Please note...

Renewals for CCBA 2017 Memberships are due to CCBA by December 31, 2016
Pay at ClarkCountyBar.org or call (702) 387-6011.
Thank you!

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Legal & Ethical Concerns for Protecting Clients & Law Firms in Nevada
News & Notes
Court Changes
Community Service Activities
CCBA Committees at Work
View from Bench of EJDC
Appellate Court Summaries
In Memoriam John Foley & Rose Marie Reynolds
Live & Recorded CLE Seminars

Consumer Protection Law

COMMUNIQUÉ
THE OFFICIAL PUBLICATION OF THE CLARK COUNTY BAR ASSOCIATION
DECEMBER 2016

Cover photo courtesy of Legal Aid Center of Southern Nevada features Brandi K. Cassady during Ask A Lawyer event.

BarActivities

Volunteer Appreciation Luncheon & Annual Meeting
Featuring CCBA Executive Board Election and Special Presentation by State Bar of Nevada President Bryan Scott

and

Bar Luncheon Featuring Ethics CLE Presentation
Featuring a Special Presentation by Nevada Commission on Ethics Executive Director Yvonne M. Nevarez-Goodson, Esq.
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Community Service Activities

Rebel Relief
Charity Walks
Blanket the Homeless
See pages 13 & 27.
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December – COMMUNIQUÉ – Clark County Bar Association
A Fond Farewell

By Catherine M. Mazzeo, Esq.

It is hard to believe that this year is already drawing to a close, and that I have reached the end of my term as President of the Clark County Bar Association. Working on behalf of the CCBA, with our exceptional staff, and our energetic and creative Executive Board, has been one of my most fulfilling professional experiences. It has been so exciting to watch this organization’s continued growth and on-going success – which is a direct result of the enthusiastic new ideas, boundless enthusiasm, countless contributions, and yes, even the constructive criticism, provided by dedicated members like you.

We had an incredible year, highlighted by some very special “firsts”. We had the honor of hosting the first female African-American President of the American Bar Association at our July luncheon. And at our December luncheon, we will, for the first time in CCBA history, have the sitting President of the State Bar of Nevada as our speaker.

We joined forces with the State Bar, the Clark County Law Foundation and other specialty bar associations on a number of events and activities, and are already looking ahead to what we can accomplish together in 2017.

Committee participation is increasing, and our volunteers have been amazing. Our Community Service Committee recently recruited Team CCBA members to participate in two local walks to benefit cancer research, raising a combined total of over $2,117. Our New Lawyers Committee continues its great work with the UNLV Boyd School of Law and, with the help of Judge Nancy Allf, recently participated in a lunch and judicial meet and greet with some of our newest Nevada attorneys. Our CLE Committee, with the help of Judge Michael Villani, recently produced a one-of-a-kind CLE where attorneys learned the good, the bad and the ugly of what resonates with jurors in the courtroom – directly from a panel of former jurors. And our Publications Committee continues its steadfast and tireless work to produce this award-winning magazine (and to keep me within my word limits).

In January, we will welcome Tami Cowden as the next CCBA President. I have always admired her dedication to the CCBA, and am so appreciative of the creative and meaningful ideas that she offers. She will be an incredible leader and I can’t wait to see what she has planned!

Lastly, I am nothing if not grateful. Thank you to Donna, Steph, and the Executive Board – not only for your passion, hard work and encouragement, but your friendship. I have learned so much from all of you. And a very special thank you to my friends and colleagues at Southwest Gas—this year would not have been possible without your continued support.

Catherine M. Mazzeo, Esq. is Assistant General Counsel at Southwest Gas Corporation. She serves as President of the CCBA through December 2016, and encourages you to visit www.clarkcountybar.org for the latest information on bar services, news and a calendar of upcoming events.
In the last year, more IOLTA dollars have gone through Bank of Nevada than any other bank in Nevada, which is how we’ve been able to provide more than $600,000 in legal aid funding that levels the playing field for those in need. We always go the distance for the industry, and the community.

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December 2016

1 "Ethical Concerns & Social Media for Lawyers in Nevada" - a CLE seminar (1-3:15 p.m., Depo Int'l) – To attend, register with CCBA ASAP; seating will be limited.

2 CCBA Community Service Committee Meeting (12-1 p.m., CCBA) – Open to all bar members who want to produce opportunities for community outreach by bar members.

5 "Summary Judgment and Oral Argument in Federal Court" - A CLE seminar (12-1 p.m., Lloyd D. George U.S. Courthouse) – To attend, register with CCBA ASAP; seating will be limited.

5 “US-China Relations: Coping with the Three 'Nots'” (7:30 p.m., UNLV Barrick Museum Auditorium) - Dean Cheng, University Forum, UNLV and the Nevada Center on Foreign Relations.

6 CCBA Publications Committee Meeting (12-1 p.m., CCBA) – Open to all bar members who want to produce the Communiqué.

8 CCBA New Lawyers Committee Meeting (12:30-1:30 p.m., CCBA) – Open to attorneys members admitted to practice in Nevada within the last five years.

9 Pro Bono Awards Luncheon (11:30 a.m. - 1:30 p.m., Rio All-Suite Hotel & Casino) – A special event hosted by the Legal Aid Center of Southern Nevada

9 CCBA CLE Committee Meeting (12-1 p.m., CCBA) – Open to all bar members who want to produce seminars for continuing legal education.

13 LVALA Membership Meeting (12-1 p.m., Cili Restaurant)

13 Eighth Judicial District Court Civil Bench-Bar Meeting (12:05 p.m., RJC, Courtroom 15C)

13 Howard D. McKibben Chapter of the American Inns of Court Meeting (5:15 p.m., USDC, 7th Fl)

14 "Basics of Representing Children in Abuse & Neglect Cases" - A Pro Bono Training CLE seminar sponsored by the Legal Aid Center of Southern Nevada. (9:00 a.m. - 12:15 p.m., LACSN)

14 Election Day for CCBA 2017 Executive Board (9 a.m.-4 p.m., two locations) – Ballots may be cast between the hours of 9 a.m. to 10:30 a.m. and 2 p.m. to 4 p.m. at CCBA's office at 717 S. 8th Street in downtown Las Vegas. Ballots may also be cast during the CCBA Volunteer Appreciation Luncheon & Annual Meeting (12-1 p.m.) at Cili at Bali Hai Golf Course.

14 CCBA Volunteer Appreciation Luncheon & Annual Meeting (12-1 p.m., Cili at Bali Hai Golf Course) – To attend, register with CCBA ASAP. Come for the food and stay for the collegiality!

16 Downtown Cultural Series – Volunteer CCBA member speaker needed!*

10 “The Nutcracker” - A performance by Nevada Ballet Theatre (7:30 p.m., The Smith Center) – Discounts available to CCBA members. Also CCBA tickets might be available. See page 6.

23-26 CCBA Office Closed

30-31 CCBA Office Closed

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COMMUNIQUÉ
THE OFFICIAL PUBLICATION OF THE CLARK COUNTY BAR ASSOCIATION DECEMBER 2016

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COMMUNIQUÉ is mailed to all paid members of CCBA, with subscriptions available to non-members for $75.00 per year. For advertising information and editorial policy, please contact Steph Abbott at (702) 387-6011 or stephabbott@clarkcountybar.org.

EVENT CALENDAR

January 2017
1-2 CCBA Office Closed
3 CCBA Publications Committee Meeting (12-1 p.m., CCBA)
6 CCBA Community Service Committee Meeting (12-1 p.m., CCBA) – Open to all bar members who want to produce opportunities for community outreach by bar members.
10 IVALA Membership Meeting (12-1 p.m., Cili Restaurant)
10 Howard D. McKibben Chapter of the American Inns of Court Meeting (5:15 p.m., USDC, 7th Fl.)
11 CCBA Social Committee Meeting (12:30-1:30 p.m., CCBA)

For more events, view calendar online at https://www.clarkcountybar.org/events/.

*All dates, locations, promotions, and events details are subject to change without notice.

Event Calendar Updates

CCBA offers a periodic e-mail service with information about upcoming events, court news, and bar services. Subscribe to this free e-mail service at http://eepurl.com/lUDcz.

Contact: stephabbott@clarkcountybar.org.

Acronyms:

CCBA Clark County Bar Association
CCLF Clark County Law Foundation
CLE Continuing Legal Education
EJDC Eighth Judicial District Court
LVJC Las Vegas Justice Court
LVALA Las Vegas Association of Legal Administrators
LVVPA Las Vegas Valley Paralegal Assoc.
TBPTrial By Peers
UNLV University of Nevada Las Vegas
USDC United States District Court

Editorial Calendar continued from page 6

February 2017
Pro Bono
1/2/2017

March 2017
Business Litigation
2/1/2017

April 2017
Diversity
3/1/2017

May 2017
Sports Law
3/31/2017

June/July 2017
Family Law
5/1/2017

August 2017
Education Law
6/30/2017

September 2017
Legislative Update
8/1/2017

October 2017
Health Care Law
9/1/2017

November 2017
Legal History
10/1/2017

December 2017
Ethics
11/1/2017

The June/July issue is published in June. There is no publication released in July.

Space reservations are encouraged at least two months in advance. Space is limited with placement only guaranteed to paid advertisements. The deadline for submission of all content is 30 days prior to the first day of the desired month of publication.

Communiqué will not publish self-serving articles promoting a specific named product or services of an individual or firm. The editorial calendar may change without notice at any time.

ADVERTISING OPPORTUNITIES

Space is available for paid announcements of professional achievements, goods, and services. Rates, policies, and specifications are available upon request.

ARTICLE OPPORTUNITIES

To write an article for publication, send a proposal via e-mail to stephabbott@clarkcountybar.org. Proposals should include the following information:

- Author(s) name(s) and Nevada bar #(#s)
- Summary paragraph providing the focus and scope for the article (include relevant rules/statutes/procedures, etc.)
- Proposed issue for placement (see editorial calendar above)

All proposals and articles submitted will be considered for publication. However, Communiqué will not publish self-serving articles promoting a specific named product or services of an individual or firm. Articles must be on topic and original, unpublished works. Preference will be given to articles written by attorney members of the CCBA.

Contact the Clark County Bar Association to confirm availability of placement, graphic design services, and discounts.

Contact: stephabbott@clarkcountybar.org.
Live CLE Seminars

Ethical Concerns & Social Media for Lawyers in Nevada (Updated for 2016)
Learn about recent case law and disciplinary hearings on the use of social media by and for lawyers!

Speaker: Nevada lawyer Christine Guerci-Nyhus  
Date: Thursday, December 1, 2016  
Time: 1:00 to 3:15 p.m.  
Location: Depo International, 703 S. 8th St., Las Vegas, NV  
CLE Credits: 2 Ethics CLE Credit for Nevada lawyers

Summary Judgment and Oral Argument in Federal Court
Learn about effective briefing and oral advocacy techniques in federal court!

Speaker: U.S. District Court Judge Richard F. Boulware, II  
Date: Monday, December 5, 2016  
Time: 12:00 to 1:00 p.m.  
Location: Lloyd D. George U.S. Courthouse, Courtroom 7C, 333 Las Vegas Blvd. S., Las Vegas, NV  
Credits: 1 General CLE Credit for Nevada lawyers

Jury Instructions: Plain Language and Schema Theory
Learn about how to examine preexisting notions jurors may have about the law!

Speaker: Sara Gordon, Associate Professor of Law, William S. Boyd School of Law/UNLV  
Date: Wednesday, December 7, 2016  
Time: 12:00 to 1:00 p.m.  
Location: Depo International, 703 S. 8th St., Las Vegas, NV  
Credits: 2 Ethics CLE Credits for Nevada lawyers

Ethics in Government Law—a special presentation at CCBA’s January Luncheon!
Learn about the provisions of the Ethics in Government Law set forth in NRS 281A!

Speaker: Yvonne M. Nevarez-Goodson, Esq., Executive Director of the Nevada Commission on Ethics  
Date: Thursday, January 26, 2017  
Time: 12:00 p.m. to 1:30 p.m.  
Location: Vic & Anthony’s Steakhouse @ Golden Nugget  
Credits: 1 Ethics CLE Credits for Nevada lawyers

RSVP w/payment & entree selection to CCBA by Friday, January 20, 2017. For more details, see page 48.

Cyber Fraud & Attacks: What You Need to Do & Know!
Learn about concerns related to digital data, applicable federal and state laws related to security breach notices, and tips for avoiding data breach problems!

Speaker: Adam D. H. Grant, Esq. from Alpert, Barr, & Grant  
Date: Friday, February 3, 2017  
Lunch: 11:30 a.m. to 12:00 p.m.  
Program: 12:00 to 1:30 p.m.  
Location: Depo International, 703 S. 8th Street, Las Vegas, NV  
Credits: 1.5 General CLE Credits for Nevada lawyers  
BONUS: This event includes .5 General CLE Credit FREE for CCBA Members and FREE lunch sponsored by Alpert Barr & Grant for all registered attendees!

RSVP w/payment to CCBA ASAP to reserve your seat. Fee may vary per person. Seating will be limited. For more information, or call CCBA at (702) 387-6011 or visit www.clarkcountybar.org.
In Memoriam

Rose Marie Reynolds passed away October 10, 2016. Rose Marie served as the Editor-in-Chief of Communiqué from August 2002 to November 2004 and as Editor-in-Chief of CCBA’s Nevada Law Review in 1998. Her passion for writing and her precision for grammar and style helped to forever elevate the professionalism and standards of CCBA’s publications.

She attended Brigham Young University and graduated with honors in English Literature. She honed her editing skills working at Harcourt Brace Jovanovich publishing, before attending the J. Rueben Clark Law School, where she wrote and edited for the BYU Law Review. After clerking for the federal court in Washington, DC, she worked for the Las Vegas law firm of Smith and Kotchka. In March 2004, Rose Marie joined the Nevada Attorney General’s office as a deputy attorney general. Although she served several state agencies, Rose Marie was highly regarded for her knowledge and expertise with labor and discrimination law.

Rose Marie loved to travel, and she enjoyed a wide range of literature, British film, and word puzzles. Her legal and linguistic brilliance was equaled only by her joyful creativity with all manner of crafts from folk art painting to scrapbooking to paper crafts. She loved to try new restaurants and was particularly smitten with the butter-scotch pudding shake at Gordon Ramsay’s BurGR.

Her family, colleagues, and friends will truly miss her light and compassion. Source: Deanne M. Rymarowicz.

Member Moves


Kathleen J. England has moved the England Law Office to 610 S. 9th Street, Las Vegas, Nevada, 89101. Phone: (702) 529-2311.

Tonya M. Henderson is now Vice President of Compliance for CG Technology. She can be reached at 2575 S. Highland Drive, Las Vegas, Nevada, 89109. Phone: (702) 677-3800.

Sean T. Higgins is now associated with Golden Entertainment, Inc., 6595 S Jones Boulevard, Las Vegas, Nevada, 89118. Phone: (702) 893-7777.

Rebekah L. Rini has joined Edward M. Bernstein & Associates, 500 S. 4th Street, Las Vegas, Nevada, 89101. Phone: (702) 240-0000.

Effective January 1, 2017, Elyse Tyrell may be reached at Tyrell Law, PLLC, 40 S. Stephanie Street, Suite 200, Henderson, Nevada 89012. Phone: (702) 382-2210.

Listings in the “New Members” and “Member Moves” departments are restricted to updates in contact information or membership status. Space is available for paid announcements of professional achievements, goods, and services. Contact: Steph Abbott, stephabbott@clarkcountybar.org or (702) 387-6011.

New Members

Welcome and thanks to the following people who have joined and/or re-joined our non-profit member organization!

Jeanette Barrick, a new attorney member from Gallian Welker & Beckstrom LC. Phone: (702) 892-3500.

Donna Bourgault, a legal assistant/administrative/secretary member.

Paloma M. Guerrero, a student member from UNLV William S. Boyd School of Law.

Steven Kish, a student member from UNLV William S. Boyd School of Law. Phone: (775) 412-8622.

Brianna Lamanna, a new attorney member. Phone: (702) 371-7755.

Curprice Luckert, a legal assistant/administrative/secretary member. Phone: (310) 753-1115.

Bridgette Reyna-Meadows, a student member from The John Marshall Law School. Phone: (847) 833-8958.

Aglimaa Tsogt, a student member from UNLV William S. Boyd School of Law.
Dickinson Wright has served Nevada since 2010. Our attorneys practice in a range of legal areas including business litigation, construction, gaming, intellectual property, entertainment, estate planning, taxation, government affairs and employment law. Our attorneys are recognized leaders in the community and in their respective fields. They have joined together at Dickinson Wright to form a powerhouse team, able to meet your legal and business needs. Contact one of them today for more information.
News & Notes

Las Vegas Chapter of National Bar Association Gala Honors

On Friday, November 4, 2016, the Las Vegas Chapter of the National Bar Association (LVNBA) honored the following attorneys and companies during its 27th Annual Scholarship Gala held at the Monte Carlo Las Vegas Resort and Casino:

- **Hon. Michael L. Douglas** – Lifetime Achievement
- **Jason Frierson, Esq.** – Attorney of the Year
- **Hartwell Thalacker** – Law Firm of the Year
- **thinkLaw** – Community Service
- **Southwest Gas Foundation** – Corporate Service

The LVNBA raises scholarship funds, each year through their annual scholarship gala, for law students who are committed to serving minority, low income, and other underserved communities in Clark County, Nevada. Photos from the event were provided by State Bar of Nevada President Bryan Scott and LVNBA Treasurer Augusta Massey. Learn more about the LVNBA at http://lasvegasnba.org/.

News & Notes continued on page 14
Community Service Activity

Rebel Relief Project Provides Practical Supplies for Area Homeless

By Seleste Hamilton and Alysa Grimes

To celebrate the ABA's National Pro Bono Week, the Public Interest Law Association and the Black Law Students Association at the William S. Boyd School of Law created Rebel Relief. The project included collecting donations including toiletries, socks, and food for the homeless in Las Vegas.

Students distributed donations to Salvation Army residents after Nevada Legal Services’ legal education presentations on October 25, 2016. Thank you to all donors, with a special nod to Krissta Kirschenheiter, Director of Pro Bono at Nevada Legal Services.

Thank you to the following for hosting donation boxes:

Clark County Bar Association
Dickinson Wright
Furnier Muzzo Group
Legal Aid Center of Southern Nevada
Nevada Legal Services
Surrat Law Practice
William S. Boyd School of Law
Wright Finlay & Zak

Seleste Hamilton
is student ambassador to the CCBA Community Service Committee, President of the Black Law Students Association, Vice-President of Finance for the Public Interest Law Association, and Treasurer of Legally Speaking.

Seleste and Alysa are also Boyd Public Interest Fellows and Kids’ Court School Educators.

Alysa Grimes is the President of the Organization of Women Law Students, Vice President of Community Involvement for the Public Interest Law Association, Society of Advocates member, and Nevada Law Journal Junior Staff.

Community Service Activity

Team CCBA Takes Step to Cure Cancer

By Steph Abbott

On October 30 and November 5, 2016, members of the Clark County Bar Association’s Community Service Committee (aka “Team CCBA”) participated in charity walks to benefit national organizations dedicated to curing cancer.

Special thanks to the Dias Law Group, Paul C. Ray, Chtd., Litigation Services, and Las Vegas Legal Video for sponsoring the Team CCBA t-shirts.

Team CCBA raised $1,467 for The Leukemia & Lymphoma Society (LLS) through this year’s “Light The Night Walk” held on November 5, 2016 in downtown Las Vegas. Special thanks to all who made donations to the LLS to help battle blood cancer and/or walked in the event:

Cathy Gatchalian
Cheryl Godfrey
Damon Dias
Donna Wiessner
Emily Meibert
Erica Smit
Georgina Zielinski
Jared Hague
Jennifer Roberts
Kari Stephens
Leslie Griffin
Liane Binowitz
Lin Clegg Soriano
Lorin Taylor
Mariteresa Rivera-Rogers
Matthew Cook
Melody Rissell
Paul Ray
Richard Wyse
Seleste Hamilton
Shannone Paki
Stephanie Abbott
Sybil Johnson
Whitney Short

Team CCBA raised $400 for the American Cancer Society (ACS) through this year’s “Making Strides Las Vegas” held on October 30, 2016 in downtown Las Vegas. Special thanks to all who made donations to the ACS to help battle breast cancer and/or walked in the event:

Cheryl Godfrey
Denise Casciola
Donna Wiessner
Kristina Holman
Monique Jammer
Nanda Casciola
Randa Reiff Shea
Stephanie Abbott

Steph Abbott is the CCBA Communications Coordinator. She serves as staff liaison to the CCBA Publications and Community Service Committees. Contact Steph Abbott at stephabbott@clarkcountybar.org or (702) 387-6011.
News & Notes continued from page 12

Chili Wars Competitors: Family Court Judge Chuck Hoskin, Lorien Cole from Marshal Willick’s office, Mike Carman, Family Court Marshal Brad McCue (Dept. C), Family Court Marshal Frank Preuss (Dept. J), Jason Stoffel, Shahana Polselli, and Kristine Brewer.

Family Bench Bar Chili Wars Highlights

On Friday, November 4, 2016, members of Nevada’s family court bench and bar gathered at Bogey’s Bar & Grill to compete in a chili cook-off event. This event titled, “Chili Wars - May the Bean be with You,” featured eight teams who competed for fun and bragging rights.

First place went to a “Buccaneer Brisket Chili” cooked up by attorney Jason Stoffel’s team Yodalicious. Second place went to The Rabid Beans by Frank Preuss the marshal from Department J of the Eighth Judicial District Court. The runner-up came from the Red Hot Chili Preppers submitted by Lorien Cole. The honor of people’s choice went to The Rabid Beans. It was a perfect night for the outdoor event that included delicious food and music. Word is, the competition will heat up even more next time around. Thanks to all who entered, attended and helped to make this event a success.

All profit from this event were donated to the Legal Aid Center of Southern Nevada. For more info on the competition, please contact Jason Stoffel at (702) 474-7007. Sources: Clark County Court Information Officer Mary Ann Price and Jason Stoffel.

Family Court Adoption Ceremony

On October 31, 2016, Eighth Judicial District Court Judge Cynthia Giuliani brought special attention to the adoptions in her courtroom. Judge Giuliani dressed up in a fairy godmother costume “to make kids’ adoption wishes a reality in court.” The children were invited to come in costume and are given treats. The District Court Family Division is involved in other special adoption events, including an annual adoption day marathon held last month. For more information about adoption, call the Clark County Department of Family Services at (702) 455-0800 or e-mail DFSAdoptions@ClarkCountyNV.gov. Source: Clark County Court Information Officer Mary Ann Price, 702-671-4534.
GSA Design Award Honors Lloyd D. George U.S. Courthouse

The Lloyd D. George U.S. Courthouse in Las Vegas, Nevada recently received the GSA Design Award by the Government Services Agency. The award was announced during an event held in September in Washington D.C. In a letter to CCBA President Catherine Mazzeo, Senior U.S. District Court Judge Lloyd D. George shared background information about the project:

Although the building bears the George family name, the real hero in making the building a reality is Senator Harry Reid, whose backing and skillfulness laid the political and inter-agency foundations for the prioritizing and funding over $100 million to construct the courthouse. Indeed, the courthouse may just as well have borne the name of Senator Harry Reid for his unparalleled service to our profession, and leadership to our state and country.

By way of a back story, the land upon which the courthouse is constructed was given to the federal government by the City of Las Vegas. I was Chief Judge at the time of the negotiations over the property. Initially, the city was reluctant to give away the two city blocks of property to the federal government rather than sell at least one of the blocks to a taxable entity. However, when Clark County offered to donate ten acres for the courthouse in another, albeit less desirable location, the city, under the leadership of Mayor Jan Jones, contributed the property where the courthouse now stands.

Incidentally, the architect for the courthouse, Mehrdad Yazdoni, is originally from Iran, but has become a United States citizen. Since construction of the federal courthouse in Las Vegas, Mr. Yazdani has participated in the construction of well-designed courthouses in both the United States and worldwide. During the planning stages of the courthouse, Mr. Yazdani and I traveled within the United States to view courthouse designs and functionality.

As the GSA award recognized in its ceremony in Washington D.C., the courthouse is a structure notable for its appearance and functionality. It will, indeed, stand as a monument to the rule of law and intergovernmental partnership for the ages.

Source: Senior U.S. District Court Judge Lloyd D. George.
Nevada Legal Services Honors Champions of Justice

Nevada Legal Services honored Attorney General, Adam Laxalt with its “Champion of Justice Award” at the November 4th, 2017 luncheon. More details on all the honorees in the upcoming Pro Bono issue (Communiqué, Feb. 2017). For more information on Nevada Legal Services, please call Kathleen Frantz at 702-386-0404, Ext. 119.

North Las Vegas Justice of the Peace Elected to Serve National Organization

In September 2016, North Las Vegas Justice Court Chief Justice of the Peace Natalie Tyrrell was elected to serve on the board of governors of the American Judges Association. Source: North Las Vegas Justice Court Chief Justice Tyrrell.

Las Vegas Justice Court Appoints New Hearing Master

In September 2016, Nevada lawyer David Brown was appointed to the newly created hearing master position for the Las Vegas Justice Court. Brown is responsible for handling all aspects of the court’s summary eviction caseload, including presiding over hearings, ruling on motions, and reviewing cases for legal sufficiency. Source: LVJC Staff Attorney Joe Tommasino.

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Volunteer Appreciation Awards & Annual Meeting

Wednesday, December 14, 2016
12:00 to 1:00 p.m.
Doors open at 11:30 for luncheon check-in.

Cili Restaurant
Bali Hai Golf Club, 5160 S. Las Vegas Blvd., Las Vegas

Featured Speaker
Bryan K. Scott, Esq.
President, State Bar of Nevada

Meet Bryan and learn about our State Bar. The CCBA will present awards and recognize members who supported the association’s activities and services. We will hold the election for the CCBA 2017 Executive Board at this event too.

RSVP by December 9, 2016
Call CCBA at (702) 387-6011.
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Thursday, January 26, 2017
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—Note: Extended time
Doors open at 11:30 for luncheon check-in.

Vic & Anthony’s Steakhouse
Golden Nugget, 129 E. Fremont Street, Las Vegas

Featured Speaker
Yvonne M. Nevarez-Goodson, Esq.
Executive Director, Nevada Commission on Ethics

Learn more about the provisions of the Ethics in Government Law set forth in NRS 281A.

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RE: CCBA Luncheon - 12/14/2016
RE: CCBA Luncheon - 1/26/2017

Price:
☐ $40 per Person
☐ $50 per CCBA Member
☐ $60 per non-member

Person attending:
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Entrée (Dec. luncheon): Entrée (Jan. luncheon):
☐ Char-Grilled Mahi Mahi
☐ Beef Short Rib
☐ Pumpkin Tortellini
☐ 6 oz. Filet Mignon
☐ Rotisserie Chicken
☐ Pasta Primavera

All reservations to CCBA events must be pre-paid. Each person who arrives without a prior reservation will not be guaranteed a seat, a meal, or entry to the event. If space becomes available to accommodate the unexpected person, there will be an additional fee of $15 in addition to the listed price to attend. To receive a full refund for cancellations, a written request must be made to CCBA 72 hours prior to the luncheon.
Foreclosure Mediation Program to Stop

The State of Nevada Foreclosure Mediation Program (FMP) is coming to a close. The last date the FMP will accept recorded Notices of Default is Nov. 30, 2016. Also, the FMP will no longer accept mediation enrollments after Dec. 31, 2016.

In 2015, the Nevada Legislature repealed the FMP ending the program on June 30, 2017. The Supreme Court of Nevada issued an order in ADKT 0435 on Sept. 26, 2016 providing for the last date to accept mediation enrollments. Also that order determined all mediations must be completed by April 30, 2017. Source: Nevada Appellate Court Information Officer Michael S. Sommermeyer, (702) 486-3232.

U.S. District Court to Welcome New Chief Executive in February 2017

The United States District Court for the District of Nevada has announced that Debra K. Kempi has been selected to serve as the new District Court Executive/Clerk of Court upon the retirement of Lance S. Wilson in February 2017. Ms. Kempi is currently Chief Deputy Clerk for the Clerk’s Office, United States District Court, Southern District of Florida. She has held this position since 2005 and oversees a staff of over 100 employees in five different divisions of the Court spanning 280 miles. Ms. Kempi possesses very strong knowledge in all operational areas of the federal courts and has led many innovative efforts in her capacity as Chief Deputy Clerk in her current Court. Source: United States District Court Executive Lance Wilson.

Outgoing Court Executive: Lance Wilson staged this humorous image for the special issue of this publication focused on the Lloyd D. George U. S. Courthouse. (Communiqué, July/August 2000).

Advertising Discounts

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

- **15% off the ad placement rate or complimentary ad design**, available with purchase of a display ad in the printed magazine, Communiqué.
- **Free “Employment” ads available for CCBA Members and 50% off the rate of ad placement rate for the classified ad format**, The Marketplace in Communiqué or on the CCBA website.

Contact: Steph Abbott at stephabott@clarkcountybar.org or (702) 387-6011.

Meet Your Judges Mixer

**When:** Thursday, May 18, 2017
**Time:** 5:30 pm to 8:30 pm
**Where:** Cili at Bali Hai Golf Club
**Contact:** donnaw@clarkcountybar.org, (702) 387-6011.
Supreme Court of Nevada Welcomes New Clerk of the Court

On Oct. 10, 2016, Elizabeth Brown was formally sworn in as the Clerk of the Court for the Supreme Court of Nevada, succeeding Tracie Lindeman, who held the constitutional position since 2008. Ms. Brown is the seventeenth Clerk of the Court to serve since 1864 when Nevada became a state. Source: Nevada Appellate Court Information Officer Michael S. Sommermeyer, (702) 486-3232.

Full Court Press: Nevada Clerk of the Court Elizabeth Brown (front, center) surrounded by (left to right) Supreme Court of Nevada Justices Mark Gibbons, Kristina Pickering, James W. Hardesty, Michael Douglas, Ron D. Parraguirre, Michael A. Cherry, Nevada Appeals Court Judges Michael Gibbons and Abbi Silver.
May You Have The Hindsight To Know Where You’ve Been, The Foresight To Know Where You’re Going And The Insight To Know When You’re Going Too Far . . .

The year was 1971. I was barely in my twenties, and I was a newly-minted graduate from the Political Science department at the University of Nevada, Las Vegas. George McGovern was running for President and, like the Bernie Sanders supporters of today, I was a big fan of this candidate for change.

The leadership of the Democratic Party had largely abandoned McGovern. (James Bilbray was the only “big name” I recall who remained loyal to the effort). Inside the Democratic headquarters, a gal whose name I think was Joy Hamm had volunteered to head up the public relations for the campaign’s activities in southern Nevada. I offered my services, having worked for the Alumni Office at UNLV for over two years, doing press releases and other public relations activities.

That’s when I first met John Foley. He was a young lawyer in his early 40’s, and he had a Kennedy-esque quality to him. I was immediately impressed with the fact that, despite being a Georgetown lawyer, he treated everyone around him with respect. He was, in fact, downright friendly and engaging. As for the campaign, he rolled up his sleeves and did whatever he could to further the cause. Alas, the effort was for naught, and we all got Richard Nixon. I drove around town with a bumper sticker that said, “Don’t look at me . . . I voted for McGovern!”

Not long thereafter, I taught government at Western High School, and met one of John’s kids, Elizabeth Foley, who was one of my students. She had a good sense of humor, which I attributed to her dad. Years later, as an attorney, I realized how much the Foley family has influenced my life, from Jim Foley at Gorman to Mike and George Foley at McGeorge School of Law. But back to John . . .

Since about 1982, John and, eventually, his daughter Liz, had kept offices at the old Johnny Ribeiro office park at 601 S. Rancho Drive, Suite A-1. A few years ago, I was in his office for an arbitration hearing, where my former student was now the esteemed Arbitrator. After the hearing was completed, Liz showed me around the offices, which were more like museum rooms, considering the numerous photographs, letters and certificates on the walls which made it clear that John Foley knew everybody from John F. Kennedy to most of the major political figures since the 1960’s.

John was always smiling and engaging. He seemed like one of the most positive people I ever met, and this was in spite of some of the cases he took in, which, to me, appeared at times to be quite difficult to prove. He always saw the upside of life, and was a happy warrior in both politics and the law. What a good man and what a great career he had!
**Law Library Lithographs:** John P. Foley with Clark County Law Library Director Karen Byrd at dedication ceremony held January 16, 2015 at the Clark County Law Library to observe the generous donation of Nevada Courthouse drawings by Second Judicial District Court Judge Patrick Flanagan. Photo courtesy of the Clark County Law Library. See Communiqué, July 2015.

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**Janary Bar Luncheon**  
Featuring a special presentation by Yvonne M. Nevarez-Goodson, Esq., Executive Director of the Nevada Commission on Ethics

Learn about the provisions of the Ethics in Government Law set forth in NRS 281A

**When:** Thursday, January 26, 2017  
**Time:** 12:00 to 1:30 pm  
**Bonus:** Attend for 1 Ethics CLE credit  
**RSVP to CCBA by:** Friday, January 20, 2017.
This patron dispute process can be used for any gambling game, not just slot machines or video poker, including sports wagers, keno, bingo, baccarat, or blackjack. And it can involve the disagreement over any amount of money, whether it be a nickel or millions of dollars.

If the dispute involves a slot machine or video poker machine, that device is often sealed so that no other patron can play the game and potentially interrupt data stored from the disputed play. In addition to inspecting both the internal and external features of a machine, including play history (if the dispute involves a gaming device), the Nevada Gaming Control Board agent may review any relevant surveillance footage, interview witnesses and the patron, and discuss the incident with responding casino employees.

Within 45 days of being asked to complete an investigation, a written determination of the Nevada Gaming Con-
A control Board agent will be sent to the customer and the gaming establishment. NRS 463.362(5). If the customer does not like the result, they can request a hearing on the determination within 20 days of receiving it. NRS 463.363(1).

What’s interesting about the patron dispute process is that the gaming establishment can challenge the Nevada Gaming Control Board agent’s finding that is favorable to the customer by requesting a hearing. If neither the patron nor the gaming business requests a hearing within 20 days, they have waived any further administrative or judicial review. NRS 463.363(3).

The hearing is generally conducted by a hearing examiner of the Nevada Gaming Control Board. The parties can be represented by legal counsel, submit briefs of their arguments, have witnesses testify in person or through recorded testimony, and present oral argument on their case, but the rules of evidence are not observed in the patron dispute hearing process. See NGC Reg. 7A. The burden of proof is that the party who requested the hearing must demonstrate by a preponderance of the evidence that the agent’s decision should be reversed or modified. NGC Reg. 7A.160. After the hearing, the hearing examiner will prepare a decision for the three full-time members of the Nevada Gaming Control Board on whether to uphold, reverse, or modify the agent’s initial determination. NGC Reg. 7A.170. The Nevada Gaming Control Board can then either accept or reject the recommendation or remand it back to the hearing examiner for further hearing. Id. The final ruling of the Nevada Gaming Control Board can then be appealed to district court within 20 days of the decision. NRS 463.3662.

Although there is probably a similar process in the state where the woman who allegedly won the $43 million played, in Nevada, the formal patron dispute process outlined above would provide her a fair platform to challenge the results of the slot machine. She would face an uphill battle, however, in the process.

When a patron sits down at a slot machine and puts money or a ticket with value into the machine, as soon as they press play, the customer has entered into a contract with the gaming establishment. The patron pays consideration with the agreement that the gaming business will pay the customer the amount indicated on the pay table with a winning combination. One of the terms of the agreement is displayed on every slot machine or video poker device in the state, “Malfunction Voids All Pay and Play.” If the slot machine experiences a “tilt” and does not work properly, this contract term comes into effect. See Sengel v. IGT, 116 Nev. 565 (2000).

In the case of the alleged $43 million winner, there does not seem to be any evidence of the typical “bells and whistles” associated with a winning jackpot. Also, the woman claimed that she was entitled to $43 million, even though the maximum that the machine could pay out was allegedly $6,500. Since there was no “contract term” that the patron could ever qualify to win such a high jackpot, she could have a difficult time satisfying her burden of proof in a Nevada patron dispute.

One of the protections for customers of a Nevada gaming establishment is the patron dispute process.

If a customer feels wronged, they have patron dispute procedure before the Nevada Gaming Control Board to help make sure that gambling games are being conducted honestly and fairly.
Preserving Consumer Claims Against Contract Assignees

By Craig B. Friedberg, Esq. and Dan L. Wulz, Esq.

Sellers of consumer goods often sell on credit, using retail installment sales contracts. Seller may then assign the sales contracts to third-party assignees in return for lump sum payments of the financed amount. The majority of cars are sold this way. What happens, however, when a consumer has an issue with the goods or seller misconduct occurs? Can the consumer simply withhold monthly payments from the assignee? Does the consumer have any recourse? Frequently, the assignee asserts the right to payment and refuses to consider the consumer’s pleas. Worse yet, there are many times when the original seller is defunct or difficult to pursue, leaving the consumer without a remedy. There is, however, another remedy provided to consumers by law. The Federal Trade Commission’s (FTC) Preservation of Claims and Defenses Rule, codified as 16 CFR § 433.2, requires sellers who arrange or offer credit to finance consumers’ purchases to include the following language in their credit contracts:

ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED . . . . RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

History and Purpose of the FTC Rule

In 1975, the FTC concluded that unethical merchants and their financiers were using the law of negotiable instruments’ holder in due course doctrine to victimize thousands of innocent consumers. Merchants sold shoddy furniture, fly-by-night contractors failed to deliver on promises to install aluminum siding, used car dealers hawked lemons, and countless other shady characters operated in a similar fashion in scores of different fields. The fraudulent merchant often arranged for the consumer to pay on credit, and then assigned the credit contract to a financier. The merchant received full, or close to full, payment from the assignee, who would, in turn, seek payment on the contract directly from the consumer. The assigned contract, however, waived the consumer’s rights to raise merchant-related defenses against the assignee, thus leaving the consumer without any recourse.

Under this system—pervasive at the time—the consumer had little recourse against the merchant if it disappeared or shifted assets to become insolvent. The consumer was left holding the bag, owing full payment when goods or services were not delivered, were defective, or were not as promised.

The FTC Rule effectively defeats the assignee’s claimed status as a holder in due course, thereby subjecting the assignee, as a matter of contract law, to the consumer’s claims and defenses.

Who is Subject to the FTC Rule and When Does it Apply?

When a merchant or seller of a goods or services originates or arranges credit, the FTC Rule allows the consumer to raise the seller’s misconduct as a basis for bringing claims or defenses against the entity holding the debt. Thus, for virtually all consumer transactions, from cars, to certain types of student loans, to home improvement contracts, etc., consumers have a viable remedy for seller misconduct, even if their obligation is owed to an assignee, rather than the original seller.

The FTC Rule provides that “any holder” of the consumer credit contract is subject to all claims or defenses the consumer has against the original seller. Thus, any potential holder who acquires the contract downstream from the seller has notice that it is stepping into the seller’s shoes.

No Limitation on the Types of Claims or Defenses Which May Be Asserted

In May 2012, the FTC rendered an Advisory Opinion, which reiterated the unambiguous language of the Rule, i.e., that the Rule allows the consumer to assert “all claims and defenses” against the holder of the credit contract that the consumer could assert against the seller. The FTC Opinion concluded that a consumer’s right to an affirmative recovery under the Rule is not limited to circumstances where the consumer could legally rescind the transaction or purchased worthless goods. Fed. Trade Comm’n, Opinion Let-
We’re law for business. We are a firm of experienced attorneys who come together to serve the legal needs of businesses and business owners. Our distinguished backgrounds provide us with a solid understanding of the industries we serve, and our results-oriented approach to practicing law is a beacon for business owners in search of intelligent counsel that aligns with their business goals.

Craig B. Friedberg is a 30-year attorney and principal of the Law Offices of Craig B. Friedberg, Esq., where he practices consumer protection law (unfair, fraudulent or deceptive practices relating to debt collection, credit reporting, car sales, privacy rights, and unsolicited faxes and cell phone calls) and trademark, trade dress and copyright infringement. Mr. Friedberg also serves as an arbitrator, short trial judge and Justice Court pro tem.

Dan L. Wulz is Deputy Executive Director and Directing Attorney of the Consumer Rights Project at Legal Aid Center of Southern Nevada, Inc. He has been practicing law since 1978 and has been with Legal Aid since 1994, where he represents consumers in class actions and involving auto sales, payday loans, debt collection defense, and sundry consumer matters.

Conclusion

The FTC Rule frequently provides consumers with the only avenue of recovery possible. Sellers come and go, as do warranty guarantees, and they leave consumers behind with defective or useless products or services and large payments. The ability to avoid holder in due course status and assert claims and defenses is essential to the consumer. The FTC Rule is one of those tools that may be overlooked by attorneys.
Recent Developments in Fair Credit Reporting Act Litigation

By Lindsay Demaree, Esq.

The Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq. (FCRA) is a federal law that governs the provision and use of a “consumer report”—i.e., information provided by a consumer reporting agency that “bear[s] on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living . . . ,” otherwise known as a credit report. Despite this focus on consumer reports, recent FCRA litigation intersects with a wide range of legal questions, including employment, bankruptcy, and federal standing issues.

Employers Beware: Stand-Alone FCRA Disclosures

Credit card companies and other lending institutions are not the only entities that check a consumer’s credit. Under 15 U.S.C. § 1681b(b), employers can—and do—perform credit checks in connection with “employment purposes” such as hiring. Before an employer may obtain a consumer report, however, it must (1) provide the employee or potential employee with “a clear and conspicuous” written disclosure “in a document that consists solely of the disclosure,” and (2) obtain the consumer’s written authorization.

Employers across the county have found themselves subject to class action lawsuits for failing to strictly comply with this disclosure requirement. Courts have recognized that a disclosure does not satisfy the “stand-alone notice” requirement if the disclosure also contains extraneous information about, for example, liability waivers, policies for hiring certain felons, or the effect of photocopies.

In one extreme case, an entrepreneurial plaintiff by the name of Cory Groshek made a job out of applying for jobs and then filing class action lawsuits against employers whose disclosures fall short of the FCRA’s requirements. His strategy works due in no small part to the FCRA’s statutory damages provisions, which provide damages of up to $1,000 per violation for willful violations, in addition to punitive damages and attorney’s fees. Thus, Mr. Groshek apparently made the following demand to Time Warner Cable (TWC):

TWC can either pay me a high six figure settlement to make this issue disappear now, or it can pay seven or eight figures to settle it later (and I know, for a fact, that TWC will settle at some point, as all companies doe [sic] in cases such as this). The choice is TWC’s—either pay me, or pay a minimum of $1000.00 to everyone affected by its FCRA violations over the last five years, plus punitive damages and reasonable attorney’s fees.

(Excerpt from Groshek v. Time Warner Cable, Inc., No. 15-C-157, 2015 WL 4620013, at *2 (E.D. Wis. July 31, 2015)). The Milwaukee-Wisconsin Journal Sentinel has reported that Mr. Groshek has made $230,000 from his lawsuit settlements, after applying to 562 jobs in 18 months.

While the Supreme Court of the United State’s recent Spokeo decision (discussed below) may arm employers with arguments for early dismissal of class actions like Mr. Groshek’s, employers can nip potential liability—and nuisance lawsuits—in the bud by providing a stand-alone FCRA disclosure.

Creditors Beware: Debts Included in a Bankruptcy

The FCRA also requires companies that provide information to consumer reporting agencies (e.g., Equifax, Experian, and TransUnion) to implement and follow reasonable procedures to investigate consumer disputes about the accuracy of the provided information. If a company receives notice of a consumer dispute from a consumer reporting agency but fails to investigate and, if necessary, correct the reported information, then the company may be liable for...
reporting inaccurate information.

Recently, Nevada has seen hundreds of FCRA lawsuits filed premised on allegations that a credit card or other financial company failed to update account information after a plaintiff filed for bankruptcy. These complaints often highlight the “limbo” period between the date a plaintiff files for bankruptcy and the date the bankruptcy court ultimately grants a discharge. This period can extend for five years or more in some chapter 13 cases. During this time, a debt is not yet discharged, and the plaintiff typically makes payments to a bankruptcy trustee, rather than to the creditor. The Ninth Circuit has yet to rule on the accuracy of reporting a debt based on its original terms, rather than based on, for example, the terms of a bankruptcy plan (which rarely contain specific account-by-account payment provisions for unsecured debts like credit cards) during bankruptcy “limbo” period. The uncertainty of the law in this area and the large numbers of chapter 13 bankruptcy discharges recently entered for bankruptcies filed during the recession have created the perfect storm for this FCRA trend.

Consumers Beware: “Concrete” Statutory Damages

Earlier this year, the FCRA provided a platform for the United States Supreme Court to clarify the federal “injury in fact” requirement for standing. In Spokeo, Inc. v. Robins, the plaintiff alleged that Spokeo willfully violated the FCRA by publishing inaccurate personal information about him. 136 S.Ct. 1540, 1544 (2016). Plaintiff based his FCRA claim solely on the violation of his statutory rights. He did not allege any actual harm arising from Spokeo’s reporting of the purportedly inaccurate information.

The Ninth Circuit held that plaintiff’s allegation that Spokeo violated his statutory rights satisfied the “injury in fact” requirement for standing. The Supreme Court of the United States vacated this ruling and remanded, finding the Ninth Circuit’s injury-in-fact analysis to be incomplete. While the Ninth Circuit considered whether the plaintiff’s alleged injury was “particularized,” it failed to also consider whether the injury was sufficiently “concrete.” Thus, under Spokeo, a violation of a statutory right may not satisfy the injury-in-fact requirement, as Article III standing requires “a concrete injury even in the context of a statutory violation.”

The Supreme Court remanded the Spokeo case back to the Ninth Circuit to consider whether plaintiff’s alleged statutory violation entails a degree of risk that is sufficiently concrete to confer standing. The Ninth Circuit will hear oral argument on this issue on December 13, 2016. Any subsequent ruling, together with the Supreme Court’s decision, will undoubtedly affect a consumer’s ability to prosecute claims under a wide array of consumer protection statutes, including the Telephone Consumer Protection Act, the Fair Debt Collection Practices Act, the Truth in Lending Act, and, of course, the FCRA. In fact, the Supreme Court’s Spokeo ruling has already led a district court in Wisconsin to dismiss an FCRA disclosure class action lawsuit filed by Mr. Groshek. (Not to worry—while Spokeo may sound the death knell for his run as a professional plaintiff, Mr. Groshek appears to have plenty to fall back on given his gigs as rapper Cory Crush, the owner of a personal development business called “Manifestation Machine,” and YouTube personality “Low Carb Cory.”)

Lindsay Demaree is an attorney at Ballard Spahr LLP, where she focuses on consumer financial services and product liability litigation.
At the heart of digital privacy is safeguarding a person’s personal identifiable information, but the problem is defining PII. What is personal identifiable information?

At the heart of digital privacy is safeguarding a person’s personal identifiable information, but the problem is defining PII. It seems like a simple question, but depending on where you go to look, the answer is not so simple. The obvious answers include name, address, online contact information, telephone number, and social security number. However, the not so obvious includes a “persistent identifier,” a customer number held in a cookie; an Internet Protocol (IP) address, a unique device identifier; and “geolocation,” locating where your computer or phone is using GPS. Additionally, as of July 1, 2015, Assembly Bill 179 amended Nevada Revised Statutes section 603A.040, which defines Nevada’s laws on the security of personal information, to include driver authorization card numbers, medical or health insurance ID numbers, unique identifiers, or e-mail addresses, in combination with passwords, access codes, or security questions and answers that would permit access to an online account. There are many other variations in virtually every state in the country.

Select federal laws you should consider

With children frequently using mobile apps on their phones, the Children’s Online Privacy Protection Act ("COPPA"), 156 U.S.C. §§ 6501–6505, helps protect children under 13 years old when visiting websites or online services directed to them or when such websites or services have actual knowledge they are collecting PII online from such a child. So, if your client’s website or mobile app is directed at children or children use the site or mobile app and put in their PII, then your client has significant obligations. If your client’s website or mobile app is used by children, then your client must obtain parental consent and take reasonable steps to notify the parent regarding the collection, use, or disclosure of the information. Your service must also include a means by which the parent can provide verifiable consent. In addition to this direct notice, the law requires the website or app to post a prominent and clearly labeled link to an online notice of its information practices with regard to children on the home or landing page screen. The parent must also have the right to review the personal information provided by the child. Under certain circumstances, your client can fall within a safe harbor program by providing a proposal for a self-regulatory program and report on themselves to the Federal Trade Commission (FTC) each year. Your client will need to maintain the underlying documentation for at least three years and make the information available to the FTC for inspection and copying. The law provides for enforcement under the FTC Act, 15 U.S.C. § 57a(a)(1)(B), and a violation would be deemed an unfair or deceptive act or practice pursuant to section 18(a)(1)(B) of the Act.

Advising your client what they should expect if the FTC finds they violated the disclosure requirements should be a top priority. The FTC commonly takes one of two routes in enforcement. Consider the May 10, 2016 announcement by the FTC that it approved a final order resolving its complaint against Vulcun, a popular Web browser game, in which it alleged Vulcun installed an application on consumer’s mo-
The Federal Trade Commission can help

Sometimes going to the source is the best place to start. The Federal Trade Commission's website is full of amazing source information and up to date commission opinions. On October 25, 2016, the FTC published an amazing guide for business. The guide can be downloaded for free at https://www.ftc.gov/tips-advice/business-center/guidance/start-security-guide-business. The guide has excellent tips you can pass on to your client. For example, (1) don't collect personal information if you don't need it; (2) hold on to the information only as long as you need it for your business; and (3) don't use personal information when it's not necessary. These all seem logical and simple, but in this age of big data, most of your client's are doing things they don't need to do and keeping the information longer than they need it, simply because it is too difficult to undo what has been done.

The FTC also addressed the expanding use of smartphones and social media when it made its recommendations as to how a business can make effective disclosures in digital advertising. The FTC published its guidelines on its website and can be reviewed at https://www.ftc.gov/news-events/press-releases/2013/03/ftc-staff-revises-online-advertising-disclosure-guidelines. The FTC also published an excellent video providing very specific tips for mobile app developers. See https://www.ftc.gov/news-events/press-releases/2013/03/ftc-announces-video-tips-mobile-app-developers).

Compliance without insanity

Virtually every state has privacy laws and compliance with all is almost impossible. Advising your client to adhere to federal law and engage in best practices will allow them to at least get some sleep at night.

Adam D.H. Grant is a shareholder with Alpert, Barr & Grant and whose 26 year practice includes a focus on mobile app and digital privacy.

Speaker: Yvonne M. Nevarez-Goodson, Esq., Executive Director of the Nevada Commission on Ethics
Date: Thursday, January 26, 2017
Time: 12:00 p.m. to 1:30 p.m.
Location: Vic & Anthony’s Steakhouse @ Golden Nugget
Credits: 1 Ethics CLE Credits for Nevada lawyers

RSVP w/payment & entree selection to CCBA by Friday, January 20, 2017. For more details, see page 48.

Cyber Fraud & Attacks: What You Need to Do & Know!

Learn about concerns related to digital data, applicable federal and state laws related to security breach notices, and tips for avoiding data breach problems!

Speaker: Adam D. H. Grant, Esq. from Alpert, Barr, & Grant
Date: Friday, February 3, 2017
Lunch: 11:30 a.m. to 12:00 p.m.
Program: 12:00 to 1:30 p.m.
Location: Depo International, 703 S. 8th Street, Las Vegas, NV
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BONUS: This event includes .5 General CLE Credit FREE for CCBA Members and FREE lunch sponsored by Alpert Barr & Grant for all registered attendees!

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Data Breach: Legal and Ethical Concerns for Nevada Law Firms

By Deputy Attorney General Laura M. Tucker

Near every week, a data breach makes the headlines. Unless you live under a rock or in a forest, keep your money hidden under a mattress, always pay in cash, and never visit a doctor, chances are you have been the subject of a data breach. Since it is unlikely any practicing attorney in Clark County runs a law firm this way, the best defense is a good offense.

When a law firm suffers a data breach, the ramifications are both legal and ethical. The Nevada Rules of Professional Conduct and the Nevada Revised Statutes provide guidance both before a data breach for protecting clients’ personal information and after a data breach by instructing attorneys what steps to take after sensitive information is stolen.

Prevention before the breach

Education and adaptability are critical to protect law firms, large or small, from suffering a crippling data breach. Familiarize yourself with the Nevada ethical rules and laws regarding collecting client data.

Ethics

To the extent a client’s personal information relates to his or her representation, a lawyer must make “reasonable efforts” to prevent the unauthorized disclosure of personal information. Nev. R. Prof. Cond. 1.6(e); Model Rule 1.6, comment 16.

The Nevada State Bar has interpreted Rule 1.6 to apply to both safeguarding electronically stored information and storing confidential paper files in a warehouse. Nevada Standing Committee on Ethics and Professional Responsibility Formal Advisory Opinion No. 33 (2006). More narrowly, the state bar applied Rule 1.6 to the use of third-party servers, such as cloud servers, stating that an attorney acts reasonably and competently when using a third-party server to store client data so long as he or she ensures that the third party and its employees keep the information confidential and protected from unauthorized access or disclosure. Id. Therefore, an attorney must reasonably store and protect clients’ personal information to avoid any potential ethics violations.

Law

In Nevada, a data collector that maintains records containing the personal information of a Nevada resident must implement and maintain reasonable security measures to prevent unauthorized access, acquisition, destruction, use, modification, or disclosure. NRS. 603A.210(1). A data collector is any business entity that handles, collects, disseminates, or otherwise deals with nonpublic personal information. NRS 603A.030. Personal information includes a person’s first name or first initial and last name in combination of any one or more of the following: social security number; driver’s license, authorization card or identification card number; account number, credit or debit card number, in combination with the security code, access code or password that permits access to the person’s financial account; a medical or health insurance identification number; or a user name or unique identifier in combination with a password, access code or security question that would permit access to an online account. NRS. 603A.040(1).

Because many law firms collect personal identifiers, they would be considered data collectors under Nevada law. Therefore, law firms have a legal duty to reasonably protect client information from unauthorized use.

Additionally, NRS 603A.215(1) requires any business that collects payment card information in connection with the sale of services to comply with the current version of the Payment Card Industry (PCI) Data Security Standard. Make sure to ask the payment card servicer you use if it is PCI compliant to meet this requirement.

Tips for securing client data

Firms should be proactive, rather than reactive, in addressing information security, but data security does not have to break the bank. Many preventative measures simply
require law firms to create and implement a security and crisis management plan. Tweaking your security settings, using multi-step verification, and setting up passwords are easy ways to beef up security. Keep in mind that breaches most often occur as a result of a company’s employees – whether purposeful or accidental. Therefore, it is critical to instruct your employees on your firm’s data protection policy.

If you have the resources, many experts recommend law firms outsource their security. Insist that the provider follow the required Nevada legal and ethical standards and request that these standards be included in your contract. Look for a data protection firm with knowledge of legal industry best practices, crisis management protocol, and encryption.

Secondly, maintain and follow, without exception, a written data retention policy. Not only is this good practice to comply with procedural and ethical rules, but it will ensure that regular archiving and deletion of sensitive data occurs. Have a crisis management plan in place, and test it out.

Encryption is key. Make sure that all technological items are password or PIN protected. In addition to firm computers and servers, this includes laptops, tablets, and smart phones for every employee who uses these items even occasionally for work use. Be careful when using thumb drives or unsecured email to transport sensitive files. Use two-step verification for e-mail and other services and don’t forget to keep a physical copy of the recovery information. Change the generic passwords on routers and make all of the files on your server need-to-access; every employee does not need access to every file.

Lastly, stay current on virus protection and software patches, including for your smart phones. Software and firmware updates often fix holes in security that could lead to a compromise.

These tips are by no means exhaustive. Ask your colleagues, security service provider, or search the Internet for a more comprehensive list. Like CLE requirements, attorneys must educate themselves to stay on top of changes in technology.

Laura M. Tucker is a Deputy Attorney General with the Nevada Attorney General’s Office Bureau of Consumer Protection, focusing on general deceptive trade and privacy issues. Prior to law school, Ms. Tucker was a journalist in Las Vegas.

Steps after a Breach

Even the best laid plans can be easily overcome by a sophisticated hacker. If your firm does suffer a data breach, don’t panic, and seek an outside forensics team (preferably one that has been previously vetted) and legal counsel as soon as possible to help guide you through the next steps. At this point, the crisis management plan should spring into effect.

After alerting your security team, determine what confidential information, if any, was stolen and look for the source of the breach. Avoid the inclination to wipe the servers; this will also destroy evidence that could help you pinpoint the source of the breach.

Notify your staff, insurance company, and local law enforcement that a breach has occurred. Designate a staff member to field any calls and de-escalate negative reactions, or consider making a personal call to larger clients.

As soon as possible, alert the affected clients that their information may have been compromised so they can take steps to protect themselves. In Nevada, attorneys have an ethical duty to keep clients reasonably informed about the status of their legal matters. Nev. R. Prof. Cond. 1.4. As with the ethical standards, Nevada law also requires reasonable disclosure of a breach. According to NRS 603A.220(1), when unauthorized access occurs, a business must inform the affected clients “in the most expedient time possible and without unreasonable delay.” Unreasonable delay has not been defined, but it should be decided on a case-by-case basis with the assistance of local law enforcement, if needed. NRS 603A.220(3).

Finally, treat the data breach as a learning experience. Figure out where the weakness in the system is and improve it next time. Attorneys have a duty to their clients to make cybersecurity a priority in their law firms.

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Contact: Donna Wiessner, Operations Manager. Phone: (702) 387-6011. E-mail: donnaw@clarkcountybar.org.
The Office of Nevada Consumer Affairs ("NCA") is a program housed under the umbrella of the Nevada Department of Business & Industry. NCA's mission is to protect consumers from becoming victims of deceptive trade practices by unscrupulous Nevada businesses. NCA's authority stems from NRS Chapter 598, which outlines various types of business conduct that constitute deceptive trade practices.

NCA offers consumers who do not qualify for subsidized legal assistance an alternative to litigating the matter themselves in small claims court.

What Is A Deceptive Trade Practice?

Conduct defined as deceptive trade practices ranges from the very broad—

- conducting a business or occupation without all requisite state, county, or city licenses (NRS 598.0923(1));
- knowingly making any false representation in a transaction (NRS 598.0915(15)); or
- failing to disclose a material fact in connection with the sale or lease of goods or services (NRS 598.0923(2))

to the very specific—

- failing to identify goods for sale or lease as being damaged by water (NRS 598.0921(1));
- issuing a gift certificate without the expiration date printed on the front or back in 10-point font or a toll-free phone number to call to obtain the expiration date (NRS 598.0921(1)); or
- using threatening, intimidating, profane, or obscene language during a solicitation by telephone or sales presentation (NRS 598.0918(1)).

In total, NRS Chapter 598 sets forth 10 statutory definitions of deceptive trade with multiple sub-parts to each, covering a wide variety of business conduct.

What Does NCA Do?

Upon receipt of a consumer complaint (via website, fax, or phone), NCA's team of investigators begins examining the business's alleged conduct. The investigators attempt informal resolution of meritorious complaints and are quite successful in recovering refunds and other settlements on behalf of consumers (NCA recovered $157,000 between January and October 2016). However, if the business contests the allegations or otherwise refuses to reach a resolution, NCA's investigators have the authority to apply to the Director of B&I for the issuance of an Order to Show Cause scheduling a hearing before an Administrative Law Judge ("ALJ").

At the hearing, which is conducted in accordance with the Nevada Administrative Procedures Act as codified in NRS 233B, the NCA investigators bear the burden of proving a violation of Chapter 598 by a preponderance of the evidence. If they succeed, the ALJ has the authority to order the violator to:

- cease and desist the offending activity;
- pay costs and fees;
- provide restitution to the consumer of any money or property improperly received or obtained as a result of the violation; or
• pay an administrative fine of $1,000 or treble the amount of restitution ordered, whichever is greater. (NRS 598.0971(3)).

What Does NCA Not Do?

NCA’s jurisdiction does not extend to non-Nevada businesses, disputes between private individuals, disputes involving criminal conduct, or complaints against governmental entities. Its investigators cannot provide legal advice.

Please remember NCA the next time you hear of a consumer being taken advantage of by deceptive or fraudulent business practices in Nevada.

NCA may be reached at (844) 594-7275 or at www.consumeraffairs.nv.gov.

Denise S. McKay is an Administrative Law Judge with the Nevada Department of Business & Industry. She presides over hearings involving NCA and multiple state agencies, including the Financial Institutions Division, the Manufactured Housing Division, and the Mortgage Lending Division. She can be reached at dsmckay@business.nv.gov.

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Achieving Our Goals of Improving Court Efficiencies and Providing Access

By Chief Judge David Barker

My two years serving as Chief Judge for District Court seemed to have gone by in a flash. We have accomplished much towards achieving our goals of improving court efficiencies and providing access through innovation and integration of technology. Our progress has been nationally recognized. The District Court Guide and File system made the list of the top-10 court technology solutions, as named by the National Association for Court Management. Project 48 cut criminal bind-overs from 10-15 days to 48 hours, produced millions in direct savings, saved thousands of jail days, and was selected by the National Association of Counties for their 2016 Achievement Award in the category of Court Administration and Management. Project 48 demonstrated an impressive cooperative effort that included the Las Vegas Metropolitan Police Department, District Attorney’s and Public Defenders’ offices, Justice Court, District Court, and the Nevada Criminal Defense Lawyers.

DAP and Attorney Corner were replaced with one site/one account that is mobile/tablet friendly with improved search functionality. In early 2017, new enhancements to the electronic filing system will save users time and money. The Clerks’ Office will have the capability to issue Summons, Defaults and Writs electronically. Users will have the capability to save and share documents in case files as PDFs. Records will be accessible through a new portal. All case types will be accessible with the ability to evaluate costs associated with accounts.

The specialty courts continue to move in a positive direction. District Court got a $1.4 million grant from the State Division of Public and Behavioral Health (DPBH) to work to end the cycle of addiction and crime through much needed residential treatment for 80 participants. Residential treatment with wraparound services offers a viable sentencing alternative to jail-time that has proven to result in better outcomes. We identified funding and received approval for a veterans’ court administrator who will help to continue to build on the success of the veterans’ treatment court.

District Court is introducing the option of medically assisted treatment (MAT) to facilitate success for some specialty court participants. The court recently piloted MAT with a specialty court patient. The specialty courts also recently added PassPoint ocular scan and passive breath-testing with instant results as a compliment to urinalysis and breath-testing. High-risk results offenders proceed for urinalysis; low-risk ones do not require further testing. The new system has many benefits including instant results, non-invasive testing and reliability.

The jury check-in and payment automation project, initiated under former Chief Judge Jennifer Togliatti, has been implemented. Automation saves manpower and money and makes processing easier for jurors.

Progress has been made on the commitment to ensure that guardianship case processes and procedures are in line with national best practices. We achieved our priority to get a guardian compliance administrator, recommended a statewide review, implemented accurate and efficient case management protocols, standardized financial audit practices and software, and dedicated a full-time sitting District Court judge to hear all cases. The court will continue to im-
prove guardianship and the work to garner support from the legislative and executive branches.

It has been a great honor and pleasure to serve as chief for two years and as a District Court judge for 10 years. I’ve seen that when an issue surfaces, those who serve the court have risen to the challenge to find solutions. We’ve grown. And we are using technology to navigate and to manage that growth with apps and programs that make us more efficient. It’s that kind of innovation and action that keeps the Eighth Judicial District Court ahead of the curve. I want to thank the judges, attorneys, and staff who are committed and work to continuously improve our court and our justice system. Incoming Chief Judge Elizabeth Gonzalez brings an impressive level of expertise, wisdom, and strength to lead the District Court forward as we face new challenges moving forward.

Chief Judge David Barker has served as a district court judge since 2007. Prior to being elected unanimously by the bench to the role of chief judge, he served on the executive committee, which is comprised of judges with the mission to strategically plan for and manage the court. Chief Judge Barker has been practicing law since 1984.

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Jurors

(1) Where a district court's failure to provide a jury instruction prohibiting jurors from conducting independent research, investigations, or experiments of any kind results in prejudice, the failure may constitute reversible error; and (2) district courts must provide a clear instruction to jurors in all cases to not conduct any form of independent research, investigations, or experiments prior to or during jury deliberations. To prevail on a motion for a new trial alleging juror misconduct, “the defendant must present admissible evidence sufficient to establish: (1) the occurrence of juror misconduct, and (2) a showing that the misconduct was prejudicial.” Thus, “[e]ven if the jurors' behavior was misconduct, not every incidence of juror misconduct requires a new trial. If it appears beyond a reasonable doubt that no prejudice occurred, a new trial is unnecessary.” Prejudice is shown whenever there is a reasonable probability or likelihood that the juror misconduct affected the verdict. A juror’s exposure to extraneous information via independent research or improper experiment is unlikely to raise a presumption of prejudice. In these cases, the extrinsic information must be analyzed in the context of the trial as a whole to determine if there is a reasonable probability that the information affected the verdict. Several factors guide this determination, including how the material was introduced to the jury (third-party contact, media source, independent research, etc.); the length of time it was discussed by the jury, and the timing of its introduction (beginning, shortly before verdict, after verdict, etc.). Other factors include whether the information was ambiguous, vague, or specific in content; whether it was cumulative of other evidence adduced at trial; whether it involved a material or collateral issue; or whether it involved inadmissible evidence (background of the parties, insurance, prior bad acts, etc.). Thus, the district court is required to objectively evaluate the effect the extrinsic material had on the jury and determine whether it would have influenced the average, hypothetical juror. It is not necessary that the extrinsic material be disclosed to the entire jury; a single juror’s exposure to extrinsic material may still influence the verdict because that juror may interject opinions during deliberations while under the influence of the extrinsic material. The determination of juror misconduct is a “factual inquiry,” and the determination of prejudice is a legal inquiry. The Court explained that, given the ease with which jurors may conduct independent research, investigations, and experiments, failure to give an instruction prohibiting jurors from such conduct in any civil or criminal case constitutes error. The Manual of Model Criminal Jury Instructions for the District Courts of the Ninth Circuit (2010) advises district courts to include an instruction regarding the jurors’ consideration of the evidence. Such an instruction should make clear that during deliberations jurors are not to: (1) communicate with anyone in any way regarding the case or its merits—either by phone, email, text, Internet, or other means; (2) read, watch, or listen to any news or media accounts or commentary about the case; (3) do any research, such as consulting dictionaries, using the Internet, or using reference materials; (4) make any investigation, test a theory of the case, re-create any aspect of the case, or in any other way investigate or learn about the case on their own. The Nevada Supreme Court further noted that an appeal based on a district court's failure to provide such an instruction in a case where no juror misconduct occurred would likely be considered harmless error. However, “providing such an instruction in all cases will undoubtedly protect the parties' right to a fair trial and prevent jurors from unknowingly tainting the integrity of the deliberative process.” Bowman v. State, 132 Nev. Adv. Op. No. 74, ___ P.3d ___ (October 27, 2016).

Minimum wage

(1) The Minimum Wage Amendment (MWA) to the Nevada Constitution guarantees employees payment of a specified minimum wage and gives an employee whose employer violates the MWA the right to “bring an action against his or her employer in the courts of this State . . . to remedy any violation”; and (2) because MWA claims are closely analogous to those provided for in NRS Chapter 608, the two-year statute of limitations in NRS 608.260 controls. Because the MWA does not specify a statute of limitations for the right of action it establishes, the Court was asked to determine whether the two-year statute of limitations in NRS 608.260 or the catchall four-year stat-

Minimum wage

(1) The Minimum Wage Amendment (MWA) to the Nevada Constitution guarantees a base wage to Nevada workers, and if an employer "provides" health benefits, it may pay its employees a lower minimum wage than if no such health benefits are provided; and (2) in accord with the plain language of the MWA, employers need only offer a qualifying health plan. The instant case resolves the differing interpretations as to what the term "provides" actually requires. Some people had asserted that, to pay the lower rate, the employer must actually "enroll" employees in a benefits plan, and others had argued that the employer must merely "offer" benefits to employees. The latter interpretation is correct. Separately, the Court held that the MWA's requirement that health benefit premiums be capped at 110 percent of the employee's gross taxable income "from the employer" does not allow the employer to include tips in the calculation of taxable income. MDC Rests. v. Eighth Jud. Dist. Ct., 132 Nev. Adv. Op. No. 76, ___ P.3d ___ (October 27, 2016).

Minimum wage

(1) The Nevada Supreme Court determined in Thomas v. Nevada Yellow Cab Corp., 130 Nev., Adv. Op. 52, 327 P.3d 518 (2014), that the Minimum Wage Amendment to the Nevada Constitution impliedly repealed NRS 608.250(2)(e)'s exemption of taxicab drivers from minimum-wage requirements; and (2) in the instant case, the Court held that "[a]s this court's function is to declare what the law is, not to create the law, we conclude that NRS 608.250(2)(e) was repealed when the Amendment became effective" in 2006. Here, the Court was asked to consider whether its prior holding in Thomas is effective from the date the opinion was published in 2014, or whether it should apply retroactively from the date the Amendment was enacted in 2006. The Court held that "when we interpret a constitutional amendment and conclude that it impliedly repeals a statute, that decision applies retroactively to when the amendment was enacted regardless of the balance of equities." Thus, in Thomas, the Court simply declared what the law was upon enactment of the Amendment in 2006; the Court did not create the law in 2014. Nev. Yellow Cab v. Eighth Jud. Dist. Ct., 132 Nev. Adv. Op. No. 77, ___ P.3d ___ (October 27, 2016).

Resources

- “Advance Opinions” are viewable at this link: http://nvcourts.gov/Supreme/Decisions/Advance_Opinions/
- A list of “Forthcoming Opinions” is available every Wednesday at this link: http://nvcourts.gov/Supreme/Decisions/Forthcoming_Opinions/
- “Supreme Court Unpublished Orders” are viewable at this link: http://nvcourts.gov/Supreme/Decisions/Unpublished_Orders/
- “Court of Appeals Unpublished Orders” are viewable at this link: http://nvcourts.gov/Supreme/Decisions/Court_of_Appeals/Unpublished_Orders/

Joe Tommasinohas 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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Who is the viewer/listener who wants CLE credit?

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Total amount for all items?

$ ______ Subtotal (for all selections)  
$ ______ Shipping & handling fee  
$ ______ Total amount enclosed

How to make payment?

- Check or money order is enclosed; or
- I authorize the CCBA to charge my credit account  
  (circle one): AMEX   Mastercard   VISA
  Name on card: ____________________________
  Card #: ________________________________
  Exp. date: _______  Phone: _____________
  Signature: ________________________________________

Where to send CLE materials? (Provide e-mail address in section above for orders requesting MP3 & MP4 formatted CLE materials.)

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What are CCBA’s rental and purchase policies?

- To share a title with additional viewer(s)/listener(s) at your firm, then CCBA member discounts are available on original purchase/rental for those who want to view/listen to the same rental/purchase and receive CLE credit*. The original order must include additional fee per credit along with name and bar number of additional CCBA member viewers/listeners: 1 Credit - $15 additional, 2 Credits - $30 additional, 3 Credits - $45 additional. *NOTE: Not available for online orders.
- All DVD rentals are due back within two weeks of receipt. There will be a $10 fee/week for late items. There will be a $100 fee for lost or stolen items.
- Please add an additional $25 PER DVD to purchase.
- Purchases require 72 hour advance notice.
- When purchasing, CLE declarations verifying attendance will be available at the time of purchase only. When renting, CLE declaration verifying attendance will be available upon return of the undamaged rental item.
- It is the seminar attendee’s responsibility to file CLE declarations with the CLE Board.
- The Clark County Bar Association does NOT keep CLE records for audio / visual seminar attendees.
- If you attended the live seminar or have previously rented or purchased any of these titles, credit will not be awarded again.

To complete your order, submit form with payment to:

Clark County Bar Association, P.O. Box 657, Las Vegas, NV 89125 or FAX: (702) 387-7867. Want to call in payment? Call CCBA at (702) 387-6011. Orders can also be made online at https://www.clarkcountybar.org/events/recorded-cle-seminars/.
Pro Bono Corner

Remembering the Impact of Pro Bono

By Madison Zornes-Vela, Esq.

As a busy second-year law firm associate, I am familiar with the often competing demands of advocacy, practice, and professional development and maintaining a functional family and social life. Under these circumstances, it can be very easy for pro bono work to slip to the background of our priorities. Fortunately, a recent experience reinforced to me that by neglecting this important practice obligation, I would be missing out on some of the most meaningful representation opportunities available.

In August 2015, our firm took on a CAP (Children's Attorney Project) case from the Legal Aid Center of Southern Nevada, involving an infant who had come into Division of Child and Family Services (DCFS) care after he was presented to the hospital with serious brain injuries. Due to the child's injuries, he would need intensive medical care, including a brain shunt, physical therapy, and numerous surgeries. Thankfully, even with all of the child's present and future medical needs, DCFS was able to quickly locate an adoptive resource, who was considered the natural mother's fictive kin, which is a person who is unrelated by either birth or marriage, but whose relationship with the parent has the characteristics of a family relationship. From the moment the child was placed with the adoptive resource, it was clear that the child was going to be well cared for, safe, and loved by a truly selfless person.

During the course of the case, the parental rights of the child's natural father were terminated and the child's natural mother voluntarily relinquished her parental rights. It was clear that this was a difficult and emotional decision for the child's mother, but that she ultimately felt that the adoptive resource would provide a better life for her child than she could. She thus signed an adoption agreement with the adoptive placement.

In August 2016, the child's adoption hearing was held. This was my first experience at an adoption hearing and I had no idea what to expect. When the adoptive placement arrived, she was joined by ten members of her family, ranging from small children to adults. Their excitement was apparent as they all came flowing into the courtroom. The judge took the time to speak with the family members and it was so heartwarming to see how happy they all were that the child was "officially" joining their family. During the portion of the ceremony where the judge orders that the child's last name be changed, the family members asked the judge if the child could take their last name as well. The incredible meaning behind this request was so touching. When the formal portion of the ceremony was complete, the family members took pictures with the judge and the child and the true joy of the occasion was apparent on all of their faces. The amount of love and excitement in the courtroom that day was overwhelming and something I will never forget.

Although every CAP case I have worked on has been rewarding, this case will always stand out as a truly memorable pro bono experience.

To learn more about volunteer opportunities, contact Pro Bono Project Director Noah Malgeri at (702) 386-1429 or nmalgeri@lacsn.org.

Madison Zornes-Vela is an Associate at Kemp, Jones & Coulthard, LLP. She graduated from the UNLV Boyd School of Law in 2014, and then completed a clerkship for the Honorable Judge Elissa Cadish prior to joining the firm in 2015.
MINA AND RUTH REALLY HIT THE JACKPOT

Even in this big state, making a connection is closer than you think.

In Nevada and across the country, lawyers from every walk of the profession are looking to connect with other lawyers for mentorships, guidance and career opportunities. This is especially important right now in Nevada’s rural communities, many of which have little-to-no access to a legal professional.

ALPS, the State Bar of Nevada’s endorsed professional liability insurance carrier, is proud to introduce ALPS Attorney Match. Whether you’re nearing retirement and looking to transition your practice or you’re thinking about hanging your own shingle out on Main Street, ALPS Attorney Match can help you connect with others in the field. ALPS Attorney Match is free and sign up is quick and easy.

Create your ALPS Attorney Match profile today. The first 200 Nevada attorneys to register will be entered to win an iPad mini.

http://nevada.alpsattorneymatch.com
CCBA at Work

Publications Committee Invites New Members

By Paul C. Ray, Esq.

The Clark County Bar Association Publications Committee invites CCBA members to attend meetings on the first Tuesday of each month at the CCBA office at 717 South Eighth Street. The committee selects topics to feature, authors to contribute, and articles to publish in the award winning Communique magazine. Committee members work together to develop interesting and informative articles for readership by the CCBA members and others.

Each member can contribute to and benefit from the monthly discussions about growing areas of practice and cutting edge issues. Once a year, usually in August, the committee decides the agenda of legal topics to be featured in the coming year. The list of topics for each year appears near the front of each edition of the Communique and can range from family law to constitutional law to corporate law to criminal law and beyond. Each committee member typically receives multiple opportunities to publish an article on a topic of choice. Some less active committee members also publish at least once annually. Many appreciate the opportunity to improve and sharpen their writing and editing skills, and to have editors polish their articles for publication.

Committee members have varied backgrounds and areas of expertise and practice. They learn a great deal from each other as they work together to serve CCBA members and others in the community who read the Communique. Committee members’ friendships with each other extend throughout the community and into other volunteer and professional settings as well. Communique readers, judges, and other leaders frequently express appreciation for the work product of the committee.

Committee members reach out to judicial, specialty, and other practice leaders in Las Vegas who generously share their insights on the most important and practical issues facing the legal community. The contributing authors appreciate the opportunity to publish in the Communique. Many committee members have made friends with community leaders simply by inviting them to write an article. Past and present Chief Justices and other Justices of the Supreme Court of Nevada, as well as many of the chief and other judges of the Nevada Court of Appeals, the Eighth Judicial District Court, the Justice Court, and the specialty and municipal courts have frequently contributed articles and features.

Committee members discuss many enlightening subjects at the monthly meetings. The committee welcomes both new and seasoned members who enjoy participating and contributing to the success of the Communique and to the professionalism of the members of the CCBA and to the entire legal community. 

Paul C. Ray is finishing his two year term serving as the Editor-in-Chief of the Communique and as the Chairman of the CCBA Publications Committee, which service he considers an honor, a privilege and a choice life experience. He is thankful for the talented and wonderful Heather Anderson-Fintak, who is the incoming Editor-in-Chief and Committee Chair; for all the wonderful committee members, the CCBA employees; and for the other friendships developed from working on the committee. Paul practices business and real estate litigation and appeals at the law firm of Paul C. Ray, Chtd.
New Lawyers Committee Activities

By James T. Leavitt, Esq.

In addition to organizing social mixers, producing CLE seminars, participating in the Meet Your Judges Mixer, and creating the New Lawyers Survival Guide, the New Lawyers Committee of the Clark County Bar Association actively works with the William S. Boyd School of Law to promote three competitions among the students of the law school. The most recent competition among such students was the UNLV William S. Boyd School of Law Client Counseling Competition, which was held on October 21st and 22nd at the William S. Boyd School of Law. The competition had more than forty student competitors and forty volunteer judges participate in the event. This year’s competition required the competitors to counsel clients who faced difficult civil law problems.

After participating in preliminary and semi-final rounds of the competition, three student teams advanced to the final round and placed as follows: (1) First Place: Will Carter & Connor Saphire; (2) Second Place: Landon Littlefield and Theresa Guerra; and (3) Third Place: Marc Kustner & Jocelyn Murphy. There was also an honorable mention this year: Margaret Higgins & Ariana Reed. Each finalist team received cash prizes from the Bank of Nevada and award certificates from the Clark County Bar Association.

The Clark County Bar Association would like to thank the following attorneys and judges for volunteering their time to make the competition a success:

Dana Cotham  
Cayla Witty  
Cheryl Grames  
Jason Maier  
Joseph Gutierrez  
Jason Close  
Michael Gebhart  
Stephen Davis  
Sophia Long  
Tony L. Brewer  
Pauline Beigel  
James T. Leavitt  
Amanda Stevens  
Stephanie Zinna  
Deanna Forbush  
Final Round Judges:  
Sonja Saltman  
Justice Michael A. Cherry  
Jessica Guerra

James T. Leavitt is an attorney and President of the law firm Leavitt Legal Services, P.C. and primarily practices bankruptcy and bankruptcy litigation.
The Clark County Bar Association (CCBA) hosts sessions at the CCBA's office for members to come sit for a portrait made by a professional photographer. The next session will be held in 2017.

**DATE:** Wed. February 22, 2017  
**TIME:** 9 a.m. to 2 p.m.  
**LOCATION:** Clark County Bar Association, 717 S. 8th Street, Las Vegas, NV 89101

*Drop-ins are welcome.  
Dress for success.*

Portraits are for CCBA to publish in the CCBA Members Directory at [https://www.clarkcountybar.org/members](https://www.clarkcountybar.org/members) and in the bar journal Communiqué, as needed.

Members can purchase their portrait(s) directly from the photographer. Members will be offered special pricing*:  

**Special Offer For CCBA Members:**  
Get 1 Digital Image for $79  
or 2 Digital Images for $99.

*Restrictions apply to this offer:  
The 2017 CLE Passport is valid January 1, 2017 to March 1, 2018 and available only to members of the Clark County Bar Association (CCBA). CCBA membership must be renewed for the CLE Passport to remain valid from January through March during the upcoming membership years. This offer is non-transferable and limited to CCBA members for admittance to CCBA-sponsored CLE seminars during the current calendar year. This offer does not include CCBA CLE seminars that are co-sponsored by other organizations (e.g. the State Bar of Nevada).

**Contact:** Donna Wiessner at donnaw@clarkcountybar.org or (702) 387-6011.
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Clark County Bar Luncheons

Volunteer Appreciation Awards & Annual Meeting

Wednesday, December 14, 2016
12:00 to 1:00 p.m.
Doors open at 11:30 for luncheon check-in.

Cili Restaurant
Bali Hai Golf Club, 5160 S. Las Vegas Blvd., Las Vegas

Featured Speaker
Bryan K. Scott, Esq.
President, State Bar of Nevada

Meet Bryan and learn about our State Bar. The CCBA will present awards and recognize members who supported the association’s activities and services. We will hold the election for the CCBA 2017 Executive Board at this event too.

RSVP by December 9, 2016
To RSVP, please use registration form on page 17, call CCBA at (702) 387-6011, or register online at clarkcountybar.org.

Ethics in Government Law CLE Luncheon

Thursday, January 26, 2017
12:00 to 1:30 p.m.
—Note: Extended time
Doors open at 11:30 for luncheon check-in.

Vic & Anthony’s Steakhouse
Golden Nugget, 129 E. Fremont Street, Las Vegas

Featured Speaker
Yvonne M. Nevarez-Goodson, Esq.
Executive Director, Nevada Commission on Ethics

Learn more about the provisions of the Ethics in Government Law set forth in NRS 281A.

BONUS: 1 ETHICS CLE CREDIT AVAILABLE TO NV ATTORNEYS
—AN ADDED VALUE AT NO EXTRA CHARGE!

RSVP by January 20, 2017
To RSVP, please use registration form on page 17, call CCBA at (702) 387-6011, or register online at clarkcountybar.org.

Take a break. Catch up with colleagues. Support your local bar.

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