

February 2026

40 Year Club Luncheon on March 26, 2026

Learn more and RSVP to the CCBA ASAP

See page 16



COMMUNIQUÉ

THE OFFICIAL PUBLICATION OF THE CLARK COUNTY BAR ASSOCIATION

Bankruptcy Law

Essential Bankruptcy Fundamentals, Ninth Circuit Appellate Finality, Military Client Protections

See pages 8, 10, 20, 22, 24

Read CLE Article #20:

10 Things Non-Bankruptcy Lawyers Should Know About Bankruptcy

By Candace Carlyon

See page 26

On the cover: 40 Year Club Member Candace Carlyon

COMMUNIQUÉ

Clark County
Bar Association

THE OFFICIAL PUBLICATION OF THE CLARK COUNTY BAR ASSOCIATION

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Communiqué Editorial Calendar

Cover Date	Issue Theme	Closing Date
January 2026	Five Things	12/1/2025
February 2026	Bankruptcy Law	1/2/2026
March 2026	Law Practice Management	2/1/2026
April 2026	Family Law	3/1/2026
May 2026	Labor & Employment Law	4/1/2026
June/July 2026	Ethics	5/1/2026
August 2026	Land Use Law	7/1/2026
September 2026	Discovery	8/1/2026
October 2026	Pro Bono	9/1/2026
November 2026	Appellate Law	10/1/2026
December 2026	Immigration Law	11/1/2026

*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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Bar Services

Advertising Opportunities

Space in the *Communiqué* is available for select businesses to showcase their professional goods, services, and events for Nevada's legal community.

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Contact: Stephanie at the CCBA at StephanieAbbott@clarkcountybar.org, 702-387-6011.

Bar Activities

Event Calendar

Bar members are invited to attend bar activities

- Feb. 4 NEW: Legal Support Committee Meeting – Page 12
- Feb. 6 Community Service Committee Meeting – Page 12
- Feb. 11 CLE Committee Meeting – Page 12
- Feb. 12 New Lawyers Committee Meeting – Page 12
- Feb. 13 Publications Committee Meeting – Page 12
- Feb. 17 Lunchtime Learning CLE Webcast – Pages 10, 27
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- Mar. 5 New Lawyers Committee Meeting – Page 12
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- Mar. 26 40 Year Club Luncheon – Page 16
- Apr. 2 Lunchtime Learning CLE Webcast – Page 18
- Apr. 9 Lunchtime Learning CLE Webcast – Page 19
- Apr. 16 Pub Crawl – Page 19

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

Bar Services

Contact the CCBA

Reach out for information and updates about CCBA activities:

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Importance of Bankruptcy Protections

By James T. Leavitt

Welcome to the Bankruptcy edition of the *Communiqué*! As many of you know, my primary area of practice is bankruptcy law. I represent business and consumer debtors in all aspects of bankruptcy (along with the occasional creditor). As such, this issue touches on a subject that I have put considerable thought and study into.

Why is bankruptcy important? In times of economic hardship, like those we dealt with during the Great Recession of 2008, bankruptcy allows debtors the opportunity to get a fresh start. Indeed, the lessons we learned during that crisis may return this year, given the fact that bankruptcy filings increased 10.6 percent from September 30, 2024, to September 30, 2025. I know that I have seen a marked uptick in consultations for bankruptcy representation in the last six months. As such, the subject of this issue of the *Communiqué* seems to be timely.

Our current bankruptcy system is designed to give an honest debtor the opportunity to get relief from their debts through a process that involves full disclosure of all assets and debts. I often refer to bankruptcy as the “safety valve of capitalism.” The reason I say this is that without the ability for people to get relief from their debts, debtors would become less likely to actively participate in our economy. Often throughout history, debt has also been used as a mechanism of slavery.

Our bankruptcy system does what it can to prevent the injustices of debt slavery by allowing debtors to get a fresh start. Our system also allows for debtors to re-

tain certain property after bankruptcy. The public policy reasoning behind this seems to be that we don’t want creditors to leave debtors with nothing, forcing them to depend on other social safety nets to survive. One of the great things about our state is that our laws provide generous exemptions for debtors, preventing creditors from leaving debtors homeless and destitute (in most cases).

Our current bankruptcy system is designed to give an honest debtor the opportunity to get relief from their debts through a process that involves full disclosure of all assets and debts.

During the Great Recession, many of our neighbors, relatives, and friends faced job loss and foreclosure. Many of them used the bankruptcy system to get their lives back on track and protect their primary residences. That’s what it is supposed to be there for. Hopefully, you all find the articles in this issue to be helpful and informative. Our contributing writers are amazingly knowledgeable attorneys in our community, and we are honored by their contributions. Enjoy this month’s issue! ☺

James T. Leavitt operates Leavitt Legal Services, P.C. in Las Vegas, Nevada. His practice focuses primarily on bankruptcy law and criminal law. James earned his Bachelor’s degree in U.S. History from UNLV and his Juris Doctorate at the John Marshall Law School in Chicago. James serves as CCBA President through December 2026.

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Bankruptcy CLE Program Free for CCBA Members February 17, 2026

On February 17, 2026, commercial bankruptcy lawyers Candace Carlyon and Dawn Cica of Carlyon Cica Chtd. will make a special presentation for the continuing legal education of Nevada lawyers during a lunchtime learning program produced by the Clark County Bar Association and sponsored by Las Vegas Legal Video and Worldwide Litigation Services.

Candace Carlyon has practiced in bankruptcy, financial restructuring, and commercial litigation since 1986. She represents clients in complex commercial litigation matters, including fraud, contract, deficiency, business disputes and receiverships.

Dawn Cica has more than 30 years of experience working on trans-



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actions of all types, including transactional aspects of bankruptcy and creditor's rights such as strategic resolutions, workouts, restructurings, settlements, debtor-in-possession financings, and asset purchases and sales.

Candace and Dawn will present "What Every Attorney Needs to Know About Bankruptcy." The program is geared toward non-bankruptcy attorneys. Learn how to obtain judgments and settlements that minimize threat from bankruptcy, how to avoid tripwires that could lead to loss of rights and even sanctions, and tactics to keep your case in state court. Whether practicing in the area of civil litigation, mechanics' liens, domestic disputes, leases, or personal injury, all attorneys need basic tools to anticipate and react to potential bankruptcy issues. The program offers 1.0 general CLE credit for Nevada lawyers.

The presentation will be held via Zoom from 12:00 to 1:15 p.m. on February 17, 2026. Attendance to this live webcast is free for CCBA members. To attend the live webcast, CCBA members will need to RSVP to the CCBA by Friday, February 13, 2026. Pricing of the live webcast event is included with the 2026 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.

Clark County Bar Association

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24 March 2026
9:30 AM - 2:30 PM

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Bar Activities

Bar Committees

CCBA members are invited to help our non-profit organization in its efforts to enrich the lives and careers of our members and our community.

CLE Committee

Chair: Trisha Conlon

Plans programming for the continuing legal education of CCBA members. Meets: 2nd Wednesdays via Zoom.

Community Service Committee

Co-Chairs: Angela Dows and Alicia May

Plans activities that provide outreach services to the community at large in southern Nevada. Meets: 1st Fridays via Zoom.

Diversity and Inclusion Committee for Equity (DICE)

Chair: Michael J. Nuñez

Plans activities to facilitate constructive discussion and enhance understanding of diversity issues. Meets: 3rd Fridays via Zoom.

Legal Support Committee - NEW!

Chair(s): TBD

This is CCBA's newest committee. The focus of the committee will be discussed at the inaugural meeting on Feb. 4, 2026.

New Lawyers Committee

Co-Chairs: Pranava Moody and Danielle Jimenez

Coordinates the William S. Boyd School of Law to produce student competitions, pub crawls, and the Meet Your Judges Mixer. This committee is for attorneys admitted to practice in Nevada within the last seven years, regardless of age. Meets: 2nd Thursdays in person at the CCBA with a Zoom option.

Publications Committee

Co-Chairs, Editor-In-Chiefs: Pooja Kumar and Nick Michaud

Plans content for upcoming issues of the bar journal *Communiqué*. Meets: 2nd Fridays via Zoom.

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

Cannabis Law CLE Program Free for CCBA Members February 26, 2026

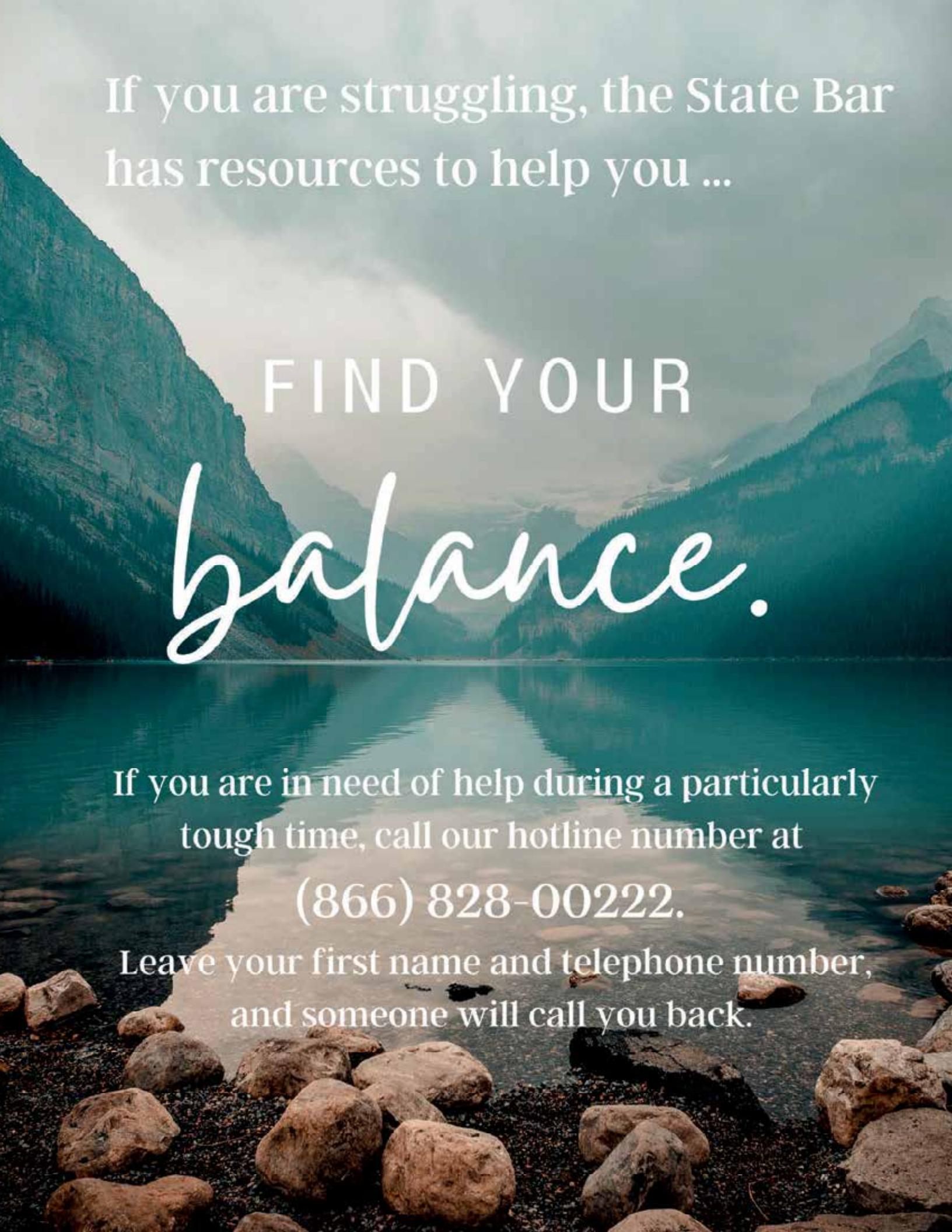
On February 26, 2026, cannabis lawyer Amanda Connor will make a special presentation for the continuing legal education of Nevada lawyers in a lunchtime learning program produced by the Clark County Bar Association and sponsored by Las Vegas Legal Video and Worldwide Litigation Services.

“Weeding Through the Legal Haze and Getting Blunt About Changes in Federal and Nevada Cannabis Law” will be held online via Zoom from 12:00 to 1:15 p.m. The program offers 1.0 general CLE credit for Nevada lawyers.

Attendance to this live webcast is free and only for current CCBA members on February 26, 2026. 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@clarkcounty-bar.org or (702) 387-6011, or scan QR code to open page with RSVP form.



A scenic landscape featuring a calm lake in the foreground, framed by a path of large, light-colored rocks. In the background, a range of mountains with dense green forests rises against a hazy, light sky.

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Hansel & Gretel:

- Sat. 5/16/2026 (7:30pm)
- Sat. 5/23/2026 (7:30pm)

CCBA members are invited to request the use of the CCBA's tickets!

Send requests via email to CCBA Executive Director Donna Wiessner at Donnaw@clarkcountybar.org.

If there are no more tickets available from CCBA, please

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



Special Education CLE Program Free for CCBA Members March 12, 2026

On March 12, 2026, special education lawyers Jean Murrell Adams and Marina Dalia-Hunt will make a special presentation for the continuing legal education of Nevada lawyers in a lunchtime learning program produced by the Clark County Bar Association and sponsored by ADAMS ESQ, Legal Aid Center of Southern Nevada, and Las Vegas Legal Video.

Jean and Marina will present “Are Special Education Issues Hiding in Your Cases? What Every Nevada Attorney Should Know.” Special education law is rarely offered in law school, yet it frequently surfaces in estate planning, personal injury, disability, juvenile justice, child welfare, family law, immigration, and other practice areas. This primer will equip Nevada attorneys with the essential knowledge to recognize special ed issues. Learn IEP/504 red flags, Nevada’s eligibility framework, and practical enforcement options—so you can advise clients, preserve issues, and avoid costly missteps. The program offers 2.0 ethics CLE credit for Nevada lawyers.



The presentation will be held via Zoom from 12:00 to 2:00 p.m. Attendance to this live webcast is free for CCBA members. To attend the live webcast, CCBA members will need to RSVP to the CCBA by March 10, 2026. 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 2026 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 or scan QR code to open page with RSVP form.



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Bar Activity

40 Year Club Luncheon

- Master of Ceremonies:** Dan Polsenberg of Womble Bond Dickinson LLP
- When:** Thursday, March 26, 2026
 - 11:00 a.m. – Check-in & Networking
 - 12:00 to 1:30 p.m. – Luncheon and festivities
- Where:** Panevino Italian Grille
- Entrée Selections:**
 - Chicken Marsala
 - Grilled Scottish Salmon
 - Penne Vodka
- Pricing:**
 - FREE/40-Year Club Inductee (2026)
 - \$99/CCBA Member, Honoree, Guest of Inductee or Honoree
 - \$130/Non-member
- RSVP to the CCBA:** Space will be limited to those who RSVP to the CCBA by March 18, 2026, to 702-387-6011, clarkcountybar.org.

Sponsorship opportunities available.

For more information, contact Donna at the CCBA office 702-387-6011, DonnaW@ClarkCountyBar.org.

Scan QR code to open RSVP form on your mobile device.



40 Year Club Luncheon on March 26, 2026

Join us on Thursday, March 26, 2026, to celebrate 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 1986 and honor members admitted in 1981, 1976, 1971, and 1966.

Inductees – 40 Years (Admitted 1986)

- Hon. Rodney T. Burr**, Henderson Municipal Court
- Candace C. Carlyon**, Carlyon Cica Chtd.
- Rebecca Hopkins Miller**, Cooper Coons, Ltd.
- Donna M. Mendoza-Mitchell**
- Hon. Ronald D. Parraguirre**, Supreme Court of Nevada
- Richard J. Pyatt**, Pyatt Silvestri
- David J. Roger**, Las Vegas Police Protective Association
- Marc H. Rubinstein**, Reid Rubinstein & Bogatz
- Kevin R. Stolworthy**, Dentons Durham Jones Pinegar PC
- Hon. Timothy C. Williams**, Eighth Judicial District Court
- Michael B. Wixom**, Harper | Selim
- Wesley F. Yamashita**, Escobar & Associates Law Firm, Ltd.

Honorees – 45 Years (Admitted 1981)

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- Michael J. Bonner**, Greenberg Traurig, LLP
- James W. Bradshaw**, McDonald Carano LLP
- David Z. Chesnoff**, Chesnoff & Schonfeld
- Timothy S. Cory**, Cory Reade Dows & Shafer
- Mark E. Ferrario**, Greenberg Traurig, LLP
- Evangelina Garcia Mendoza**, Law Offices of Eva Garcia Mendoza
- Greg Giordano**, McDonald Carano LLP
- J. Randall Jones**, Kemp Jones, LLP
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- George P. Kelesis**, Cook & Kelesis, Ltd.
- Hon. Victor L. Miller**, Boulder City Municipal Court
- Dana J. Nitz**
- Hon. Nancy C. Oesterle**, Nevada Senior Judge Program
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- **Gerald F. Neal**
- **Christopher L. Kaempfer**, Kaempfer Crowell, Ltd.
- **John H. Mowbray**, Spencer Fane LLP
- **William E. Peterson**, Snell & Wilmer LLP
- **William H. Stoddard**, Sr., Albright Stoddard Warnick & Albright

Honorees – 55 Years (Admitted 1971)

- **Kenneth C. Cory**
- **Jeffrey P. Zucker**, Fennemore

If you were admitted to Nevada during the year listed and don't see your name listed above, contact the CCBA office at 702-387-6011.

*CCBA membership is required to be recognized as an Inductee or Honoree of the CCBA 40 Year Club.



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Professional Portrait Session Set for March 24, 2026

All members of the Nevada bar, bench, law students, and supporting legal staff are invited to sit for a professional portrait at the Clark County Bar Association office at 717 S. 8th Street, Las Vegas. Drop-ins are welcome; appointments preferred, from 9:30 a.m. to 2 p.m. only, on Tuesday, March 24, 2026.

For more information and to RSVP, reach out to Stephanie at 702-387-6011 or StephanieAbbott@clarkcountybar.org.



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Areas of Practice Listings Offer

Included with 2026 CCBA membership!

CCBA members—who are licensed attorneys—can get listed via area of practice in the *Communiqué* (June/July 2026).

Listings will be limited to the member's first name, last name, NV Bar #, phone #, language spoken/used in practice (other than English), and up to three (3) areas of practice from the options listed on the Areas of Practice Form.

The information provided on the form will help the CCBA to update its records for current CCBA members (i.e. paid for the 2026 CCBA membership year).

Options can be updated by completing the form again or by sending an update to Stephanie at CCBA prior to the published deadline for the June/July 2026 issue (i.e., May 1, 2026).

Restrictions apply.

For more information, view Areas Practice Form at clarkcountybar.org and contact the CCBA office. Phone: (702) 387-6011.

Scan QR code to open Areas of Practice Form on your mobile device.



Trauma-Informed Lawyering CLE Program Free for CCBA Members April 2, 2026

On April 2, 2026, commercial litigator Pranava Moody will make a special presentation for the continuing legal education of Nevada lawyers during a lunchtime learning program produced by the Clark County Bar Association and sponsored by Las Vegas Legal Video and Worldwide Litigation Services.

Pranava Moody is an attorney in the Las Vegas office of Lewis Brisbois. She represents and defends healthcare providers, clinics, and medical practitioners in complex medical malpractice litigation.

Pranava will present “Trauma-Informed Lawyering.” The program will evaluate the ethical and professional duties of an attorney during the client-lawyer relationship. There will be a discussion to understand trauma: what it is, adaptive behaviors people can exhibit, post-traumatic stress, and vicarious trauma. She will discuss techniques and considerations to improve communication with clients by trauma-informed care, avoiding re-traumatization, and being aware of triggers. She will discuss scenarios ranging from interviews, trust-building, planning for court, and best practices to consider in each of those. The program will end with an overview of how these interactions can affect the attorney personally and how to effectively manage stress at home and at work. The program offers 2.0 ethics CLE credit for Nevada lawyers.



The presentation will be held via Zoom from 11:00 to 1:15 p.m. on April 2, 2026. Attendance to this live webcast is free for CCBA members. To attend the live webcast, CCBA members will need to RSVP to the CCBA by March 31, 2026. Pricing of the live webcast event is included with the 2026 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 Wiesner at donnaw@clarkcountybar.org or (702) 387-6011 or scan QR code to open page with RSVP form. 



Court Order Sets Administrative Policies for Criminal Cases Effective January 5, 2026

On January 2, 2026, Eighth Judicial District Court filed the order “In the Administrative Matter of Policies, Practice, and Procedures in Criminal Cases.” *See* Administrative Order 25-07.

Administrative Order 25-07 adopts specific policies in regard to the timeliness and manner in which minute orders, court staff’s minute entries, written orders, and judicial decisions should be prepared with every contested legal matter in the Eighth Judicial District Court. The order became effective January 5, 2026.

For specifics regarding the new policies and procedures, read Administrative Order 25-07 available as a three-page PDF file to download from the court’s website at www.clarkcountycourts.us.

Applications Available for Vacancy of Eighth Judicial District, Department 26

Governor Joe Lombardo recently announced the retirement of the Honorable Gloria J. Sturman from the Eighth Judicial District Court of Nevada, Department 26. Judge Sturman will retire mid-February 2026. The Commission on Judicial Selection will convene to fill the forthcoming vacancy. The application period opened on January 5, 2026, with submissions due by noon on February 4, 2026.

Bar members who are interested in applying for the position must contact Ms. Margarita Bautista at mbautista@nvcourts.nv.gov to receive the required application materials. Application instructions can be found at nvcourts.gov.

c

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Bar Activity

CCBA Pub Crawl

**Thursday,
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5:00 p.m. – 9:00 p.m.

CCBA members are invited to join CCBA President James T. Leavitt on our annual pub crawl.

Hop on/off at any point along the crawl in the Las Vegas Arts District. Locations to be announced soon!

RSVP required to the CCBA by 4/14/2026.

Sponsorship opportunities available.

Contact: Donna at 702-387-6011, donnaw@clarkcountybar.org.



Do You Know Your ABCs?

By John J. Savage

Distressed businesses often turn to Chapter 7 or Chapter 11 of the Bankruptcy Code for orderly liquidation or reorganization. However, for some businesses, the cost of bankruptcy can be prohibitive. Receivership may be one alternative for businesses unable to afford (or access) bankruptcy, but the judicial proceedings and oversight can still result in significant legal and administrative expenses.

There is a non-judicial alternative to bankruptcy that may be more affordable: an assignment for benefit of creditors (an “ABC”). Similar to a bankruptcy trustee or a receiver, an assignee acts as a fiduciary to the debtor’s creditors and holds the debtor’s assets in trust for the benefit of all creditors.

The distinguishing characteristic of an ABC is that it is a non-judicial proceeding. This lack of judicial oversight is one of the benefits of ABCs to keep costs down, but it is also a potential drawback as creditors (and the assignee) do not have a readily available forum to adjudicate disputes that may arise.

Some states enacted statutes governing ABCs, but Nevada has not. ABCs in Nevada are still governed by common law. *See Sadler v. Immel*, 15 Nev. 265 (1880) (assignment valid under the common law “if it was fairly made for the benefit of all the creditors”).

In September of 2025, the Uniform Law Commission (“ULC”) promulgated the Uniform Assignment for Benefit of Creditors Act (the “Act”) for states to consider. The creditor claim procedures and powers of an assignee proposed under the Act are similar to the creditor claim procedures and powers of a receiver found in the Uni-

form Real Estate Receivership Act, which Nevada adopted in 2017 and enacted under NRS 32.100, *et seq.*

However, because there is no judicial oversight in an ABC, Section 12 of the Act provides that “the assignee may commence a proceeding under Section 21 to disallow” a creditor’s claim. Section 21 of the Act provides, *inter alia*, that a court of competent jurisdiction “may hear and resolve a matter involving the administration of an assignment or the exercise of an assignee’s powers and duties, including a request for instructions or approval or to declare rights.” This also allows creditors to initiate judicial proceedings related to the ABC.

Under the Act, as proposed, the assignee must commence a judicial proceeding to resolve disputed claims before final distributions. If the proceeding is not filed before final distribution, the assignee must allow the claim.

The Act requires the ABC to be initiated through a written assignment agreement signed by the assignor, which agreement must: (1) state the name and address of the assignor and of the assignee; (2) transfer or provide for a transfer of all the assignor’s assets; (3) describe the assigned assets in sufficient detail to identify the assets; (4) provide for the distribution of the assignment estate; (5) describe the fees to be charged by the assignee in connection with the assignment, including the basis on which they are to be calculated; and (6) include a representation by the assignor, under penalty of perjury, that the assignor is assigning all the assignor’s assets.

There is a non-judicial alternative to bankruptcy that may be more affordable: an assignment for benefit of creditors (an “ABC”)

Unless a creditor waives the right to notification in writing, an assignee must send a notification of the assignment to each creditor known to the assignee within a reasonable time not to exceed a certain number days after the assignment, which the Act recommends to be set at 30 days.

Ultimately, determining the best mechanism to liquidate or reorganize a distressed business requires a careful analysis of the business' circumstances. Businesses in regulated industries should take particular care to ensure regulatory compliance before proceeding. **C**

John Savage is member of Howard & Howard Attorneys PLLC. His practice is primarily focused on business litigation and representing state-court appointed receivers. Prior to joining Howard & Howard, John developed a niche representing receivers appointed over cannabis businesses, including the first cannabis receivership in Nevada.

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Understanding the Uncertain Nature of “Finality” in the Ninth Circuit

By Jimmy Dahu

28 U.S.C. § 158(a) authorizes appeals “from final judgments, orders, and decrees” This finality principle is nuanced in bankruptcy cases, with orders being “immediately appeal[able] if they finally dispose of discrete disputes within the larger [bankruptcy] case.” *Bullard v. Blue Hills Bank*, 575 U.S. 496, 501 (2015) (quoting *Howard Delivery Serv. v. Zurich Am. Ins. Co.*, 547 U.S. 651, 657 n.3 (2006)). Knowing what constitutes a “discrete dispute” that is “immediately appealable” is critical for bankruptcy counsel. While two recent decisions from the Supreme Court of the United States (“Supreme Court”) provide helpful guidance, practitioners in the United States Court of Appeals for the Ninth Circuit (“Ninth Circuit”) must be aware of the Ninth Circuit’s self-described less than “pellucid” precedent that continues to be applied today. *See Eden Place, LLC v. Perl (In re Perl)*, 811 F.3d 1120, 1126 (9th Cir. 2016).

Recent Supreme Court Decisions

In *Bullard*, the Supreme Court held that the denial of a chapter 13 plan was not an “immediately appealable proceeding” under 28 U.S.C. § 158(a) because—unlike confirmation or case dismissal—it did not “alter[] the status quo and fix[] the rights and obligations of the parties.”

Five years after *Bullard*, the Supreme Court in *Ritzen Grp., Inc. v. Jackson Masonry, LLC* held that an

order resolving a motion for relief from the automatic stay is “immediately appealable” because it “initiates a discrete procedural sequence, including notice and a hearing, and the creditor’s qualification for relief turns on the statutory standard, *i.e.*, ‘cause’ or the presence of specified conditions.” 589 U.S. 35, 43 (2020).

This finality principle is nuanced in bankruptcy cases, with orders being “immediately appeal[able] if they finally dispose of discrete disputes within the larger [bankruptcy] case.”

The Ninth Circuit’s Less Than “Pellucid” Precedent

In *Perl*, the Ninth Circuit stated that its precedent “has not been entirely pellucid regarding the flexible concept of finality in the bankruptcy context.” 811 F.3d at 1126. In speaking to this issue, the *Perl* panel identified a four-part finality test “utilized almost exclusively when determining the finality of a case involving a remand to the bankruptcy court” and a two-part test utilized “when the decision of the bankruptcy court is affirmed or reversed, rather than remanded....” *Id.*

Bullard and *Ritzen*, however, do not impose differing tests to determine the “finality” of bankruptcy orders. Nevertheless, the Ninth Circuit continues to apply a four-part test in some instances (*see, e.g., Albert v. State Bar of Calif. (In re Albert)*, 2025 WL 1452555 (9th Cir. May 21, 2025)); a two-part test in other instances (sometimes with, and sometimes without, citation to the standard referenced in *Bullard/Ritzen*) (*see, e.g., Moore v. Martin-Bragg (In re Martin-Bragg)*, 2024

WL 209753 (9th Cir. Jan 19, 2024) (does not cite to *Bullard* or *Ritzen*); *Harrington v. Mayer (In re Mayer)*, 28 F.4th 67 (9th Cir. 2022) (cites to *Ritzen*); *Baek v. Halvorson*, 830 Fed. Appx. 544 (9th Cir. Dec. 3, 2020) (unpublished) (does not cite to *Bullard* or *Ritzen*); and the *Bullard/Ritzen* test in other instances (without reference to either of the Ninth Circuit's two-part or four-part tests in its less than "pellucid" precedent) (*see Fantasia v. Diodata*, 154 F.4th 1123 (9th Cir. 2025)). This has created inconsistent results.

For example, in *Elliot v. Four Seasons Props. (In re Frontier Props., Inc.)*—decided prior to *Bullard* and *Ritzen*—the Ninth Circuit utilized its **two-part test** in determining that a bankruptcy court's order **establishing administrative expense liability** was not final until a state court liquidated the creditor's claim. 979 F.2d 1358 (9th Cir. 1992). In *In re Perl*—decided after *Bullard* but before *Ritzen*—the Ninth Circuit utilized its **two-part** test in determining that a bankruptcy court's order **establishing civil contempt liability** was a final order notwithstanding the unliquidated nature of civil contempt sanctions. *See* 811 F.3d at 1126-27 ("[T]he bankruptcy court's [civil contempt] determination ... is a substantive ruling with real effects, including money

damages . . ."). Meanwhile, in *Ocwen Loan Serv., LLC v. Marino (In re Marino)*—decided after *Ritzen*—the Ninth Circuit utilized its **four-part test** in determining that the Ninth Circuit Bankruptcy Appellate Panel's ("BAP") affirmation of a bankruptcy court's **civil contempt order that liquidated the amount of sanctions** was not final because the BAP remanded the matter to the bankruptcy court to make findings regarding punitive damages. 949 F.3d 483 (9th Cir. 2020).

The foregoing cases reached inconsistent results on analogous facts by continuing to utilize different tests the Ninth Circuit stated in 2016 resulted in its less than "pellucid" precedent. In this uncertain environment, practitioners need to take a careful, cautious, and comprehensive approach to assessing the finality of bankruptcy orders in the Ninth Circuit. **◆**

Jimmy Dahu is a member of McDonald Carano's Bankruptcy, Insolvency & Financial Restructuring practice group. Jimmy's career includes financial restructuring experience at law firms in Texas, Arizona, and Nevada, and a more than 12-year tenure as a career law clerk at the U.S. Bankruptcy Court for the District of Nevada.

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The HAVEN Act: Key Bankruptcy and Consumer Protection for Military Clients

By Pranava Moody

The Honoring American Veterans in Extreme Need (HAVEN) Act amended the Bankruptcy Code to exclude certain military-related disability and death benefits from the definition of “current monthly income” (CMI). 11 U.S.C.A. § 101(10A). By removing these earned, needs-based benefits from the means test calculus, the Act aligns treatment of military disability compensation with Social Security benefits. 165 Cong. Rec. H7215-01, 2019 WL 3307644 (July 23, 2019) (statement of Rep. McBath). The purpose is straightforward: to ensure that veterans and their families are not penalized in bankruptcy for receiving compensation tied to service-connected injury, illness, or loss.

The exclusion has practical consequences for eligibility and case posture, particularly in Chapter 7. Because CMI drives the means test, excluding qualifying military benefits can be outcome-determinative in close cases. *See* <https://www.justice.gov/ust/means-testing>. A veteran whose countable income would otherwise tip above the presumption-of-abuse threshold may qualify for Chapter 7 when service-connected disability compensation is properly excluded. *See* <https://www.uscourts.gov/court-programs/bankruptcy/bankruptcy-basics/chapter-7-bankruptcy-basics>. Even in Chapter 13, removing those benefits from CMI informs plan feasibility and projected disposable income analysis, supporting more realistic budgets and plan terms. *See In re Gresham*, 616

B.R. 505 (Bankr. E.D. Mich. 2020). Practitioners should identify all military-derived payments, distinguish covered disability and death benefits from noncovered income, and document the exclusions in the means test forms and supporting schedules.

Beyond bankruptcy, veterans and servicemembers enjoy special rights in debt collection and consumer credit contexts. Protections governing interest rate relief, stays of certain proceedings, default judgments, repossessions, and foreclosure timelines are designed to account for the unique demands of military service and the potential impacts of deployment or medical recovery on a borrower’s

ability to respond. *See* Servicemembers Civil Relief Act (SCRA). Counsel should verify military status early, screen for covered periods of service, and demand creditor compliance with notice, verification, and rate-adjustment requirements. Inside bankruptcy, these protections intersect with the automatic stay and discharge injunction, underscoring the need to coordinate remedies and ensure creditors do not leverage noncovered obligations to pressure payment from protected benefits.

Security clearance considerations loom large for military clients facing financial distress. Unresolved delinquencies, unfiled taxes, and garnishments can raise suitability concerns, while proactive engagement, credible repayment plans, and utilization of lawful protections can mitigate risk. *See* <https://law.yale.edu/student-life/>

career-development/students/career-pathways/public-interest/you-apply-understanding-government-background-checks. Attorneys should counsel clients to disclose financial issues accurately, avoid preferential or undisclosed transfers, and maintain documentation showing good-faith efforts to stabilize finances. Where feasible, selecting a chapter and case strategy that quickly halts garnishments, clarifies obligations, and preserves essential income may support clearance adjudications focused on reliability and judgment.

Practical guidance for debtor's counsel includes: identifying all military benefits at intake; segregating excluded disability or death benefits for CMI; confirming documentation sources; aligning budgets with non-excluded income; and evaluating venue and timing with sensitivity to duty status and medical treatment. For creditor's counsel, implement screening procedures for military status, train staff on protected benefit handling, and calibrate litigation strategy to avoid reliance on funds that cannot lawfully be counted or collected. In all cases, maintain clear communication, honor cease-contact requirements where applicable, and tailor settlements that respect protected income streams. **C**

Pranava Moody is a litigation attorney at Lewis Brisbois Bisgaard & Smith LLP, defending healthcare providers, clinics, and medical practitioners in complex medical malpractice litigation. She is an Air Force Veteran and is admitted to practice in Nevada and New Mexico.

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10 Things Non-Bankruptcy Lawyers Should Know About Bankruptcy

By Candace Carlyon

About: The CCBA's Article #20: "10 Things Non-Bankruptcy Lawyers Should Know About Bankruptcy" offers 1.0 Credit of Continuing Legal Education (CLE) to Nevada lawyers who complete the test and order form per the offer described in the February 2026 issue of Communiqué. See pp. 26-30. The CCBA is an Accredited Provider with the NV CLE Board.

There's a story about a lawyer whose case was transferred to bankruptcy court. The lawyer filed a "Motion to Send It Back." The judge asked, "Have you read the Bankruptcy Code, the Bankruptcy Rules, or the Local Rules?" The lawyer said, "No, Your Honor." The judge replied, "And you expect to practice before me?" The lawyer answered, "No, Your Honor—that's why I want you to send it back."

Here's a sample of what you need to know about the different world of bankruptcy.

1. How to get your case out of bankruptcy court

Bankruptcy courts hear two types of disputes:

- Adversary proceedings—lawsuits within the bankruptcy case.
- Contested matters—opposed motions.

If your case was removed from state or federal court, you have 30 days to file a motion to remand. 28 U.S.C. §1447(c). Remand may be granted where the bankruptcy court lacks jurisdiction, or on "any equitable ground."

Other paths out of bankruptcy court include:

- Relief from stay—a court allows a lawsuit to continue in another court.
- Abstention—bankruptcy court steps aside for state-law issues.

- Withdrawal of the reference—district court takes the matter back.
- Arbitration/mediation—generally allowed only if the issue isn't central to the bankruptcy.

Courts use the *Curtis* factors in *In re Curtis*, 40 B.R. 795, 799-800 (Bankr. D. Utah 1984), to decide whether to lift the stay—essentially comparing who is harmed more and whether another court can resolve the dispute more efficiently (especially when insurance is defending).

Bankruptcy courts cannot enter final judgments on non-core claims, hear personal injury claims, or conduct jury trials without the consent of all parties.

The Local Rules of Bankruptcy Procedure require a party to state its consent or non-consent to the entry of final orders by the bankruptcy court in the first pleading filed in an adversary case or contested matter (i.e. motion proceeding) in bankruptcy court.

2. You must register for ECF

To file anything in bankruptcy court, you need ECF training and registration through nvb.uscourts.gov. Limited users can file only proofs of claim or requests for notice. Paper filing is cumbersome compared to becoming an ECF user.

3. You can't "bankruptcy-proof" a settlement—but you can protect yourself

If you're settling with someone who might file bankruptcy:

- **Acknowledge the full debt.**

Any reduction in payment should take effect *only if all payments are made on time.*

Example:

- Original debt: \$1,000,000
- Settled amount: \$100,000
- If the debtor files bankruptcy before making payments, and creditors get 10 percent, you'll recover:
 - \$10,000 if the debt is already reduced to \$100,000
 - \$100,000 if the balance remains \$1,000,000 until paid in full

- **Delay the release by 91 days.**

Payments received within 90 days of the bankruptcy filing may in some cases be clawed back as a preference.

- **Get factual admissions for fraud-based claims.**

If the debt is based on fraud, embezzlement, willful injury, or DUI-related injury, include factual findings to support nondischargeability.

4. Judgments should include facts supporting nondischargeability

If the debt involves conduct listed in 11 USC § 523, the judgment should contain specific findings showing the statutory elements. Note that there is a strict deadline to object to discharge of a debt—within 60 days of the first date set for the 341 meeting—whether or not the meeting occurs or is concluded. *See Fed.R.Bankr.P. 4007(c).*

5. Bankruptcy discovery is easy and broad

Bankruptcy is designed to be transparent. There are a number of sources of information available to creditors.

- The debtor is required to file schedules and statements listing a large amount of financial information. *See Fed.R.Bankr.P. 1007.*
- Each debtor must appear at a meeting of creditors as required by 11 USC § 341 (often called the "341 meeting"). Any creditor or party in interest can attend (currently via video or telephone) and

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When: February 17, 2026, 12:00–1:15 p.m.

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CLE article continued on page 28

ask questions—a creditor need not be represented by counsel to do so. 11 USC §341(c).

- A Bankruptcy Rule 2004 examination can be requested *ex parte*, including a document subpoena, and is approved by the Clerk of the Court so long as at least 14 days' notice is provided. The scope of a 341 meeting or 2004 examination includes debtor's acts, conduct, assets, liabilities, financial condition, right to discharge, operations, and source of funding a plan.
- A Chapter 11 debtor must file monthly operating reports. *See* LR 2015.4(a) and U.S. Trustee operating Guidelines And Reporting Requirements For Debtors In Possession And Trustees, Section 7.

6. Personal injury claims must be disclosed—and often belong to the trustee

All assets, including unfiled or potential personal injury claims, and all liabilities must be listed. In Chapter 7, non-exempt PI claims belong to the trustee, who prosecutes and settles them. *See* 11 USC §541. There is no such thing as handling an asset or a debt "outside the bankruptcy."

7. But some personal injury recoveries may be exempt

Debtors must list all exemptions. Common Nevada exemptions for PI claims include:

- \$16,150 for personal bodily injury (not pain and suffering) under NRS 21.090(1)(u).
- A percentage of lost wages under NRS 21.090(1)(g).
- \$10,000 wildcard under NRS 21.090(1)(z).

Objections to exemptions must be filed within 30 days after the 341 meeting concludes (or 30 days after amendments). *See* Fed.R.Bankr.P. 4003(b)(1).

8. PI attorneys must be employed by the trustee

If the PI claim is estate property, the trustee must hire the PI attorney. Both employment and compensation require court approval (11 USC §§237-331), and all settlements require approval under Bankruptcy Rule 9019.

9. The automatic stay is—automatic

The moment a bankruptcy is filed, pursuant to 11 USC §362(a), almost all actions against the debtor or estate must stop:

- Lawsuits
- Judgments
- Collections
- Repossessions
- Foreclosures

Violations are void (*Schwartz v. United States (In re Schwartz)*, 954 F.2d 569 (9th Cir. 1992)), and willful violations can bring damages, attorney's fees, and sometimes punitive damages. *See Knupfer v. Lindblade (In re Dyer)*, 322 F.3d 1178, 1190-91 (9th Cir. 2003).

Note:

- The stay does not automatically protect co-defendants or guarantors.
- Knowledge of the bankruptcy can come from any source.
- UCC renewals are allowed despite the stay—failure to renew means loss of priority.

10. Special rule to perfect mechanics' liens

Normally, you must sue within 6 months to enforce a Nevada mechanics' lien (NRS 108.223). If there is a bankruptcy before the suit is filed, you must file a notice of perfection under Bankruptcy Code §546(b)(2) in the bankruptcy before the 6-month deadline to preserve lien rights without violating the stay. **C**

Candace Carlyon has practiced in bankruptcy, financial restructuring and commercial litigation since 1986. She and her partner, Dawn Cica, formed Carlyon Cica Chtd. in 2019. She is a past president of the American Board of Certification of Bankruptcy and Creditors' Rights Attorneys. She is happy to talk about bankruptcy matters and can be reached at ccarlyon@carlyoncica.com.

“10 Things Non-Bankruptcy Lawyers Should Know About Bankruptcy”

Offers 1.0 General CLE Credit (NV)

Complete the quiz. Each question has only one correct answer. Circle “True” or “False.”

1. **True or false:** The automatic stay applies from the time a notice of bankruptcy is served.
2. **True or false:** Arbitration clauses are not relevant in bankruptcy.
3. **True or false:** State court trials may proceed against non-debtor defendants without obtaining relief from the automatic stay.
4. **True or false:** An objection to discharge must be filed within 60 days after the conclusion of the 341 meeting.
5. **True or false:** A non-lawyer can ask questions on behalf of a corporate creditor at a 341 meeting.
6. **True or false:** Employment of an attorney whose personal injury client files bankruptcy must be approved by the bankruptcy court.
7. **True or false:** Both the trustee and the bankruptcy court must approve a settlement in a Chapter 7 bankruptcy.
8. **True or false:** Bankruptcy is an effective way to avoid a judgment debtor examination.
9. **True or false:** Actions in violation of the automatic stay are void, not voidable.
10. **True or false:** Bankruptcy extends the time to perfect mechanics' liens.
11. **True or false:** The automatic stay prevents a creditor from filing a UCC renewal.
12. **True or false:** The first \$16,150 in personal injury recoveries belong to the bankruptcy estate in a Chapter 7.
13. **True or false:** A bankruptcy judge may preside over a jury trial only with consent of the parties.
14. **True or false:** A motion for a 2004 examination is a contested matter which may be granted by the bankruptcy judge for good cause.
15. **True or false:** Documents may be demanded in connection with a 2004 examination via a subpoena.

Instructions for CCBA's CLE Article #19

How Nevada lawyers can earn 1.0 CLE credit in three easy steps:

1. Read the article, “10 Things Non-Bankruptcy Lawyers Should Know About Bankruptcy” on pages 26–28;
2. Take the quiz on page 29 and
3. Complete the order form on page 30 and submit it AND the completed quiz page (p. 29) to receive CLE Credit from the CCBA.

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

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Upon receipt of the completed order, the CCBA's staff will record the attorney's participation directly with the Nevada Board of Continuing Legal Education and provide verification of that transmission to the e-mail address provided in the completed order form.

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