POA health care/basic estate planning initial interviews and/or document signing
- **Finite client service** – no ongoing obligations to our clients once services are provided that day

The average age of our clients is 73, and the average income is just over \$25,000. Most seniors do not know their legal rights or that they can have an attorney advocate for and assist them.

SLP does not have an income qualifier, so we can help fixed-income folks who don't qualify for a poverty-based program, nor do we check immigration status. This population routinely falls through the cracks in our justice system.

In the past 12 months, SLP has welcomed support from 48 senior advocate pro bono attorneys, which has meant that our staff attorneys have had more capacity to assist with evictions, elder abuse/exploitation cases, victims of scams or fraud, social security issues, landlord and merchant disputes, and more.

Currently, there are hundreds of seniors waiting for assistance. Will you help SLP help more seniors? **☛**

**William Voy joined the Southern Nevada Senior Law Program as Director of Pro Bono Services in February 2024. He retired from the Eighth Judicial District Court Bench in June 2022 after 24 years of service. He left the Senior Judge Program in February 2024 to join SLP to help our vulnerable and underserved senior community.**





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# Why I Think All Attorneys Should Know the Joy of Pro Bono

By *Krissta Kirschenheiter*

**W**hat does doing pro bono work personally mean to me, a Nevada-barred attorney of 15 years, a geriatric millennial, and one of the most recent board members elected to the Boyd School of Law Alumni Association? Well, to begin, I have always staunchly avowed that the meaning of life is simply to help people. This belief was first indoctrinated into me from a very impressionable young age by my legal aid father but it wasn't until many years later, as a Boyd law student, that I had my first taste of doing pro bono legal work. This was through my 1L community service class assignment of co-teaching the minor guardianship process to the Las Vegas community. After this, the pro bono opportunities just kept coming.

My friends and fellow alumni who know me well often tease me about my unconventional legal career. As a single mom, my son and I just returned to Nevada last year after spending six years overseas, where I worked in Micronesia, the Caribbean, Australia, and even Fiji for a few months. But wherever I live, I never stop giving pro bono and I am honored today to be working as Director of Pro Bono services for our entire, beautiful state. One of my favorite things about being an attorney is having the privilege of making a significant impact in the lives and betterment of our local communities through pro bono services.

*Krissta Kirschenheiter graduated from UNLV Boyd School of Law (2009), but also has a master's degree from the University of Queensland (2023) and a bachelor's degree in from the University of Hawaii (2002). Krissta is the Director of Pro Bono for Nevada Legal Services, working from their Reno and Carson City offices. Please feel free to reach out to her on pro bono opportunities and ideas at 775-284-3491 x231 or at [kkirschenheiter@nevadalegalservices.org](mailto:kkirschenheiter@nevadalegalservices.org).*




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*While doing pro bono service, not only will you feel good about helping needy people and gain valuable knowledge and legal experience, but you will also make the right connections and networks with like-minded, kind people.*

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As anyone who knows the true philosophical value of helping people knows: what you gain back from giving to others does not, by any means, make giving a selfless act. Doing good makes you feel good. But I have learned there is even *another* reason, besides your overall wellbeing, for incorporating pro bono services into your professional lifestyle. While doing pro bono service, not only will you feel good about helping needy people and gain valuable knowledge and legal experience, but you will also make the right connections and networks with like-minded, kind people. In fact, the happiest attorneys I have ever known believe in the value of pro bono. **G**



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# The Federal Pro Bono Project – Yes, you can!

By Austin Barnum

The Federal Pro Bono Project is a great opportunity to gain trial experience, federal litigation experience, and help ensure access to justice. However, many colleagues—especially young attorneys—feel apprehensive in running with a case. The apprehension originates from the intimidation of the federal bench, the lack of experience, and the resources necessary to litigate the case. I know, from experience, taking a Federal Pro Bono Project case is within your grasp. It is no secret that federal practice intimidates many attorneys—especially those newer to the practice of law. While I can't help you overcome fear, I hope to arm you with some practical tips to better understand how to overcome uncertainties.

First, knowledge of the law is within your reach. Every § 1983 prisoner rights case in the Federal Pro Bono Project receives a screening order that serves as a roadmap. Professional staff attorneys pour through handwritten complaints, dismiss claims that fail to meet the standard, and hand you the factual basis, the named defendants, and the case law that serves as the foundation of your litigation

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*Every § 1983 prisoner rights case in the Federal Pro Bono Project receives a screening order that serves as a roadmap.*

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strategy. Whether the case is set for alternative dispute resolution, in discovery, or pending a trial, the screening order (and in some cases the Order on the Motion for Summary Judgment) serve as your guideline. Take the resource and



*Austin Barnum litigates civil rights actions and criminal defense cases. He protects individuals' constitutional rights and defends those accused of crimes. Austin is the Chair of the Young Lawyer's Section of the State Bar of Nevada, a Major in the United States Army Reserves, the Commanding Officer of the 324th Psychological*

*Operations Company in Aurora, CO, and recipient of the State Bar of Nevada's 2024 Young Lawyer of the Year Award and named a Rising Star in Criminal Defense by SuperLawyers in 2024.*

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run with the ball! Lay out the elements, identify the sources of information needed, and build your case from there.

Second, the Federal Pro Bono Project will help defray costs, up to a certain limit, with opportunity to request more when circumstances merit. While your representation may be pro bono, litigating a case is not free. Nonetheless, if you take a Federal Pro Bono Project case, then filing fees are waived, you receive free access to PACER to review the docket, and you can receive reimbursement for the normal costs associated with running a case. In some circumstances, even expert fees and costs may be covered. Additionally, Legal Aid Center of Southern Nevada (LACSN) can help with primary insurance for those on pro bono matters through their program. More so, LACSN provides one CLE credit for every three hours—up to four credits per year—and that helps defray the annual costs we pay to keep our license. Finally, if you are successful in receiving a jury verdict, then you may receive attorney’s costs and fees – subject, of course, to the applicable standards.

Third, there is additional support for newcomers. The Legal Aid Center of Southern Nevada provides access to mentors. These mentors are practicing attorneys who have

litigated these cases and can help guide you on the straight and narrow. If the mentor does not have a template for a pleading, then LACSN can provide sample pleadings so you’re not recreating the proverbial wheel. Further, the federal bench – subject to discretion and availability – is more willing to grant a hearing on a motion for pro bono attorneys. With this opportunity, you may find yourself years ahead of peers after just one case because a hearing before a federal judge is not easy to swing!

In short, there is a bridge from where you’re at to get-

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*In short, there is a bridge from where you’re at to getting your first federal jury trial!*

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ting your first federal jury trial! You just need to take the first step by taking a case. From there, the path has already been paved; you will find support at each twist and turn, and gain a tremendously rewarding experience at the end.



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# Empower a Child's Future

By Michael Wendlberger

**A**s we approach the holiday season, it's a poignant reminder of the importance of connection and family. While many of us will gather with loved ones and create cherished memories, there are children in our community facing the holidays alone—sitting in Child Haven, separated from their families and feeling voiceless. These children are part of our Children's Attorneys Project (CAP).

Attorneys are the only people authorized, by statute, to give a voice to these children. Just a few hours of your time can provide these children with a voice and the support they desperately need. Reflect on the words of a former foster youth, who said his attorney saved him and got him out of the system. This former foster child is now an attorney, giving children a voice in our community.

The Legal Aid Center has an impressive team of 33 CAP attorneys who represented nearly 7,000 children last year. However, conflicts sometimes arise, leaving children without legal representation. That is where you can step in and make a critical difference. Without pro bono attorneys, like you, these children will not have a voice.

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*Reflect on the words of a former foster youth, who said his attorney saved him and got him out of the system. This former foster child is now an attorney, giving children a voice in our community.*

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**Michael Wendlberger** is the Director of the Pro Bono Project at Legal Aid Center of Southern Nevada (LACSN). The Pro Bono Project pairs volunteer attorneys with screened clients in the areas of family, consumer, landlord tenant, civil rights, immigration, bankruptcy, and other areas of law. Interested attorneys should contact Michael at 702 386-1429 or [mwendlberger@lacs.org](mailto:mwendlberger@lacs.org).



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unteering has never been easier. Judges prioritize pro bono cases, and our dedicated team is ready to assist with coverage whenever needed. This ensures that your experience is fulfilling and impactful, without being a burden on your schedule.

In addition to CAP cases, there is a growing need for pro bono support in family law, consumer fraud, guardianship, immigration, federal, and appellate cases; oral argument is guaranteed in appellate and federal matters. If time is tight, our telephonic Ask-a-Lawyer program lets you quickly assist individuals in need—providing much-needed guidance without extensive time commitments.

The Legal Aid Center provides mentors, malpractice insurance, sample pleadings, and free CLEs. Volunteers receive CLE credit for time spent on a pro bono matter; earning up to four CLE credits per year.

The need is urgent, and the opportunity to make a difference is at your fingertips. Volunteer today and give the gift of your time—because every child deserves a voice. **G**

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# Reflections on 35 Years as a Legal Aid Lawyer and Leader

By Barbara Buckley

**35 years ago**, I had a decision to make. What kind of law did I want to practice? Then in law school, I found out about legal aid and, as the saying goes, the rest is history. By 1996, Legal Aid Center, then known as Clark County Legal Services, had **four** attorneys, a total staff of nine, and a budget of \$700,000. We started planning and building.

Our strategies included:

- Building self-help centers and “ask a lawyer” programs
- Partnering with the UNLV William S. Boyd School of Law
- Advocating for clients in courts, with policy makers, and in the legislature
- Developing representation projects for the most vulnerable, we now have seven projects or divisions:
  - Consumer Rights
  - Family Justice
  - Immigration
  - Children’s Attorneys Project
  - Pro Bono
  - Guardianship
  - Resiliency & Justice Center

*Barbara Buckley is the Executive Director of Legal Aid Center of Southern Nevada. While working for Legal Aid Center, Barbara ran and was elected to the Nevada Assembly from 1995 to 2010, working both “jobs” for 16 years. Barbara received her J.D. degree summa cum laude from the University of Arizona School of Law and her B.A. with honors from the University of Nevada, Las Vegas.*



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Fast forward, today Legal Aid Center has:

- 95 attorneys
- 200 staff
- 45 law students
- 199,000 clients served in 2023

What are **our most pressing needs** today? Completion of our new Advocacy & Justice Complex so as to allow our programs serving victims of crime to grow and to be a permanent home for our Children’s Attorneys Project. Without infrastructure, our team cannot serve the community.

I have had the most amazing career helping those in need, righting wrongs, and changing lives. And our clients need us now more than ever. If you can help in any way, large or small, reach out at [bbuckley@lacs.org](mailto:bbuckley@lacs.org). Working together, there is nothing we cannot do. 🐼

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# Advance Opinion Summary (11-1-24)

By Joe Tommasino, Esq.

## Supreme Court of Nevada

**COVID-19 claims: (1) The federal Public Readiness and Emergency Preparedness Act (PREP Act) does not apply to a lack of action or treatment and therefore petitioners are not immune under it from claims based on a failure to enact COVID-19 policies; and (2) Nevada’s Emergency Directive 011 does not directly immunize petitioners from liability because the directive applies to individuals and not health-care facilities.** Directive 011 is an emergency declaration issued by then-Governor Steve Sisolak granting immunity to providers of medical services, including skilled personnel, during the pandemic. Similarly, the PREP Act, passed by the United States Congress in 2005, authorizes the Secretary of the Department of Health and Human Services to issue a declaration during a public-health crisis that provides immunity from liability for “claims for loss caused by, arising out of, relating to, or resulting from the administration to or the use by an individual of a covered countermeasure.” The PREP Act shields covered persons from liability for claims arising from “federal or state law that relate to the use of a covered countermeasure.” Specifically, “[c]overed persons are immune from ‘any claim for loss that has a causal relationship with the administration to or use by an individual of a covered countermeasure.’” A covered person includes “a qualified person who prescribed, administered, or dispensed such countermeasure.” Relevant here, “a qualified person” is “a licensed health professional or other individual who is authorized to prescribe, administer, or dispense such countermeasures.” Covered countermeasures include such things as qualified pandemic or epidemic products;

*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).*

emergency-use drugs, biological products, or devices; and respiratory protective devices. Federal courts have found that a failure “to develop proper protocols to stop the transmission and spread of COVID-19” does not implicate the PREP Act because that failure is not a covered countermeasure. The United States Court of Appeals for the Fifth Circuit has also held, however, that the failure to use a covered countermeasure could relate to its administration if there was a “[p]rioritization or purposeful allocation of a [c]overed [c]ountermeasure.” Here, the underlying complaint alleged failure to implement an effective COVID-19 response which led to the victim’s death. None of the complaint’s allegations involve the use of a qualified product; security countermeasure; emergency-use drug, biological product, or device; or respiratory protective device. The complaint also does not allege that the prioritization of another policy over a policy involving a covered countermeasure led to the victim’s death. Instead, the complaint maintains that the inadequate COVID-19 policy led to conditions that caused the victim to become ill and die. Because a general lack of action is not a covered countermeasure under the PREP Act, and because the complaint alleged that the lack of an adequate COVID-19 policy, rather than a drug or device, led to the victim’s death, the PREP Act does not apply, and immunity is not implicated. Separately, Directive 011 does not include health-care facilities in the list of “provider[s] of medical services” immune from liability. The directive lists only individual medical professionals, although the order provides that the immunity conferred is not limited to the listed medical practitioners. The Supreme Court concluded that the executive order was not intended to confer direct immunity on health-care facilities themselves. However, the Court’s interpretation of Directive 011 does not negate traditional *respondeat superior* if a facility’s liability flows only from actors included in the directive. For instance, if injury stems from an immune individual, then the health-care facility would be immune pursuant to *respondeat superior*. When injury stems directly from the health care facility, then Directive 011 does not provide the facility with immunity. *The Heights of Summerlin, LLC v. Dist. Ct. (Cruipi)*, 140 Nev. Adv. Op. No. 65, \_\_\_ P.3d \_\_\_ (October 3, 2024).

**Criminal procedure: (1) NRS 173.095(1) governs when a court may permit amendment to a charging instrument, and an amendment may not prejudice the defendant’s substantial rights or charge an additional or different offense; and (2) the operation of a federal** **Summaries** continued on page 28

**Summaries** continued from page 27

**statute does not entitle a defendant to a jury trial where Nevada statutes do not establish the offense as serious.**

The trial court has discretion in determining whether to permit an amendment, but the amendment may not prejudice the defendant's substantial rights or charge an additional or different offense. The substantial right at issue is the defendant's right to be clearly informed of the nature of the charges in order to adequately prepare a defense. A lesser-included offense is not a new or different offense under NRS 173.095. Misdemeanor battery is a lesser-included offense of misdemeanor battery constituting domestic violence. Accordingly, the municipal court acted within its discretion in allowing the City to amend the charging instrument. Separately, the right to a jury trial attaches to crimes that are considered "serious" and not "petty." An offense with a maximum sentence of six months' incarceration is presumptively petty but is deemed a serious offense if it carries an additional penalty of loss of the right to possess a firearm. Here, the defendant faced a possible sentence of six months' incarceration if convicted of simple battery but did not face the loss of the right to possess a firearm. The Supreme Court of Nevada emphasized that misdemeanor battery constituting domestic violence implicates NRS 202.360 if that offense is specifically charged

pursuant to NRS 200.485; the substance of a conviction is relevant only where the conviction was obtained in another jurisdiction. To the extent the district court considered consequences potentially imposed by a federal statute, it was mistaken, since collateral consequences imposed by federal law do not reflect a determination by the Nevada Legislature that the offense is serious. *Henderson City Attorney v. Cerrone*, 140 Nev. Adv. Op. No. 68, \_\_\_ P.3d \_\_\_ (October 24, 2024).

**Eminent domain:** (1) Nevada statutes delegate the government's eminent-domain power to regulated public utilities for specified public uses, including "[p]ipelines for the transportation of . . . natural gas"; and (2) the Nevada Constitution prohibits taking private property for purposes of transferring the property to another private party for their use, but this section does not prohibit a regulated public utility that "has the power of eminent domain" from taking property for a natural-gas pipeline, a statutorily recognized public use. In *Kelo v. City of New London, Connecticut*, 545 U.S. 469, 484 (2005), the Supreme Court of the United States upheld a local government's taking of private property so that it could transfer the property to another private party as part of an economic redevelopment plan. In Nevada, voters amended the Constitution of the State of Nevada

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to provide: “Public use shall not include the direct or indirect transfer of any interest in property taken in an eminent domain proceeding from one private party to another private party.” Nev. Const, art. 1, § 22(1). The amendment also added procedural protections for landowners, including the right to have a jury determine “whether the taking is actually for a public use” before occupancy is granted. *Id.* art. 1, § 22(2). This case arose from an eminent-domain action that real party in interest Sierra Pacific Power Company, d/b/a NV Energy, initiated against petitioner Mass Land Acquisition to take an easement across Mass Land’s property for a natural-gas pipeline. Mass Land moved to dismiss the action, arguing that it would violate article 1, section 22(1) of the Nevada Constitution for NV Energy, a for-profit, private company, to use its statutorily delegated eminent domain power to take and thereby transfer another private party’s property to itself. Alternatively, Mass Land asked for a jury to decide whether the taking was actually for a public use. The district court denied the motion to dismiss and granted NV Energy immediate occupancy. Mass Land petitioned for a writ of mandamus or prohibition against the district court’s rulings, and the Supreme Court of Nevada denied the petition. Nevada statutes delegate the government’s eminent-domain power to regulated

public utilities for certain specified public uses, including “[p]ipelines for the transportation of . . . natural gas.” By its terms, article 1, section 22(1) prohibits taking private property for purposes of transferring the property to another private party for their use, protecting Nevadans from takings like the one that occurred in *Kelo*. This section does not prohibit a regulated public utility that “has the power of eminent domain” from taking property for a natural-gas pipeline, a statutorily recognized public use. While article 1, section 22(2) entitles the landowner to a pre-occupancy jury determination on “whether the taking is actually for a public use,” that right is subject to ordinary civil process. A civil case does not go to a jury unless there are issues of fact for the jury to decide, and the record here does not support that any factual issues exist as to whether the taking was actually for a public use. *Mass Land Acquisition, LLC v. Dist. Ct. (Sierra Pac. Power Co.)*, 140 Nev. Adv. Op. No. 67, \_\_\_ P.3d \_\_\_ (October 17, 2024).

**Professional negligence:** (1) A vicariously liable professional entity cannot be held more liable than its principal and thus cannot owe more pain and suffering damages or attorney fees than its principal; and

**Summaries** continued on page 30

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(2) **attorneys may not waive or contract around the statutory limit for attorney fees in NRS 7.095.** NRS 41A.035(1) caps the amount of damages for noneconomic personal injury losses a plaintiff may recover against “a provider of health care” to \$350,000. At the time of Respondent Marily Martyn’s surgery in 2009, a “provider of health care” included individual medical practitioners, as well as a “medical laboratory director or technician, or a licensed hospital and its employees.” In 2015, the Legislature expanded the definition to include a “clinic, surgery center, physicians’ professional corporation or group practice that employs any such person [referring to identified individual medical practitioners] and its employees.” NRS 41A.035(1) applies to professional medical entities based on principles of vicarious liability. A vicariously liable party is held liable not because they committed a breach of duty to the plaintiff, but because of legal imputation of responsibility for another’s tortious acts. Under a joint-and-several-liability scheme, each defendant is liable for damages they caused, and a vicariously liable defendant is liable for the same amount as the principal. Because appellant professional entities’ liability cannot exceed the liability of the principal and Nevins’ liability is capped at \$350,000 pursuant to NRS 41A.035(1), appellant professional entities also cannot be liable for more than \$350,000. Separately, in professional-negligence actions against “providers of health care,” NRS 7.095 limits the amount an attorney may charge pursuant to a contingent-fee agreement. This statute applies to professional entities. The Supreme Court of Nevada concluded that NRS 7.095 serves a significant public policy, and its fee limitations may not be avoided by an attorney-client fee agreement. Finally, the Supreme Court concluded that a judge may apply NRCP 68(f), finding that one party owes the other attorney fees, costs, and expert fees and then turn to NRS 18.005 to determine whether expert-witness fees are capped and whether costs for more than five experts may be awarded. The case of *Frazier v. Drake*, 131 Nev. 632, 357 P.3d 365 (2015) discusses factors to consider when a district court may award expert fees in excess of the cap under NRS 18.005. The Supreme Court stated that “[w]hen analyzing the *Frazier* factors, we direct the district court to forgo a summary application of the factors, to consider only the factors that directly apply, and to explain its determinations.” *Nevins, M.D. v. Martyn C/W 85247/85541/85596*, 140 Nev. Adv. Op. No. 66, \_\_\_ P.3d \_\_\_ (October 17, 2024). **e**

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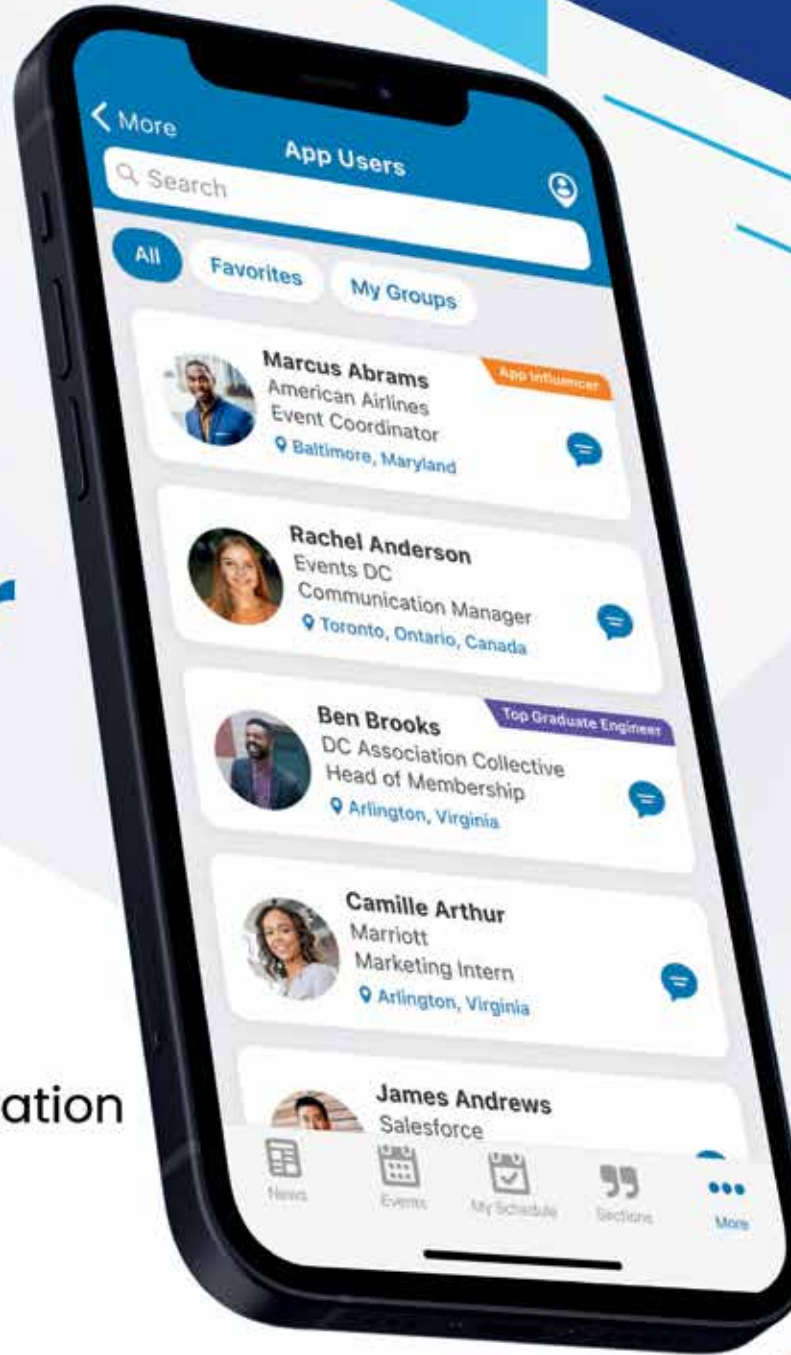


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