

February 2025

Lunchtime Learning CLE Webcasts

Free for CCBA members on February 13, 19, March 27, and April 30

See pages 9, 10, 12, 14



COMMUNIQUE

THE OFFICIAL PUBLICATION OF THE CLARK COUNTY BAR ASSOCIATION

*Artemus Ham IV, great-grandson
of the first CCBA president, with
current president Joel Henriod*

The ADR Issue



Celebrating CCBA's 100-ish Anniversary

See page 6

Featured inside

40 Year Club Luncheon

Maximizing the Mediation Process

Settlement Through Mediation

Court Annexed Arbitration Program

Successful Arbitration Strategies

Nevada Appellate Summaries

See pages 12, 18, 20, 22, 24, 27



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Features

Maximizing the Mediation Process: Practical Tips for Success
By Hon. Nancy L. Alf (Ret.) 18

Court Annexed Arbitration Program: Reasons to Raise the Cap to \$100,000 and a Review of the Statistics Debunking the Myths about the Program
By ADR/Discovery Commissioners Adam Ganz and Erin Lee Truman 22

Successful Arbitration Strategies
By Howard F. Kline..... 24

Highlights

Automation CLE Program Free for CCBA Members on February 13, 2025..... 9

Homeowners' Insurance CLE Program Free for CCBA Members on February 19, 2025..... 10

Roaring Since the 20s..... 12

40 Year Club Induction Ceremony and Luncheon..... 12

Neurodiversity and the Juvenile Justice System 12

Walk with the Heart of a Child..... 14

Out of the Darkness Walk..... 14

Cross-Court Series: Part 2..... 14

Health Care Power of Attorney-A-Thon 14

Herndon Named Chief Justice of the Supreme Court; Bulla Appointed Chief Judge of the Court of Appeals 16

Business Court Bench-Bar Meeting..... 16

Civil Bench-Bar Meetings 16

Online Resource for Consumer Debtors and Attorneys..... 17

On the cover

Artemus Ham IV, great-grandson of the first CCBA president, with current president Joel Henriod

Columns

CCBA President's Message
Come Celebrate Our 100-ish Anniversary
By Joel D. Henriod..... 6

View from Bench
Settlement Through Mediation – An Alternative to Losing
By Hon. Jerry Wiese..... 20

Pro Bono Corner
Pro Bono Matters
By Vanessa Turley 26

Nevada Appellate Summaries
Advance Opinion Summary (1-8-25)
By Joe Tommasino 27

Spotlights

Advertising Opportunities..... 5

Event Calendar..... 5

Contact the CCBA 5

Free Lunchtime Learning CLE..... 9, 17

40 Year Club Luncheon RSVP..... 10

Join a Bar Committee 12

Pro Bono Project..... 26

Departments

About *Communiqué* 4

Advertiser Index..... 5

Bar Activities 5, 9-12, 14

Court News..... 16

The Marketplace..... 30

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COMMUNIQUÉ


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Communiqué 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	Pro Bono	9/2/2025
November 2025	Mental Health	10/1/2025
December 2025	Science & Technology	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.

Advertisers, Sponsors

2025 Fentanyl Awareness Summit	8
Advanced Resolution Management	21
Ara Shirinian Mediation	29
Bank of Nevada	9, 10, 11, 13
Children's Heart Foundation	14
Clio	9
First Legal	11
Forensic Solutions LLC	11
GGRM Law Firm	3
Heidari Law Group PC	32
JAMS	19
Las Vegas Legal Video	9, 10, 25
Legal Aid Center of Southern Nevada	26
Portraits to You	20
Prominence Health Plan	16
Red Panda Systems	9, 17
Richard L. Litt, M.D., ESQ.	17
State Bar of Nevada	31
Washoe County Bar Assoc.	14
Welt Law	29

Bar Services

Advertising Opportunities

Place a display ad to showcase:

- Firm announcements
- Achievement awards
- Events
- Office, retail space
- Luxury and office products for legal professionals, law firms
- Professional services

Request a quote today!

Please include the size, format (color or grayscale), and cover date(s) for placement of your ad.

Ask about available discounts and added value options for CCBA members!

Contact: StephanieAbbott@clarkcountybar.org,
702-387-6011.

Bar Activities

Event Calendar

Please join us at these upcoming CCBA events:

- Feb. 6 New Lawyers Committee Meeting – See page 12
- Feb. 7 Community Service Committee Meeting - See page 12
- Feb. 12 CLE Committee Meeting - See page 12
- Feb. 12 2025 Fentanyl Awareness Summit - See page 8
- Feb. 13 A Busy Law Firm's Guide to Automation - Lunchtime Learning CLE - See page 9
- Feb. 14 Publications Committee Meeting - See page 12
- Feb. 19 From Denial to Approval: A Practical Guide to Homeowners' Insurance Disputes - Lunchtime Learning CLE - See page 10
- Feb. 20 Roaring Since the 20s - See page 7
- Feb. 21 DICE Meeting - See page 12
- Mar. 13 40 Year Club Luncheon - See page 11
- Mar. 27 What Every Attorney Should Know About Special Ed Law - Lunchtime Learning CLE - See page 12
- Mar. 29 Walk with the Heart of a Child - See page 14
- Apr. 10 4th Annual Meet Your Law Students Mixer
- Apr. 24 7th Annual Pub Crawl
- Apr. 26 Out of the Darkness Las Vegas Walk - See page 14
- Apr. 30 Cross-Court Series: Part 2 - Lunchtime Learning CLE - See page 14
- Jun. 17 Health Care Power of Attorney-A-Thon - See page 14

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

Bar Services

Contact the CCBA

Reach out for information and updates about CCBA activities:

- 📞 702-387-6011
- 🌐 clarkcountybar.org
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Come Celebrate Our 100-ish Anniversary

By Joel D. Henriod

On February 20, we will honor and celebrate a century of legal practice in the Las Vegas valley. The entire Underground at the Mob Museum will be ours from 7:00 to 10:00 P.M. The first CCBA president Artemus W. Ham will join us in spirit when his great-grandson Artemus W. Ham IV gives a toast. Costumes and 20s-inspired fashion are encouraged.

This is more about fun than historicity. Don't hold me to precise dates. There were fits and starts. A small group of attorneys organized the Las Vegas Bar Association in 1922, convened sporadically for a few years, apparently shelved the project during the Great Depression, and then founded the CCBA itself in 1934. But this much is clear: attorneys in Clark County have been "roaring" since the 20s. That's excuse enough to party in 2025.

The legal landscape has changed. For example, we are larger now. In 1920, only a few lawyers served the Clark County population of 4,859. By the decade's end (1930), 24 attorneys lived in the county to represent a population of 8,532, and the county had one judicial department. Now, over 10,000 attorneys and more than 50 judges serve a population of over 2.1 million.

We are more diverse. For instance, the 1920s saw very few women practicing law. Now, over 35 percent of attorneys admitted in Nevada are women, as are five (of seven) justices of the Nevada Supreme Court. At long last, the community also is served by a bar of exponentially greater racial, ethnic, and sexual diversity. And the CCBA has

an active DEI committee committed to maintaining that momentum.

On the other hand, those pioneers had inspiring grit. Seriously, can you imagine volunteering to join a new community under construction on caliche soil in the Mojave Desert, several hours' travel from anywhere else, with very little fresh produce, and no air conditioning? They had vision, investing their talent and resources to foster community, a legacy entrusted to us. And they knew each other, forming a meaningful network of relationships that served the citizens.

Today, over two million residents rely on the Clark County Bar Association to foster that vision of legal excellence even in the desert, and especially to maintain that collegiality and familiarity as much as possible. That's why we love parties.

Join the party on February 20 to celebrate a century of outstanding lawyers in southern Nevada. 🎉

Joel Henriod is a litigator specializing in appeals at Henriod Law, PLLC, practicing in substantive areas ranging from personal-injury and product-liability to commercial and public-sector disputes involving election law, breach of contract, taxation, eminent domain, and governmental regulation, etc. He serves as CCBA president through 2025.



Artemus Ham IV, great-grandson of the first CCBA president, with current president Joel Henriod

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 at The Mob Museum

**JOIN IN THE FUN AS WE TRAVEL BACK IN TIME
TO THE PROHIBITION ERA WHEN THE CLARK COUNTY BAR ASSOCIATION
(FKA LAS VEGAS BAR ASSOCIATION) STARTED SERVING
THE NEVADA LEGAL COMMUNITY.**

Featuring: Drink ticket, appetizers, networking
Price: \$90/2025 CCBA member, \$90/guest of CCBA member
Each member limited to 1 guest.

This is a private cocktail reception; no minors allowed.

DRESS FOR THE OCCASION! WEAR YOUR FINEST 20S ENSEMBLE!

JOIN IN THE FUN • RSVP NOW

(702) 387-6011, clarkcountybar.org



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



Don't
#RiskItAllWithFentanyl

SAVE THE DATE!

Join Regional Partners for the

2025 FENTANYL AWARENESS SUMMIT

Wednesday, February 12, 2025 - 11am-6pm

World Market Center
475 S. Grand Central Parkway, Las Vegas, NV 89106

SPEAKERS

- Punam Mathur, *Emcee*
- Sam Quiñones, *Journalist and Author*
- Honorable Steve Leifman, *Administrative Judge of the Miami Dade County Court*
- Medical Experts
- Various Community Leaders and Youth Prevention Advocates

Up to 5.0 general CLE credits for Nevada lawyers.

PURPOSE

- Learn updates on drug market trends
- Understand the impact of multiple overdoses on long term health
- Share model programs and local efforts to improve how the criminal justice system interacts with people with substance use disorders and mental illness
- Highlight ways to protect communities from the appeal of illicit substance use experimentation
- Showcase the role of youth, peer-to-peer outreach in social media and drug use prevention marketing



Already know you want to go?
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Automation CLE Program Free for CCBA Members on February 13, 2025

On February 13, 2025, Clio partner account manager Petar Petrovic will make a special presentation for the continuing legal education of Nevada lawyers in a program produced by the Clark County Bar Association and sponsored by the Bank of Nevada, Las Vegas Legal Video, and RedPanda Systems. RedPanda Systems is the exclusive partner of Clio for Nevada.

Petar Petrovic is responsible for engaging with Clio's current Channel Partners, acquiring new partners, and helping deliver on overall go-to-management strategies within the business. The role plays a delicate balance between marketing, sales, product, enablement, and customer support while maintaining a focus on driving new business to Clio and fostering their global ecosystem of consulting partners.



Petar will present "A Busy Law Firm's Guide to Automation" a CLE program for Nevada lawyers.


The presentation will focus on how, 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.

During this session, bar members will learn:

- How to differentiate between busy work and billable work in your legal practice.
- Three key areas in a law firm that drive the most impact when automated.
- How to select legal technology that can save you time and money.

Attendance to this live webcast is free and only for current CCBA members on Thursday, February 13, 2025. This lunchtime learning program will be held via Zoom from noon to 1:15 p.m. and offers 1.0 general CLE credit for Nevada lawyers. RSVP to the CCBA is required by February 11, 2025.

All RSVPs must be made to the CCBA at least 48 hours before the event starts. Pricing of the live webcast event is included with the 2025 CCBA membership. CCBA membership will be verified upon RSVP. During the event, attendance will be taken and only those Nevada lawyers in attendance will have their attendance reported to Nevada's Board of Continuing Legal Education. The event will be recorded for use in the CCBA's audio/visual library. The recorded versions of the program will be offered for rental use at a small fee (to cover administrative costs).

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

CLE Program RSVP

Scan the QR code and complete the RSVP form or call the CCBA office at 702-387-6011 and RSVP now.



CLE Sponsors



Bar Services

Free Lunchtime Learning CLE

Live webcasts included with 2025 CCBA membership!

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.

Contact: Donnaw@clarkcountybar.org, 702-387-6011.

Homeowners' Insurance CLE Program Free for CCBA Members on February 19, 2025

On February 19, 2025, insurance litigator Jeff Bolender of Bolender Law Firm, PC, will make a special presentation for the continuing legal education of Nevada lawyers in a program produced by the Clark County Bar Association and sponsored by Bank of Nevada and Nevada Legal Video.

Jeff Bolender is an insurance litigator and licensed in California, Nevada, Hawaii, and the District of Columbia, with offices in Diamond Bar, California and Las Vegas, Nevada. A Kentucky native and U.S. Air Force veteran, he has represented policyholders, insurance carriers, and insurance brokers for thirty years in state and federal courts, both at trial and appellate levels. Mr. Bolender has been presenting courses on insurance policy analysis and related issues for over 20 years, delivering in-house training for insurance companies and conducting continuing legal courses for lawyers across California and nationally. Since 2009, he has presented for Nevada lawyers, including as a breakout speaker at the 2010 State Bar Convention and in 2013 on important developments in Nevada insurance law.



Mr. Bolender will present “From Denial to Approval: A Practical Guide to Homeowners’ Insurance Disputes” on February 19, 2025. This CLE program is designed for attorneys who have little or no experience dealing with homeowners’ insurance policies and want to learn how to read, interpret, and challenge insurance coverage denials. Participants will gain practical insights into:

- Understanding the core sections of a homeowner’s policy—declarations, insuring agreement, exclusions, and conditions—and identifying trouble spots.
- Reviewing a real-life scenario involving water damage in a condominium unit and the insurer’s denial based on “wear and tear” or long-term damage exclusions.
- Learning a structured, repeatable method for analyzing policy language and applying it to the facts, evidence, and documentation to refute an insurer’s denial.
- Drafting an effective challenge letter and leveraging standard principles of policy interpretation to advocate on behalf of clients.
- Developing practical action steps for non-insurance lawyers, including obtaining the full policy, documenting communications, and seeking expert guidance when needed.

By the end of this one-hour session, participants will be equipped to confidently navigate homeowner’s insurance claims and improve outcomes for their clients, even without a deep background in insurance law.

Attendance to this live webcast is free and only for current CCBA members on Wednesday, February 19, 2025. This lunchtime learning program will be held via Zoom from noon to 1:15 p.m. and offers 1.0 general CLE credit for Nevada lawyers. RSVP to the CCBA is required by February 17, 2025.

All RSVPs must be made to the CCBA at least 48 hours before the event starts. Pricing of the live webcast event is included with the 2025 CCBA mem-

Bar Luncheon

40 Year Club Luncheon RSVP

To RSVP, scan the QR code and complete the RSVP form or call the CCBA office at 702-387-6011.



Thank you!

bership. CCBA membership will be verified upon RSVP. During the event, attendance will be taken and only those Nevada lawyers in attendance will have their attendance reported to Nevada’s Board of Continuing Legal Education. The event will be recorded for use in the CCBA’s audio/visual library. The recorded versions of the program will be offered for rental use at a small fee (to cover administrative costs). For more information and to RSVP for this event, contact Donna Wiessner at donnaw@clarkcountybar.org or (702) 387-6011. **C**

CLE Program RSVP



Scan the QR code and complete the RSVP form or call the CCBA office at 702-387-6011 and RSVP now.

CLE Sponsors



A division of Western Alliance Bank, Member FDIC.

LAS VEGAS LEGAL VIDEO



Clark County Bar Association (CCBA)

40 YEAR CLUB

Induction Ceremony & Luncheon
Thursday, March 13, 2025

Master of Ceremonies: Dan Polsenberg of Womble Bond Dickinson LLP

*Celebrating CCBA members admitted to practice law in Nevada
for 40, 45, 50, & 55 years*

Inductees - 40 Years (Admitted 1985)

John R. Bailey of Bailey Kennedy, LLP

Douglas M. Cohen of Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP

Stephen J. Erigero of Ropers Majeski

Hearing Master JD Evans of 8th Judicial District Court

Frances-Ann Fine of Kristina Wildeveld & Associates

Elizabeth G. Gonzalez

Lynn M. Hansen

Hon. Susan H. Johnson of 8th Judicial District Court

Ira S. Levine of Levine Law Group

Troy E. Peyton of Pyatt Silvestri

Joel G. Selik of Joel Selik Attorney at Law

Honorees - 45 Years (Admitted 1980)

Mark D. Lerner of Mark Lerner Law LLC

Bruce S. Dickinson of Thorndal Armstrong, PC

Frank A. Ellis, III of Kearney, Puzey & Damonte

Hon. V. Cam Ferenbach

Hon. Michael Gibbons of Nevada Court of Appeals

Jodi R. Goodheart of Greenberg Traurig, LLP

Richard A. Harris of Richard Harris Law Firm

Stephen S. Kent of Gordon Rees Scully Mansukhani, LLP

John W. Muije of John W. Muije & Associates

Gary E. Schnitzer of Schnitzer Johnson & Watson, Chtd.

Don Springmeyer of Kemp Jones LLP

Kenneth A. Woloson of Kenneth A. Woloson Law Office

Viveca Monet Woods

Honorees - 50 Years (Admitted 1975)

Peter C. Bernhard of PB Consulting LLC

Steven J. Parsons of Law Offices of Steven J. Parsons

Robert M. Apple of Robert M. Apple & Associates

Peter C. Bernhard of PB Consulting LLC

Andrew S. Brignone

Michael E. Buckley of Fennemore

Hon. James W. Hardesty of Dispute Resolution Service

Samuel A. Harding of Claggett and Sykes Law Firm

John Hall Howard, Jr. of John Hall Howard, Jr., Ltd.

Dennis L. Kennedy of Bailey Kennedy

Richard A. Koch of Koch & Brim LLP

Kirk B. Lenhard of Brownstein Hyatt Farber Schreck, LLP

Charles H. McCrea of Hejmanowski & McCrea

Honorees - 55 Years (Admitted 1970)

Gerald I. Gillock of Gerald I. Gillock & Associates

Jay H. Brown of Jay H. Brown, Ltd.

Hon. Michael A. Cherry of Supreme Court of Nevada

Hon. Roger L. Hunt Sr. of U.S. District Court

William S. Skupa

William R. Urga of Hutchison & Steffen

Bruce L. Woodbury of Woodbury Law

Special Event



A division of Western Alliance Bank, Member FDIC.



Join us!

When: Thursday, March 13, 2025
Check-in & Networking: 11:30 a.m.
Luncheon: 12:00-1:30 p.m.

Where: Panevino Italian Grille, 246
Via Antonia Ave., Las Vegas, NV
89119

Entrée options:

- Chicken Marsala
- Grilled Scottish Salmon
- Penne Vodka

Attendance fee/per person:

- \$FREE/Inductee*
- \$80/Honoree*
- \$80/CCBA member
- \$95/Non-member

Submit RSVP /

Payment to:

Clark County Bar Association,
717 S. 8th Street, Las Vegas, NV
89101. P: 702-387-6011.

RSVP to CCBA by 3/6/2025

Cancellation policy:

Cancellations must be submitted in writing to the CCBA via email to Donnaw@clarkcountybar.org by 3/6/2025, with qualifying refunds of the event registration fee less a \$15 processing fee. No refunds will be issued after 3/6/2025.

*Note: CCBA membership is required to be recognized as an inductee or honoree of the CCBA 40 Year Club. If you were admitted to Nevada during the year listed and don't see your name listed, contact the CCBA office at 702-387-6011.

Bar Committees

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 outreach activities that provide 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 with the William S. Boyd School of Law on student competitions. Members volunteer to help with bar events. The New Lawyers Committee is for attorneys admitted to practice in Nevada within the last seven years, regardless of age. *Meets: 2nd Thursdays at Noon in person (with Zoom option).*
- **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.

Roaring Since the 20s

CCBA Anniversary Party February 20

- **Sponsors:** Bank of Nevada, Henriod Law PLLC, and Leavitt Legal Services, PC
- **What:** CCBA members are invited to attend our special event to celebrate CCBA's 100(ish) anniversary. Wear your finest 20s ensemble!
- **When:** Thursday, February 20, 2025, 7 p.m. to 10 p.m.
- **Where:** The Underground located at The Mob Museum
- **Price:** \$90/2025 CCBA member, \$90/guest of CCBA member. Each member limited to 1 guest.
- **RSVP to CCBA by 2/6/2025:** clarkcountybar.org or (702) 387-6011

For more information, see page 7 and RSVP to the CCBA at clarkcountybar.org or 702-387-6011.

40 Year Club Induction Ceremony and Luncheon

Bar Luncheon March 13

Bar members are invited to join us on Thursday, March 13, 2025, in celebration of CCBA members admitted to practice law in Nevada for 40, 45, 50, 55, and 60 years. This year we will induct members who were admitted in 1985 and honor members admitted in 1980, 1975, 1970, and 1965.

All members of Nevada's legal community are welcome to attend; however, space will be limited. To reserve your seat, RSVP with payment to the Clark County Bar Association by March 6, 2025.

For more information, see page 11 and RSVP to the CCBA at clarkcountybar.org or 702-387-6011.

Neurodiversity and the Juvenile Justice System

DICE Lunchtime Learning CLE March 27

- **Speaker:** Hon. Soonhee "Sunny" Bailey
- **When:** March 27, 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. 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 3/25/2025:** clarkcountybar.org or (702) 387-6011

This program is produced by the CCBA's Diversity and Inclusion Committee for Equity (DICE) as part of the DICE CLE Series.





NewLaw Banking Solutions for the Legal Industry

Bank of Nevada, a division of Western Alliance Bank, has a long history of serving the legal community. Our NewLaw banking experts understand the complete banking needs of law firms, legal technology providers and other businesses that are adapting to - and driving - change in the market for legal services. We offer comprehensive banking services, from partner buy-in loans for large and boutique law firms to assistance with early-stage financing for legal techs. Our solutions are delivered with a deep understanding of the legal landscape and a white-glove approach to client service.

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- Settlement Services
- Digital Disbursements³
- Treasury Management Solutions⁴



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1. Refer to the disclosures provided at account opening and the Schedule of Fees and Charges for additional information. 2. All offers of credit are subject to credit approval, satisfactory legal documentation, and regulatory compliance. 3. Digital Disbursement is a subsidiary of Western Alliance Bank. 4. All offers of credit subject to approval. Some products and services may be subject to prior approval or fees. Please contact a Treasury Management Advisor and Relationship Manager for additional details that may apply based on products and services. selecte selected.



Bank of Nevada, a division of
Western Alliance Bank. Member FDIC.

Walk with the Heart of a Child

Community Outreach Activity March 29

Join CCBA's team in this charity walk to benefit the Children's Heart Foundation.

- **When:** Saturday, March 29, 2025, 9:00 a.m.
- **Where:** Craig Ranch Regional Park, 851 Lone Mountain Road, North Las Vegas, NV 89032
- **Who:** CCBA members, friends, and family
- **Sign-up:** <https://chfn.org/>



Out of the Darkness Walk

Community Outreach Activity April 26

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

- **When:** April 26, 2025, 9:00 a.m.
- **Where:** Sunset Regional Park, 2601 Sunset Rd, Las Vegas, NV 89120
- **Who:** CCBA members, friends, and family
- **Sign-up:** <https://supporting.afsp.org/team/357531>

Cross-Court Series: Part 2

Lunchtime Learning CLE April 30

- **Speakers:** Chief Judge Jones of the Second Judicial District Court and Judge Hoskins of

the Eighth Judicial District Court

- **When:** Wednesday, April 30, 2025, Noon to 1:00 p.m.
- **Where:** Online webcast hosted by the Washoe County Bar Association
- **Offers:** 1.0 general CLE credit for WCBA & CCBA members
- **RSVP to the WCBA:** wcbar.org or ashley@wcbar.org.

Health Care Power of Attorney-A-Thon

Community Outreach Activity June 17

- **When:** Tuesday, June 17, 2025, 9 a.m. to Noon
- **Location:** TBD
- **About:** The Health Care Power of Attorney-A-Thon involves guiding a Senior

through the process of executing a Health Care Power of Attorney. The Clients will be preregistered and scheduled for 1-hour appointments with the volunteer attorneys.

- **Offers:** 1 hour CLE credit for 3 hours of pro bono service
- **CLE Training Before Event:** A one-hour pre-recorded CLE video and PowerPoint presentation called "Health Care Power of Attorney" are available on demand for non-estate planning attorneys. An optional Zoom meeting to cover logistics and answer any questions for the volunteer attorneys will be held on June 16, 2025, at Noon.
- **Registration:** Contact Cesar Hernandez, Pro Bono Coordinator at chernandez@snslp.org by June 6, 2025. **G**

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



Washoe County, NV
Chief Judge Jones
Dept. 6, Second Judicial District Court



Clark County, NV
Judge Hoskin
Eighth Judicial District Court, Dept. E

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Areas of Practice Listings Form



AREAS OF PRACTICE OFFER*: CCBA's current members—who are licensed attorneys—can get listed via area of practice in the Membership Matters issue of COMMUNIQUÉ (June/July 2025). Listings will be limited to the member's first name, last name, NV Bar #, and phone #, and up to 3 areas of practice from the list below. *This service is included with the 2025 CCBA membership!*

Name (first and last): _____

NV Bar #: _____ **Phone #:** _____

Areas of Practice – Select **up to three (3)** areas of practice from the list below:

- | | | |
|---|---|--|
| <input type="checkbox"/> Administrative & Agency Matters | <input type="checkbox"/> Elder Law | <input type="checkbox"/> Natural Resources |
| <input type="checkbox"/> Animal Law | <input type="checkbox"/> Elder Abuse/Neglect | <input type="checkbox"/> Nursing Home Neglect |
| <input type="checkbox"/> Antitrust & Trade Regulation | <input type="checkbox"/> Eminent Domain & Condemnation Law | <input type="checkbox"/> Patents |
| <input type="checkbox"/> Appellate Practice | <input type="checkbox"/> Employment Law | <input type="checkbox"/> Pension, Profit Sharing & Employee Benefits |
| <input type="checkbox"/> Arbitration & Mediation | <input type="checkbox"/> Environmental Law | <input type="checkbox"/> Personal Injury and Wrongful Death Claims |
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| <input type="checkbox"/> City/County/Local Government | <input type="checkbox"/> Guardianship | <input type="checkbox"/> Real Property Law |
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| <input type="checkbox"/> Collection Law | <input type="checkbox"/> Intellectual Property | <input type="checkbox"/> State/Federal & Admin |
| <input type="checkbox"/> Common Interest Community, Homeowners Associations | <input type="checkbox"/> International & Foreign Law | <input type="checkbox"/> Taxation Law |
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| <input type="checkbox"/> Consumer Claims & Protection | <input type="checkbox"/> Juvenile Law | <input type="checkbox"/> Trial |
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| <input type="checkbox"/> Corporate Finance & Securities Law | <input type="checkbox"/> Land Use, Planning, Zoning | <input type="checkbox"/> Veterans Administration & Affairs |
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| <input type="checkbox"/> Creditor & Debtor Law | <input type="checkbox"/> Legislative Matters | <input type="checkbox"/> Wills, Estates, Estate Planning & Probate |
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| <input type="checkbox"/> Education Law | <input type="checkbox"/> Military Law | <input type="checkbox"/> Wills, Estates, Estate Planning & Probate |
| | <input type="checkbox"/> Mining Law | <input type="checkbox"/> Workers' Compensation |

Complete this form and return to the CCBA no later than 5/1/2025.

Clark County Bar Association, 717 S. Eighth Street, Las Vegas, NV 89101, StephanieAbbott@clarkcountybar.org

***Restrictions apply.** This offer is available to current CCBA members who are licensed attorneys with paid membership types of Attorney Member, New Attorney Member, or Senior Attorney Member for the 2025 membership year. Due to space constraints in the COMMUNIQUÉ, any entries made by “Public Service Members” may be omitted from the publication. Listings are available only to current CCBA members who are licensed to practice law in Nevada or in another U.S. jurisdiction. Listings in the COMMUNIQUÉ will be limited to the member's first name, last name, NV Bar number, and phone number (if provided). Updates to selections submitted previously for the listing in the COMMUNIQUÉ can be made by completing the form again prior to the published deadline. Listings in the COMMUNIQUÉ are only available to members of the Clark County Bar Association who are licensed attorneys and have paid their 2025 CCBA Membership fee prior to May 1, 2025.

Herndon Named Chief Justice of the Supreme Court; Bulla Appointed Chief Judge of the Court of Appeals

On January 6, 2025, the Nevada Judiciary announced leadership transitions as Justice Douglas W. Herndon officially begins his two-year term as Chief Justice of the Nevada Supreme Court, succeeding Justice Elissa F. Cadish; and Judge Bonnie A. Bulla assumes her appointed role as Chief Judge of the Nevada Court of Appeals for a four-year term.



As Chief Justice, Justice Herndon will step into the role of administrative head of the Nevada Judiciary and the official public voice of the Nevada Supreme Court.



Chief Judge Bulla will oversee the administrative functions of the Court of Appeals and provide leadership

to ensure timely and fair resolution of appeals.

Business Court Bench-Bar Meeting

- **Host:** Eighth Judicial District Court
- **When:** March 13, 2025, Noon to 1:00 p.m.
- **Where:** Regional Justice Center, Courtroom 16A and Zoom
- **Contact:** hoskint@clarkcountycourts.us

Civil Bench-Bar Meetings

- **Host:** Eighth Judicial District Court, Civil Department
- **When:** Noon to 1:00 p.m. on the following dates:
 - February 11, 2025
 - March 11, 2025
 - April 8, 2025
 - June 10, 2025
 - Sept 9, 2025
 - Oct 14, 2025
 - Dec 9, 2025
- **Where:** Regional Justice Center, Courtroom 10D and Zoom
- **Contact:** EJDCBenchBar@gmail.com



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Online Resource for Consumer Debtors and Attorneys

The U.S. Trustee Program has released a series of videos to help consumer debtors and their attorneys navigate the section 341 meeting of creditors, a required step in every bankruptcy case.

Visit the program's new Section 341 Meeting of Creditors webpage for more information, including links to these videos:

- How to Prepare for Your Meeting of Creditors.
- Common Questions about the Meeting of Creditors.
- Simulated Chapter 7 Meeting of Creditors.
- Simulated Chapter 13 Meeting of Creditors. 

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Maximizing the Mediation Process: Practical Tips for Success

By Hon. Nancy L. Allf (Ret.)

While the time and expense of mediation may seem small compared to those of litigation, here are a few tips to maximize the value of your investments in both. Remember, your mediator wants to help your case move forward, even if it isn't ready to resolve. Give your mediator the tools for success. Below are some tips and questions to ask yourself to help achieve the best possible outcome in mediation.

Don't treat the mediation brief like another deadline

While a case synopsis is valuable, using a boilerplate intro won't help the mediator understand the nuances of the case. Be mindful of the confidentiality of the exercise and use it to your benefit. What is the posture of the case? What are your upcoming tension points? Is trial staring you in the face? What are your weak points? How do you expect witnesses to perform? This is your chance to get an honest assessment from a neutral third party, so let the mediator know what's realistic and possible, as well as what's impossible. Prioritize the potentials that can be achieved.

Do you have expectations for the mediation?

If there is a chance early in the case for free discovery, let the mediator know so they can facilitate it. If your intent is to give your client a more realistic view of the weaknesses of their case, be up front about that. If both parties are genuinely ready to explore their levels of discomfort about the case, let the mediator know. It's always helpful to do this upfront and privately.

Do counsel agree on why they are choosing mediation now, and is there a common goal?

Sometimes, counsel are more aligned on what a fair resolution would be than their clients are. What is the

agreed path to pursue in mediation? On which issues do the parties have more flexibility? What are the clients' expectations for the session? How can they be prepared for the process? Oftentimes, one party is more motivated than the other. While the mediator can usually determine that from the briefs, be transparent to eliminate any uncertainty.

Stay positive

Use the time wisely. Sometimes a day seems like a long time, but if your client needs to be heard, figure that into the schedule so that negotiations can be productive, not protracted. Come in with positive strategies, not threats. Prepare your clients and client representatives. Let your client know up front that they may have to pivot from their positions on certain issues on which they have more flexibility so they don't bog down on the tougher issues. Keep your eye on the ball.

Partnering for success

When your neutral is a retired Judge, you need not be deferential. The neutral is working for the best outcome for each side and is your resolution partner.

Mediation can be a useful tool at all stages of a matter, both pre- and post-litigation. Please consider these ideas to obtain the best outcomes for your mediations. **C**

Hon. Nancy L. Allf serves as an arbitrator, mediator, special master/referee and neutral evaluator at JAMS. She joined JAMS after serving for 13 years as a district court judge for the Nevada Eighth Judicial District Court, where she served as a specialty business court judge for most of her time as a jurist, handling a wide range of disputes.

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Settlement Through Mediation – An Alternative to Losing

By Hon. Jerry Wiese

Since the theme of this edition is ADR, I thought I'd write a little about settlement conferences and mediations. Fifty percent of the parties who go to trial lose and leave the courtroom with long faces, because they thought they had a strong chance of winning. The solution? Settle the case prior to trial and avoid that risk. Here are just a few things I've learned over the years about resolving cases through mediation.

A settlement judge or mediator can help you with a difficult client. It is important, however, that you don't over-

sell the case to your client. Make sure they know what the weaknesses are, even if they don't accept them as weaknesses. Make sure your client can see your faith and trust in the mediator's opinions. Finally, try to help your client evaluate the strengths and weaknesses of their case; objectively and unemotionally.

Emotion is often what drives people to trial. Putting emotions aside can help bring parties to a resolution without the risk of trial. Parties and attorneys need to adopt a win/win (instead of a win/lose) mentality. Rather than

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trying to get the best of the other side, think of solutions where both sides are able to walk away equally satisfied. Generally, people care about “fairness” and are not interested in settling unless they think the terms are “fair.” What may seem fair to one party may not seem fair to another party. Remember, if both parties are giving up something, the “something” doesn’t need to be equal. One party’s success is not dependent upon the other party’s failure. Parties can work together to arrive at a settlement where they’ve all given up something and feel as though the resolution reached is fair.

I presided over a settlement conference years ago where a mother and son were fighting over a home, and the son was trying to evict the mother. At the end of the day, the mother agreed not to rent out a room to strangers, and the son agreed to go to regular barbecues with his mother and her grandchildren, whom she hadn’t been allowed to see in a number of years. Sometimes the real issues are very different from what they appear to be.

Assisting litigants with seeing the facts from the other side’s perspective is important during settlement conferences. Our Eighth Judicial District Court’s volunteer settlement conference judges work hard to help litigants see all sides to their cases, and we resolve disputes in a way that

saves time and expense and allows all parties to walk away equally satisfied with the outcome.

The Eighth Judicial District Court’s Judicial Settlement Conference Program is for your use and benefit. If all

parties agree, contact my JEA, Angela McBride, to schedule your settlement conference. **☛**

The Eighth Judicial District Court’s Judicial Settlement Conference Program is for your use and benefit.

Chief Judge Jerry Wiese serves in Department 30 of the Eighth Judicial District Court Bench. Since taking the bench, in January of 2011, Judge Wiese has presided over numerous trials, both civil and criminal, and has presided over many settlement conferences. He coordinates the Judicial Settlement Conference Program. He was elected Chief Judge by his peers and has served as the Chief Judge of the District Court since July 2022.

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Court Annexed Arbitration Program: Reasons to Raise the Cap to \$100,000 and a Review of the Statistics Debunking the Myths about the Program

By ADR/Discovery Commissioners Adam Ganz and Erin Lee Truman

Last year, Commissioners Truman and Ganz were sitting around talking about the Court Annexed Arbitration Program (Program). It went something like this:

Comm. Truman: “Why are people so against using the Program?”

Comm. Ganz: “Because they think it’s a waste of time and money; all I hear is that every case gets *de novo*’ed and you got to start all over again.”

Comm. Truman: “The numbers show that’s just not true.”

Comm. Ganz: “Then, as Tom Cruise famously said, ‘SHOW ME THE [NUMBERS]!’” . . . and she did.

History of the Program

2025 marks the 33rd anniversary of the Program. The Nevada Legislature has periodically increased the monetary limits for cases subject to the Program. The limit increased from \$25,000 to \$40,000 in 1995, and to \$50,000 in 2005. However, the monetary cap has not been increased in 20 years. If the cap is not raised, it is likely that the Program will continue to wither away and its significant benefit to the community will be lost.

The Program was implemented to decrease the caseload burden on district courts, while simultaneously providing expeditious and cost-effective access to justice for litigants. Participation in the Program typically allows six months for cases to be heard and, by rule, keeps litigation costs and fees down. The Program has been extremely successful in reducing court congestion by resolving cases even before they proceed to a hearing.

However, despite its success, the number of cases annually assigned to the Program has continued to drop over the last several years. Substantially more cases are qualifying for exemption from the Program based upon the probability of an award exceeding \$50,000. Unfortunately, as the number of requests for exemption has increased, the number of total cases entering the Program has decreased.

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Civil Cases Filed	No Data	No Data	No Data	17,764	19,465	20,889	19,264	18,664	17,030	20,805
% of Cases Filed & Answered that are in Arb Program	44.24%	44.51%	47.89%	54.61%	No Data	48.29%	47.11%	46.36%	39.73%	37.00%

During the last 20 years, inflation and healthcare costs have risen. The inflation rate from 2005 to 2024 is a cumulative price increase of 60.87 percent. The purchasing power of \$1.61 today is the same as \$1.00 was in 2005. That means \$50,000 in 2005 would roughly equal \$80,435 today. Not surprisingly, prices for healthcare have grown faster than prices in the general economy. As the population of Clark County has grown, so has the number of civil lawsuits filed. In 2017, there were 17,764 civil cases filed. By 2023, that number had risen to 20,805.

Busting Myths about the Program

The Commissioners performed small group research and repeatedly heard from attorneys that the Program “doesn’t work” and “it is just a waste of time.” However, the statistics from the Program simply don’t support these myths. The most telling statistic about the Program’s success is that 92.02 percent of cases that were in the Program resolved prior to a trial *de novo* during 2023, and it appears that 2024’s numbers will continue this trend.

Simply stated, the statistics are clear—the Program works! More than nine out of ten cases are resolving within a year, prior to a trial *de novo*. Even with the reduced number of cases in the Program, that means that nine out of ten of the 37 percent of all the civil cases filed in this community last year were resolved through the Program. Clearly, this myth is busted.

The second most repeated myth about the Program is that all the cases just get *de novo*’ed and the case has to start all over. The statistics also dispel this. Specifically, requests for trial *de novo* are only filed in approximately one-third of the cases (not resolved through the Program). Only 36.03 percent of the remaining cases that go through a hearing in arbitration are *de novo*’ed, down from 59.49 percent in 2018. Recent changes to the Nevada Arbitration Rules and Nevada Short Trial Rules became effective in January 2023. These rule changes have had a significant effect on reducing the number of requests for trial *de novo*.

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
% Cases TDN after Award					59.49%	41.38%	46.59%	46.05%	39.60%	36.03%

Another often repeated comment about the Program is that “I would rather be in District Court ‘just because.’” Meanwhile, law firms on both sides are finding that they are spending more than a case is worth to litigate when its value is between \$50,000 and \$100,000. By not litigating cases valued at less than \$100,000, these firms have identified that they would be able to “free up” more time and resources for larger cases and, therefore, several polled firms agree that increasing the monetary cap from \$50,000 to \$100,000 “makes more sense for the clients and the lawyers because it is quicker and cheaper.”

At the next legislative session, the Nevada Administrative Office of the Courts will introduce Assembly Bill 3. The bill seeks to increase the cap on the Court Annexed Arbitration Program to \$100,000. If the bill passes, expect the community to continue to benefit from the decades of success of the Program as it continues to reduce the court’s congestion and provide quick, less expensive, and appropriate access to justice for all involved. 🇺🇸

Adam Ganz, a lifelong Nevada resident, graduated from the University of San Diego Law School in 1998. He has over 25 years in civil litigation, represented thousands, and volunteered with the Children’s Attorney Project. In 2022, he earned his LL.M. from Pepperdine and became the ADR/Discovery Commissioner in 2023.

Erin Lee Truman was appointed as the ADR Commissioner for the Eighth Judicial District Court in 2017; in 2019 she added Discovery Commissioner to her duties. Prior to joining the court, Erin litigated civil cases for 25 years, most recently with the law firm of Hutchison & Steffen, LLC. She also served as an arbitrator, mediator and short trial judge for the court and was a neutral; she practiced as a private mediator with Bongiovi Dispute Resolution. Erin graduated from J. Reuben Clark Law School in 1991.

Successful Arbitration Strategies

By Howard F. Kline

The three most significant keys to resolving any dispute to your advantage are preparation, preparation, preparation, whether the dispute is handled before a judge or arbitrator. With this being said, there are some differences between a judicial resolution and that before an arbitrator, which may require an adjustment to your strategy. This article summarizes some of the key strategies that counsel should employ when arbitrating a dispute in a non-judicial referred arbitration.

Unless referred by a court, rule, or statute, arbitration starts with the agreement to arbitrate, (“A2A”). The A2A is often contained as a provision in a contract establishing the relationship of the parties, such as a lease, purchase and sale agreement, credit card agreement, etc. A well written arbitration clause will govern the substantive and procedural law as well as the rules to be followed in the arbitration. Often the rules governing the arbitration will significantly differ from the court rules and may be modified by the parties. The agreement may dictate the timing of the arbitration, conduct of discovery and any limitations thereto, the method of choosing the arbitrator, the type and timing of the award, and the rules of evidence.

The A2A will often designate an arbitration institution, such as AAA or JAMS, to manage the arbitration process, although those are not the only institutions or services available to the parties. It is important to understand that many of these institutions have their own set of rules that may seriously affect the conduct of the arbitration and its results. For example, the rules of these institutions may severely limit discovery, including the ability to conduct

depositions and subpoena third parties. Again, these rules may be modified by the parties either as part of the A2A or during the arbitration.

Except in limited circumstances, in a judicial setting before a court, the parties do not get to choose their judge. In arbitration, parties typically get to choose their arbitrator. Counsel should thoroughly research potential arbit

rators using available resources like resumes, peer insights, and published works. It is often helpful to choose an arbitrator who is familiar with the type of dispute. For example, if the dispute is employment related, the parties will likely choose an arbitrator familiar with employment issues and law. Failure to choose the correct arbitrator

may be fatal to an arbitration.

First impressions matter, starting with well-crafted initial claim and response documents. Arbitration rules tend not to require specific pleadings, but they should be specific enough so that the opposing party and the arbitrator can clearly understand what the dispute is and the issues that need to be resolved. The clearer the claims and responses, the smoother the arbitration.

Most arbitrations will have a scheduled preliminary hearing shortly after the commencement of the arbitration matter. Counsel should be prepared for the preliminary hearing, as it sets the stage for the entire process, including scheduling and identification of issues, and the discovery process. Many arbitrators will notify the parties in advance of the preliminary hearing regarding what they should expect and how to prepare.

Keep in mind that the rules of evidence are relaxed in arbitration. As a general rule, I tend to allow admission of

[T]here are some differences between a judicial resolution and that before an arbitrator, which may require an adjustment to your strategy.

evidence and consider the rules of evidence when weighing the evidence. Focused arguments, strong evidence, and clear presentations are crucial for persuading arbitrators.

Frequent, unnecessary objections should be avoided, as they can detract from the case's merits and irritate arbitrators. Keep in mind that in most cases, there is very limited rights of appeal and since the rules of evidence are usually relaxed, there is generally no need to preserve objections for appeal.

The following general tips are as applicable before an arbitrator as they are a judge:

- Avoid unprofessional conduct like negative emails or sarcastic language in submissions
- File motions strategically, ensuring they are well-founded and contribute to the efficiency of the process. Many arbitrators are reluctant to grant dispositive motions
- Organize and present documents thoughtfully to facilitate the arbitrator's review
- Be respectful and candid in interactions with the arbitrator, acknowledging weaknesses in arguments where appropriate
- Demonstrate an understanding of the goals of arbitration by prioritizing efficiency and collaboration
- Maintain a professional and courteous demeanor throughout the process, demonstrating respect for the arbitrator and opposing counsel

Success in arbitration requires a shift in mindset from traditional litigation. Understanding the unique advantages and procedural nuances of arbitration, preparing thoroughly, presenting clear and concise arguments, and maintaining a collaborative and respectful approach are all critical for achieving favorable outcomes. **G**

Howard F. Kline has nearly 50 years of litigation and transactional experience as a California licensed attorney and now as a mediator and arbitrator on the national panels of the American Arbitration Association. He has served as general counsel on four separate occasions for two technology companies, a national educational company, and a regional supermarket chain. His legal experience is in a broad range of topics with a particular emphasis on commercial real estate and leasing, employment, consumer disputes, and general business matters. He has recently been admitted to the Nevada Bar on a limited basis providing pro bono services for at risk children for the Legal Aid Center of Southern Nevada and has also volunteered time as a mediator for the Clark County Neighborhood Justice Center.

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Pro Bono Matters

By Vanessa Turley

As a practitioner in family law, I see many clients going to court unrepresented. It pains me when I see someone with an easy divorce struggle to obtain justice. Because access to justice and representation are so important to me, I make time to take pro bono cases as often as possible.

I took my first pro bono case in law school under the Partners in Pro Bono Program, helping a client obtain a divorce. My attorney partner is now a sitting judge in Family Division of the Eighth Judicial District Court (shout out Judge Forsberg). I learned a lot from my attorney partner and eventually became a practitioner in family law. Since then, different pro bono projects have allowed me to learn new areas of law and are great opportunities to help individuals in the community access justice. The Legal Aid Center makes it easy for attorneys to participate and make a difference. You get a mentor, malpractice insurance, and CLE credit for volunteering.

I take cases when I can and volunteer for ask-a-lawyer sessions. It's such a rewarding experience. No matter what type of time commitment your schedule allows, there is something for you.

As a pro bono attorney, I recently learned that volunteer mediators will provide free mediation for your pro bono matters. It is always welcome when new ways to settle cases quickly and economically are introduced as tools for the community and our pro bono participants. I cannot wait for an opportunity to use the new volunteer mediators for my next pro bono matter.

What I like most about doing pro bono work is helping people, especially when it involves something as personal as divorce or custody. I love our Las Vegas community and doing pro bono work is a great way to connect. My favorite pro bono case to date was when my Partner in Pro Bono and I helped grandparents adopt their four grandchildren. It was so special! 🇸

Vanessa Turley is a proud graduate of UNLV and the UNLV Boyd School of Law. She has practiced in Las Vegas since 2018 in the areas of complex civil litigation and now family law. She enjoys living in the downtown Las Vegas area and walking her dog Keno around to her favorite coffee shops.

Community Outreach Opportunity

Pro Bono Project

Take one new case

Legal Aid Center of Southern Nevada is the agency of last resort for many low-income individuals and families who face critical legal problems that affect their basic needs.

The Pro Bono Project coordinates private attorneys who generously volunteer to provide free legal assistance to individuals who cannot afford an attorney.

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- Ask-A-Lawyer Program
- Federal Pro Bono Program
- Education Advocate Program
- Interpreter Program

For more information, contact the Pro Bono Project at (702) 386-1070.

Sign up at <https://www.lacsnprobono.org/>.



Advance Opinion Summary (1-8-25)

By Joe Tommasino

Supreme Court of Nevada

Appealable determinations: An order dismissing a factual-innocence petition without prejudice pursuant to NRS 34.960 is not appealable. The provisions governing factual-innocence petitions are codified in NRS 34.900–.990. NRS 34.970(9) provides a right to appeal only from orders granting or denying a hearing under NRS 34.970, but NRS 34.970 only comes into play if the district court determines that the petition meets the pleading requirements in NRS 34.960. Thus, like the rest of NRS 34.970, subsection nine’s appeal provision applies when the factual-innocence petition has not been dismissed without prejudice pursuant to NRS 34.960. Put simply, no court rule or statute authorizes an appeal from an order dismissing an innocence petition without prejudice under NRS 34.960. At Footnote one, the Supreme Court of Nevada recognized that “[b]ecause the initial review pursuant to NRS 34.960 is within the district court’s discretion, . . . a petition for a writ of mandamus filed in this court may be an appropriate vehicle for convicted individuals seeking review of an order dismissing a factual-innocence petition without prejudice.” *Sanchez (Hugo) v. State*, 140 Nev. Adv. Op. No. 78, ___ P.3d ___ (December 19, 2024).

Child support: (1) The Legislature of the State of Nevada has enacted a statutory scheme, supplemented by comprehensive regulations adopted by the Division of Welfare and Supportive Services of the Department of Health and Human Services, to guide courts in determining a parent’s child-support obligation; (2) one area of these provisions that has remained unclear is the adjustment required, if any, to a parent’s child-support obligation based on transportation costs; and (3) in this case of first impression, the Supreme Court of Nevada clarified that transportation costs incurred in ensuring a child spends time with both parents must be considered in determining a parent’s child-support obligation under NAC 425.150. The Nevada Administrative Code provides a formula for determining a parent’s base child-support obligation. If a court wishes to deviate from that baseline obligation, the court may adjust the amount based

“on the specific needs of the child and the economic circumstances of the parties,” as guided by eight enumerated factors and specific findings of fact. One of the eight factors listed in NAC 425.150 supporting adjustment is “[t]he cost of transportation of the child to and from visitation.” Relocation alone is not a proper consideration for determining transportation costs. Considering that NAC 425.150 plainly contemplates deviations to child support based on transportation costs, the Supreme Court of Nevada concluded that transportation costs are part of the child-support analysis, and transportation costs cannot be ordered separately. The Court emphasized that NAC 425.150 requires district courts adjusting child support to examine “the specific needs of the child and the economic circumstances of the parties” based on the enumerated factors. The Court also implicitly recognized reasonableness as a requirement in evaluating the factors under NAC 425.150. *Martinez v. Martinez (Child Custody)*, 140 Nev. Adv. Op. No. 73, ___ P.3d ___ (November 27, 2024).

Double jeopardy: (1) A defendant cannot be convicted of both a theft crime and possessing or receiving the property stolen in the commission of the same theft crime; (2) a theft crime, such as grand larceny, and possession of stolen property are mutually exclusive, alternative offenses; and (3) separate convictions for mutually exclusive offenses based upon a single act cannot stand. In determining whether the legislature has authorized multiple punishments, a court must first consider the statutory text. If the statutes expressly authorize punishment for both offenses, the double-jeopardy analysis ends there. When legislative intent is not clear, a court typically next turns to the *Blockburger* test, which is focused on the elements of each offense, but *Blockburger* alone may not be determinative. Here, the Supreme Court of Nevada held that because the defendant’s convictions for grand larceny and possession of stolen goods arose from the same act, the defendant could have been convicted of grand larceny or possession of stolen goods, but not both. Separately, the Court also concluded that a motion to suppress on the ground that a warrant was “illegally executed” does not encompass a warrant that was properly executed but untimely returned. *Alvarez (John) v. State*, 140 Nev. Adv. Op. No. 79, ___ P.3d ___ (December 19, 2024).

Foster parents: (1) NRS Chapter 432B provides different roles for district courts and child-welfare-services agencies in protecting children from abuse and neglect; and (2) when the district court acts without statutory authority and usurps control over a matter statutorily delegated to a child-welfare-services agency, it acts arbitrarily and capriciously. During a proceeding under NRS Chapter 432B, the district court ordered the Clark County Department of Family Services (DFS) to provide financial rental assistance to the subject children’s foster parent.

Summaries continued on page 28

Petitioners, DFS and the Clark County District Attorney's Office, argued that the district court lacked authority to enter such an order and petitioned the Supreme Court of Nevada for a writ of mandamus or prohibition, seeking to have the order vacated. The Supreme Court concluded that the district court lacked statutory authority to order DFS to pay rental assistance to a foster parent. The agency has broad statutory authority to decide how to spend the budget appropriated to it. The district court thus acted arbitrarily and capriciously in purporting to exercise an authority it did not have and in interfering with the agency's management of its budget. ***In re: Matter of N.R.R. and N.I.R.***, 140 Nev. Adv. Op. No. 77, ___ P.3d ___ (December 5, 2024).

Gangs: In this case, the state presented at least slight or marginal evidence to support a reasonable inference that Hells Angels members commonly engage in felony-level violence directed at rival motorcycle clubs, such that the group constitutes a criminal gang under NRS 193.168. Nevada's criminal gang-enhancement statute, NRS 193.168, provides for an additional prison sentence, to run consecutively to the sentence for the underlying offense, for any person convicted of a felony "committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang."

The Supreme Court of Nevada held that evidence of conduct of nonlocal Hells Angels members was relevant to whether Hells Angels engages in common felonious activity. Moreover, evidence of criminal activity was not too remote to support probable cause that Hells Angels was a gang at the time of the underlying shooting incident. Finally, the Court emphasized that NRS 193.168 does not require the state to prove that a defendant is a member of a criminal gang; rather, it allows the sentence enhancement for "any person" convicted of a felony committed "for the benefit of, at the direction of, or in affiliation with, a criminal gang." NRS 193.168(1) (emphasis added). Therefore, the defendant's argument that the state presented insufficient evidence of his Hells Angels membership lacked merit. ***State v. Devries (Richard) C/W 86648/86649/86650/86651/86652/86653***, 140 Nev. Adv. Op. No. 82, ___ P.3d ___ (December 26, 2024).

Medical malpractice: (1) A patient's suicide does not, as a matter of law, prevent a medical provider from being liable for medical malpractice; and (2) when a prima facie claim of medical malpractice is established, whether the medical provider breached a duty of care or caused the patient's death are factual matters to be decided by the trier of fact. This matter was one of first impression in Nevada and asked whether the "suicide rule" should be adopted as a complete defense to claims of medical malpractice. Nevada's profes-

sional-negligence statutes, NRS Chapter 41A, do not preclude a medical provider from being held liable for a patient's suicide, and the Supreme Court of Nevada has never held that such a preclusion exists. The Supreme Court declined to adopt a rule that a patient's suicide relieves a medical provider of liability for the patient's death. Instead, the Court held that the determination as to whether a medical provider is liable for a patient's injuries must be resolved under established medical-malpractice law. A medical provider who is alleged to have provided negligent care to a patient owes a duty of care to that patient, regardless of whether the medical provider has control over, or custody of, the patient. If the medical provider's conduct is proven to fall below the standard of care, then "the crucial inquiry is whether the defendant's negligent conduct led to or made it reasonably foreseeable that the deceased would commit suicide." If the patient's suicide is a foreseeable consequence of the medical provider's negligence, then the medical provider may be held liable. However, where the patient's suicide is not foreseeable, then the suicide is a superseding intervening cause, severing the causal chain and relieving the medical provider of liability for his or her negligence. Whether an event is a superseding intervening cause is a question of fact. ***Bourne v. Valdes, M.D.***, 140 Nev. Adv. Op. No. 74, ___ P.3d ___ (November 27, 2024).

PERS (Nevada Public Employees' Retirement System): (1) The Las Vegas Police Managers and Supervisors Association and the Las Vegas Peace Officers Association enjoy the statutory power to negotiate holidays on behalf of their members, and (2) the plain text of NRS 288.150(2)(d) requires PERS to collect additional retirement contributions in line with increased wages earned on the negotiated holidays. Here, the Associations negotiated with law-enforcement agencies for additional holidays, including Juneteenth, Christmas Eve, and New Year's Eve. Despite the negotiated agreements, PERS refused to collect the increased retirement contribution rates on holiday pay for the additional holidays. The Supreme Court of Nevada concluded that PERS's constitutional authority to govern is not infringed by the Associations' power to negotiate holidays. Moreover, PERS is statutorily obligated to govern the retirement system and cannot escape that liability merely by not being present in negotiations or not being a party to a collective bargaining agreement. Finally, the Associations' power to negotiate holidays does not violate the Internal Revenue Service Tax Code. ***Pub. Employees' Ret. Sys. of Nev. v. Las Vegas Managers and Supervisors Ass'n***, 140 Nev. Adv. Op. No. 80, ___ P.3d ___ (December 19, 2024).

Preemption: (1) NRS 482.305 holds short-term lessors of motor vehicles who fail to provide minimum insurance coverage to lessees jointly and severally liable for damages caused by a lessee's negligence; (2) a federal statute known as the Graves Amendment, 49 USC § 30106, prohibits states from holding vehicle lessors vicariously liable for damages caused by others without a showing of negligence or wrong-

doing; and (3) NRS 482.305 is *not* preempted by the Graves Amendment because it is a financial responsibility law that is preserved by the Graves Amendment's savings clause. Here, "personal-injury actions involving rented or leased motor vehicles" is a field traditionally occupied by the states. Thus, the Supreme Court of Nevada reviewed any ambiguity with respect to Congress's intent behind the Graves Amendment in a manner that disfavors preemption of NRS 482.305. *Malco Enter. of NV, Inc. v. Woldeyohannes*, 140 Nev. Adv. Op. No. 76, ___ P.3d ___ (December 5, 2024).

Redemption: (1) NRS 116.31166 provides property owners and their successors in interest with a statutory right to redeem property; and (2) upon a testator's death, a will beneficiary is immediately vested with a beneficial interest in devised property and becomes the testator's successor in interest for purposes of NRS 116.31166. The central question here was whether a beneficiary to a nonprobated will who is devised real property is the testator's successor in interest for purposes of the redemption statute, NRS 116.31166. Mable Hrynchuk named Bryan Kenton as the sole beneficiary to her estate, which included her residential property. Following her death, the homeowner's association foreclosed on the property and sold it to appellant Saticoy Bay LLC Series 3580 Lost Hills at a foreclosure sale. As the sole named beneficiary, Kenton sought to redeem the property as a successor in interest through his attorney-in-fact, respondent Foreclosure Recovery Services, Inc. Saticoy Bay refused to honor the redemption, asserting that Kenton was not the successor in interest in the property and therefore had no rights of redemption under Nevada law. The Supreme Court of Nevada held that "a will beneficiary is immediately vested with beneficial interest in devised property at the time of the testator's death and is therefore the testator's successor in interest for the purposes of NRS 116.31166." Accordingly, the Court affirmed the district court's order granting Foreclosure Recovery Services' motion for summary judgment in the underlying litigation. *Saticoy Bay LLC Ser. 3580 Lost Hills v. Foreclosure Recovery Ser., LLC*, 140 Nev. Adv. Op. No. 75, ___ P.3d ___ (November 27, 2024).

Nevada Court of Appeals

Good-time credits: (1) Appellant Arinza Smith's claim seeking the application of a revised method for determining good-time credits was a challenge to the computation of time served and thus had to be made in a postconviction habeas petition pursuant to NRS Chapter 34; and (2) Smith had a plain, speedy, and adequate remedy in the ordinary course of law by means of filing such a petition, so a writ of mandamus is inappropriate here. Senate Bill (S.B.) 413 (2023) provides a revised method for determining credits to reduce the sentence of an offender. This revised method will apply

Summaries continued on page 30



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Summaries continued from page 29

“to an offender sentenced to prison for a crime committed: (1) on or after July 1, 2025; or (2) before July 1, 2025, if the offender elects to be subject to the revised method.” A postconviction petition for a writ of *habeas corpus* “[i]s the *only* remedy available to an incarcerated person to challenge the computation of time that the person has served pursuant to a judgment of conviction, after all available administrative remedies have been exhausted.” S.B. 413 does not provide a “revised method of sentencing.” It provides inmates who were sentenced to prison for a crime committed before July 1, 2025, with an alternative method for determining good-time credits.

And a postconviction *habeas* petition challenging the computation of time served may dispute the application of credits toward an inmate’s sentence, as well as the method by which an inmate’s sentence is calculated. Therefore, Smith’s claim seeking the application of a revised method for determining good-time credits was a challenge to the computation of time served and thus had to be made in a postconviction *habeas* petition pursuant to NRS Chapter 34. Accordingly, Smith had a plain, speedy, and adequate remedy in the ordinary course of law by means of filing such a petition, and *mandamus* was inappropriate. *Smith (Arinza) v. State*, 140 Nev. Adv. Op. No. 81, ___ P.3d ___ (December 19, 2024).

Resources

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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).

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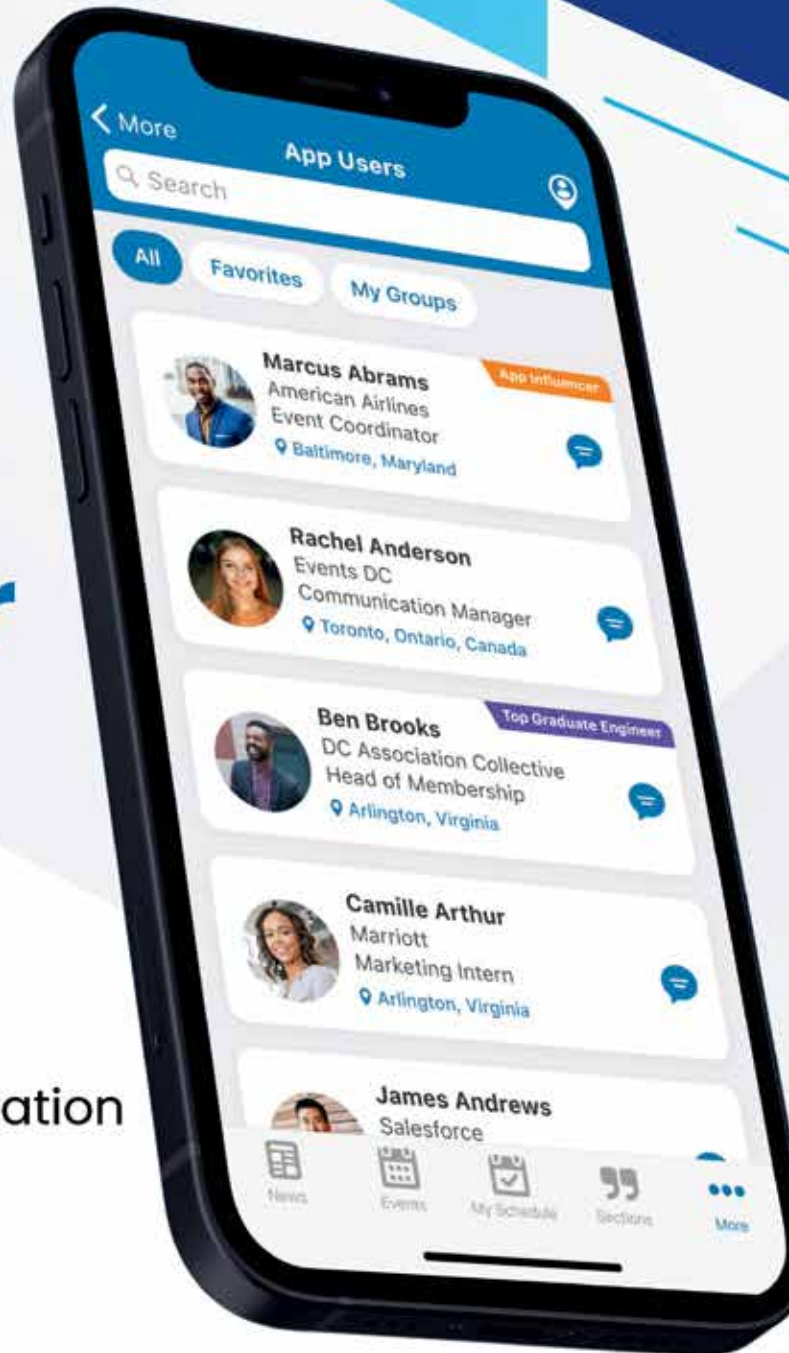


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