



# NEVADA Legal Update

Fall 2014

A l v e r s o n   T a y l o r   M o r t e n s e n   &   S a n d e r s   •   N e v a d a ' s   L a w   F i r m

## HIGHLIGHTS

### Nevada Supreme Court Clarifies Standard for Testimony of a Treating Physician and Prohibits Ex Parte Communication with an Opposing Party's Experts

Whether the testimony of a treating physician must be stated to a "reasonable degree of medical probability" depends on the purpose of the testimony, and whether it supports an alternative causation theory. Further, counsel is prohibited from contacting an opposing party's expert, including a non-retained treating physician, without express consent.

### Entertainer Awarded More Than \$1.3 Million after Backstage Fall

A professional comedian, hired to perform at the Bellagio Hotel and Casino, allegedly tripped and fell over an unsecured speaker cord resulting in a complete rupture of his Achilles tendon. The jury awarded the plaintiff \$1,308,500.00 for personal injuries and alleged lost wages.

## NEVADA SUPREME COURT DECISIONS

### MEDICAL MALPRACTICE

#### A Treating Provider Need Not Testify to a Reasonable Degree of Medical Certainty if Contradicting a Plaintiff's Causation Theory and Parties Must Obtain Express Consent Before Contacting an Opposing Party's Expert

Plaintiff filed a complaint alleging medical malpractice and negligence. Plaintiff specifically asserted that after receiving Lasik corrective surgery on both eyes she experienced ocular irritation and subsequently lost a majority of her sight. Defendant denied liability and asserted that Plaintiff's deteriorating eye condition may have resulted from abuse of numbing eye drops.

In support of Defendant's theory, Defendant called Plaintiff's treating physician to testify at trial. Plaintiff's treating provider testified that, in his opinion, plaintiff could have returned to her best corrective vision had she followed his instructions and recommendations, but conceded that this was speculation. He also testified that, while not the cause of the defect, it was possible that Plaintiff's use of numbing eye drops caused her vision to deteriorate and contributed to her lack of improvement. The jury returned a verdict for Defendant and Plaintiff appealed.

The Nevada Supreme Court determined the testimony offered by Plaintiff's treating physician was permissible pursuant to Williams v. Eighth Judicial District Court, 127 Nev. 262 P.3d 360 (2011). Williams provided that the testimony of a defense expert need not be stated to a reasonable degree of medical probability when being used to controvert an element of the plaintiff's claim, rather than

establish an independent theory of causation. Here, Defendant did not offer the expert's testimony to establish the alternative causation theory that eye damage resulted from abuse of numbing drops, rather than defendant's actions. Rather, the expert's testimony was offered to furnish reasonable alternative causes to those offered by Plaintiff.

On appeal, Plaintiff also asserted that defense counsel contacted the Plaintiff's treating physician without express consent, thereby warranting a new trial. Defendant argued the communication with the expert was necessary only to coordinate the physician's appearance at trial. The Nevada Supreme Court initially noted that a plaintiff's claim for personal injury or medical malpractice served as a limited waiver of the physician-patient privilege with regard to directly relevant and essential information necessary to resolve the case. Further, the Nevada Rules of Civil Procedure affirmatively allow formal depositions of individuals who have been identified as experts whose opinions may be presented at trial. NRCP 26(b)(4). Rule 26 does not, however, contemplate ex parte communications with the opposing party's expert witnesses. The Court also noted that the professional ethics rules for the Ninth Circuit Court of Appeals preclude counsel from speaking directly to an opposing party's expert. Erickson v. Newmar Corp., 87 F.3d 298, 301 (9th Cir. 1996).

The Nevada Supreme Court ultimately balanced the desire for confidentiality with the need for full disclosure of relevant medical information and concluded there was no need to allow ex parte communication with an opposing party's expert, absent express consent. While the Nevada Supreme Court agreed that improper ex parte communication had occurred, Plaintiff's motion for a new trial was properly denied. The Court noted that the physician's trial testimony remained unchanged from his prior deposition testimony, and therefore Plaintiff did not suffer prejudice as a result of the conduct of Defendant. Leavitt v. Siems, 130 Nev. Adv. Rep. 54 (2014).

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## NEGLIGENCE

### Federal Law Preempts State Law Negligence Claims Against Medicare Advantage Plans

Plaintiff was a Medicare beneficiary who received Medicare benefits through a plan offered by Defendant Health Plan of Nevada. Defendant specialized in health maintenance and/or managed care, and provided insurance, including the administration of Medicare Advantage Plans. Under Health Plan of Nevada's insurance contract, Plaintiff was required to seek medical care from providers chosen by Health Plan of Nevada. Defendant contracted with the Endoscopy Center of Southern Nevada, the Gastroenterology Center of Nevada, and their physicians. In 2006, Plaintiff was treated at the Endoscopy Center based on its status as a contracted provider for Defendant and, as a result, allegedly contracted Hepatitis C.

Plaintiff alleged that Defendant breached its duty to use reasonable care to select its contracted health care providers and to inquire into the medical practices at the clinic, and was therefore negligent in directing him to seek treatment at the clinic. Plaintiff further claimed that Defendant failed to properly investigate the clinic and knew or should have known that the clinic engaged in unsafe medical practices, which caused a high risk of transmission of blood borne pathogens, such as Hepatitis C. The trial court dismissed Plaintiff's Amended Complaint based on the Medicare Act's preemption statute. Plaintiff appealed.

The Nevada Supreme Court noted that, pursuant to the Medicare Act, beneficiaries may receive Medicare benefits through Medicare Advantage (MA) plans provided by private entities called MA organizations. MA organization and plan contracts are subjected to extensive regulation by the Centers for Medicare and Medicaid Services. Importantly, each MA organization was required to adhere to a federally regulated quality improvement program. Although the Centers for Medicare and Medicaid Services did not directly select the physicians or facilities that were included in an MA plan's network, federal regulations required an MA organization to select and retain only those providers that met the qualifications specified in the Medicare Act. Plaintiff's common law negligence claim was therefore expressly preempted by the Medicare Act, which stated that state laws and regulations that

regulate health plans do not apply to MA plans offered by MA organizations unless they pertain to licensure and/or solvency.

The Nevada Supreme Court compared the instant case to its prior reasoning in Pacificare of Nevada, Inc. v. Rogers, 127 Nev. 266 (2011). In Pacificare, the plaintiff filed suit against Pacificare, her Medicare provider, for injuries resulting from treatment she received at a Pacificare approved facility under its MA plan. The plaintiff asserted that Pacificare was liable for her injuries because it neglected to employ a proper quality assurance program. In resolving the issue, the Nevada Supreme Court considered express language and legislative history of the Medicare Act's preemption provision and concluded that the Medicare preemption statute demonstrated a legislative intent to broaden the preemption provision beyond those state laws that were simply inconsistent with enumerated categories of standards. Thus, all state standards, including those established through case law, were preempted to the extent they would specifically regulate MA plans.

Plaintiff also asserted that even if the Medicare Act's preemption provision applied to state common law negligence claims, it did not apply to Plaintiff's claims asserted against his MA organization and plan. After looking to the plain language of the Medicare Act's preemption provision, the Nevada Supreme Court decided that MA plans can only be offered by MA organizations, and a claim regarding one is necessarily a claim against both. Plaintiff failed to provide any support for his assertion that his negligence claims fall outside the Medicare preemption provision, and the dismissal of his Amended Complaint was therefore upheld. *Morrison v. Health Plan of Nevada, Inc.*, 130 Nev. Adv. Rep. 55 (2014).

## NEVADA JURY VERDICTS

### PERSONAL INJURY

#### Jury Returns Verdict for Plaintiff for Injuries Sustained When He Captured a Loose Dog

Plaintiff, a 28 year-old male pest control technician, was retrieving equipment from his vehicle and noticed Defendant's dog running loose. Plaintiff allegedly grabbed the Defendant's

Golden Retriever as it ran toward him and the dog bit him. Defendant, a 45 year-old pastor, denied liability, asserting that he never asked Plaintiff to stop his dog and that the dog bit Plaintiff only after he tackled and injured it. Plaintiff received a puncture wound to his left arm and sought compensatory damages, including \$80,000.00 in medical expenses.

Plaintiff made a pretrial demand of \$200,000.00 and Defendant countered with \$100,000.00. After a one day short trial, the jury awarded Plaintiff \$300,000.00 in compensatory damages. The Defendant was found to be 100 percent at fault. *Ryan v. Miranda*, May 9, 2014.

#### Plaintiff Awarded Medical Specials Resulting From a Low Impact Collision

On Defendant's appeal of Plaintiff's total arbitration award of \$14,469.30, a 23 year-old female actress alleged she was rear-ended by Defendant. Defendant, a handyman, admitted negligence, but maintained that Plaintiff's alleged injuries were not causally related to the subject incident, as the impact was minor. Plaintiff allegedly sustained cervical, thoracic, and lumbar soft tissue injuries, with residual headaches. Plaintiff sought compensatory damages, including \$5,469.30 in medical expenses. Plaintiff served a pretrial Offer of Judgment for \$9,999.00; Defendant refused to make an offer. During closing arguments, Plaintiff argued that her treatment was reasonable and necessary. Defendant maintained that the impact was very minor and noted that Plaintiff failed to seek treatment until one week after the accident. After a one day short trial, the jury awarded Plaintiff \$5,469.30. *Elgrichi v. Reiland*, April 11, 2014.

#### Verdict for Subcontracted Employee Injured While on Employer's Premises

Plaintiff, a 46 year-old female, alleged she was sent to Defendant hospital as a subcontracted employee, responsible for making copies of various medical records. Plaintiff alleged that, while performing her duties, she inhaled unsafe chemicals in Defendant's medical record department after Defendant's employees negligently waxed the floor area without assuring there was adequate ventilation. Plaintiff alleged that Defendant was negligent in its maintenance of the area, failed to warn of the dangerous condition and failed to properly train its maintenance employees to ensure safety

on the property.

As a result of the contact with the chemicals, Plaintiff allegedly developed reactive airway dysfunction syndrome. When Plaintiff's worker's compensation coverage terminated six months after the incident, she was unable to obtain her prescription medication, which allegedly resulted in a stroke. Defendant denied liability.

Plaintiff sought compensatory damages, including approximately \$180,000.00 in medical expenses and \$100,000.00 in lost wages. After a nine day trial the jury awarded Plaintiff \$621,122.00 in compensatory damages. *Wright v. Valley Health System, L.L.C.*, March 6, 2014.

### **Truck Driver Found Liable for Another Vehicle's Rollover**

Defendant was operating a tractor-trailer in the course of his occupational duties as a truck driver for Defendant Pet Food Wholesale. Plaintiff, a 19 year-old female retail clerk, alleged that Defendant negligently executed a lane change into Plaintiff's lane of travel, which caused her to lose control and roll her vehicle. Plaintiff sustained a degloving injury to her dominant left hand.

Defendants denied liability and asserted that Plaintiff was either traveling in Defendant's "blind spot" or she attempted to "shoot the gap" to avoid travelling behind Defendant's tractor-trailer. Defendants called an accident reconstructionist to testify in support of their theory. Plaintiff called a psychiatrist, a hand surgeon, a vocational rehabilitation expert and economist to testify as to Plaintiff's alleged damages.

Plaintiff sought \$199,525.48 in past medical expenses, plus \$64,581.00 to \$87,381.00 for future medical treatment. Plaintiff served an \$825,000.00 pretrial Offer of Judgment and during closing arguments, Plaintiff's counsel asked the jury to award more \$5 million. After a 12 day trial, the jury awarded Plaintiff \$1,261,780.22, but found her to be 10 percent at fault. *Kumar v. Pet Food Wholesale, Inc.*, February 5, 2014.

## **MEDICAL MALPRACTICE**

### **Jury Returns Defense Verdict as to Claims Resulting from Plaintiff's Apparent Suicide**

Decedent, a 23 year-old female, professional golfer, was survived by her parents who brought suit for her wrongful death. Defendant, a

medical physician, met decedent through mutual friends at a Country Club and treated decedent four times for minor health issues. Five months after their initial meeting, decedent and Defendant developed a romantic relationship.

On May 8, 2010, Defendant arrived at decedent's residence and found her intoxicated. Decedent was instructed to take a shower and the pair then chipped golf balls in decedent's backyard until 9:00 p.m., when Defendant went home to his pregnant wife. On May 9, 2010, Defendant called decedent 17 times, but was unable to reach her. He then drove to her home and gained entry through an unlocked rear door. Defendant found decedent in her bedroom with a plastic bag secured with rubber bands around her head. Defendant removed decedent's suicide note and a blister pack of Xanax, which appeared to be from Mexico, and placed them in the trunk of his vehicle. Decedent's cause of death was determined to be suicide by asphyxiation.

Plaintiffs alleged Defendant fell below the standard of care when he prescribed medication without determining decedent's medical conditions, allergies to the medications, or whether decedent was at risk for taking medications other than those prescribed. Plaintiffs further alleged that Defendant did not properly document decedent's medical chart with the prescribed controlled substances, and failed to properly evaluate her on May 8 and left her in a medically compromised condition. Plaintiffs also claimed that a combined drug intoxication was a significant cause of decedent's death. Defendant denied falling below the standard of care.

Plaintiffs sought compensatory damages and punitive damages. After a seven day trial the jury returned a verdict for Defendant. *Blasberg v. Hess, M.D.*, May 13, 2014.

### **Jury Finds for Decedent's Family after Overdose on Methadone**

Decedent was treated by Defendant physician for several years preceding his death. During the course of his treatment, Defendant discussed referring decedent to an opioid addiction specialist and prescribed a one month supply of Methadone, ten milligrams. Decedent began taking the prescribed Methadone and experienced insomnia, hallucinations and constipation. After four days, decedent experienced pinpoint eyes, profuse sweating, twitching in his sleep, sleep walking, blue-tinged lips and an ashen complexion. Decedent's spouse contacted Defendant's office and was advised by the staff that the decedent's

symptoms were normal and the information would be passed along to the Defendant. Twenty minutes later, decedent stopped breathing and died. Decedent's cause of death was determined to be Methadone intoxication.

Decedent was survived by his spouse and three minor children, who brought suit for his wrongful death. Plaintiffs alleged that Defendant fell below the standard of care when he negligently prescribed methadone for opioid addiction and failed to conduct a thorough medical assessment and physical evaluation. Plaintiffs also alleged that Defendant's medical staff fell below the standard of care when they advised decedent's spouse that the symptoms were normal and failed to recommend that decedent be taken to the emergency department. Additionally, Plaintiffs alleged that the Defendant failed to respond to decedent's wife and failed to supervise and/or train employees in appropriate counseling to patients. Defendant denied falling below the standard of care and maintained that decedent was comparatively at fault for not properly following the prescription's instructions and for taking more than was prescribed.

Plaintiffs sought between \$3 million and \$4 million in damages. After a 13 day trial, the jury found Defendant to be 53 percent at fault. Decedent's estate recovered \$1,592,650.00; decedent's spouse was awarded \$530,000.00; two of decedent's children received \$1,060,000.00 and the third child received \$795,000.00. *Davis and Davis, Estate v. Gautham Gummadi Reddy, M.D., Ltd.*, June 18, 2014.

### **Plaintiffs Awarded More Than \$2.6 Million Following Wisdom Tooth Extraction**

Decedent presented to Defendant dentist for routine dental work and underwent a new patient examination. Decedent returned to Defendant one month later for an extraction of his wisdom teeth. Following the extraction, the decedent experienced ongoing severe pain in the extraction area on the right side of his face, jaw and neck, and experienced difficulty swallowing. Decedent allegedly contacted Defendant via telephone two days later and was advised to call again if his symptoms failed to subside in four to five days. Four days after the extraction, decedent continued to experience symptoms and developed difficulty eating, speaking, and breathing and was vomiting. Decedent was taken to the hospital by ambulance where he was admitted to the Intensive Care Unit. Decedent



was administered antibiotics and drainage of his neck was performed, but decedent passed nine days after the extraction.

Decedent's spouse and minor son asserted claims for wrongful death. Plaintiffs alleged that Defendant fell below the standard of care by providing decedent incorrect advice when he called after the extraction. Plaintiffs also asserted that Defendant failed to obtain decedent's informed consent regarding the use of antibiotics to prevent infection. Further, Plaintiffs claimed that as a result of Defendant's negligence, decedent developed necrotizing mediastinitis, septic shock and Ludwig's angina from the dental abscess, which resulted in his death.

Plaintiffs relied on the testimony of an infectious disease specialist and a dentist who opined that Defendant fell below the standard of care. Defendant denied liability and maintained that there were no complications during the procedure. Defendant argued that decedent was given both verbal and written postoperative instructions, which instructed decedent to contact the office or go to the emergency room if he experienced any severe or unexpected complications. Defendant also asserted that she was not contacted or aware of decedent's condition and/or potential complications, nor did Defendant instruct an employee of the dental office to give medical advice and/or instructions to the decedent. Defendant relied on the testimony of an infectious disease specialist and an oral and maxillofacial surgeon at trial.

Plaintiffs sought compensatory damages plus \$600,000.00 in loss of support. After a seven day trial, the jury found decedent to be 25 percent at fault. Decedent's spouse was awarded \$738,750.00 in compensatory damages and decedent's minor child was awarded \$1,863,750.00. *Singletary v. Lee, D.D.S.*, January 22, 2014.

## PREMISES LIABILITY

### Defendant Not Liable For a Trip and Fall on its Premises

Plaintiff, a 57 year-old female accounts payable clerk, alleged that while on Defendant's premises she was injured when her shoe became stuck in a concrete expansion joint, which caused her to trip and fall. Plaintiff alleged Defendant was negligent in its maintenance of the premises, and failed to fill the concrete

expansion joint to a sufficient level required to prevent the hazardous condition.

Plaintiff relied on the testimony of an architect who opined that the expansion joint failed to meet the building code, and a safety engineer who opined the expansion joint could have been a tripping hazard. Defendant denied liability and maintained that it had no notice of the condition. Defendant further argued that there had never been a fall involving any of the 58,000 feet of expansion joints and that its maintenance of the premises was reasonable.

As a result of the fall, Plaintiff allegedly sustained a fractured left elbow. Her orthopedic physician opined that Plaintiff would develop arthritis and may possibly require future surgery. Defendant retained an orthopedic physician who opined that the fracture was causally related to the fall, but maintained that Plaintiff would not develop arthritis or require future surgery.

Plaintiff sought \$119,000.00 in medical expenses and more than \$10,000.00 in lost wages. Plaintiff made a pretrial demand of \$350,000.00 and Defendant offered \$135,000.00. After a five day trial, the jury returned a verdict for Defendant. *Biondi v. Paris Las Vegas Propco, L.L.C.*, May 23, 2014.

### Jury Returned Verdict for Entertainer Who Suffered Injury Backstage

Plaintiff, a 61 year-old male professional comedian, was hired to perform at the Bellagio Hotel and Casino. Plaintiff alleged that Defendant's staff negligently set up the stage, causing Plaintiff to trip and fall over an unsecured speaker cord. Plaintiff sustained a complete rupture of his Achilles tendon, which resulted in a permanent limp. Defendant denied liability and argued Plaintiff was contributory negligent.

At trial, Plaintiff called an entertainment expert, an orthopedic physician and an economist who estimated Plaintiff's damages

were \$7,500,000.00. Defendant relied on the testimony of an orthopedic physician and an economist. Plaintiff sought \$3,214,632.00 in past lost wages; \$4,121,970.00 in future lost wages; and medical expenses. Plaintiff made a pretrial demand of \$500,000.00 and Defendant countered with \$175,000.00. After a 15 day trial, the jury returned a verdict for the Plaintiff and awarded \$1,308,500.00. *Wallace v. Bellagio, L.L.C.*, April 8, 2014.

## BREACH OF CONTRACT

### Plaintiff Awarded Damages and Ownership Interest in Business Established during Plaintiff's Divorce

Plaintiff and Defendant were engaged to be married in 1999 and allegedly established and operated Canyon Gate Cleaners as equal co-owners. Plaintiff also owned and operated a machinery sales corporation in Phoenix, Arizona, and utilized his resources and equipment to find a location and equip Canyon Gate Cleaners. Because Plaintiff was involved in divorce proceedings at the time, Defendant suggested that Plaintiff not be listed as an officer and shareholder of Canyon Gate in order to insure Plaintiff's wife would not assert a lien on the business. It was agreed that Defendant would constructively hold Plaintiff's interest in the business, which flourished over the next ten years. The parties shared the income from the business and purchased various personal properties that they jointly owned. Subsequently, however, Defendant removed Plaintiff from their home and business by filing a temporary restraining order. Plaintiff alleged that Defendant breached their agreement to sell the business and divide their personal assets.

Defendant denied liability and maintained that Plaintiff was neither an owner nor an interest holder in the business. Defendant further alleged that Plaintiff did not start or operate the business, did not contribute funds or other consideration to the operation, did not design the business and had no financial or "sweat equity." Defendant asserted she hired Plaintiff as a paid consultant through his businesses, LES Systems, Inc., and Lorenz Equipment Sales, and that she purchased the residence where they lived from 1998 through 2009.

After a nine day trial, the jury awarded Plaintiff \$944,000.00 in compensatory damages

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and \$2,400.00 per month until the business was sold or renegotiated. Plaintiff was also awarded 50 percent ownership in the business. *Lorenz v. Canyon Gate Enterprises, L.L.C.*, March 27, 2014.

## COMMENTS

The general election on November 4, 2014, will include judgeships in 15 departments in the Eighth Judicial District Court for Clark County, Nevada. Judge Valorie Vega recently announced that she will not seek re-election in Department 2, and will be replaced by either John Watkins, Esq. or Richard Scotti, Esq. Mr. Watkins graduated from Saint Louis University School of Law in 1980 and was employed with the Clark County District Attorney's Office for two years before starting his own practice in 1983. Mr. Scotti graduated from Hastings College of Law in 1988 and is currently a partner at Kemp, Jones & Coulthard, focusing on general civil litigation.

In Department 3, Michael Davidson, Esq. challenges the incumbent Honorable Judge Douglas Herndon. Judge Herndon was appointed to the bench in 2005. Prior to his appointment, Judge Herndon was the Chief Deputy District Attorney in the Special Victims Unit where he specialized in the prosecution of cases involving child abuse, homicide and the sexual abuse of women and children. Judge Herndon is currently the Chief Criminal Presiding Judge. In the 2013 judicial review in the Las Vegas Review Journal, Judge Herndon received an approval rating of approximately 81% from Las Vegas attorneys.

Michael Davidson graduated from the University of Miami in 1974 with a Bachelor's in Biology and obtained a law degree from the University of Arizona in 1978. Mr. Davidson is a shareholder at the law firm of Kolesar & Leatham and focuses his practice on civil and domestic litigation, criminal defense and personal injury. Prior to joining the law firm, Mr. Davidson was a prosecutor at the Clark County District Attorney's Office.

Steve Smith, Esq., challenges the incumbent Honorable Judge Kerry Earley in Department 4. Judge Earley was appointed to the bench in 2012. Prior to her appointment, Judge Earley was a lead litigation attorney at the Richard Harris Law Firm and has specialized in complex civil litigation. Mr. Smith received his law degree from Rutgers Law School in Newark, New Jersey. He has been a court-appointed arbitrator since 1997 and a short trial judge since 2006.

In Department 5, William Horne, Esq., challenges the incumbent Honorable Judge

Carolyn Ellsworth. Judge Ellsworth was appointed to the bench in 2011. Prior to her appointment, she was the Vice President of Mirage Resort's Risk Management Department. She was also employed as a Securities Division Administrator in the Secretary of State's Office. In the 2013 judicial review in the Las Vegas Review Journal, Judge Ellsworth received an approval rating of approximately 51% from Las Vegas attorneys.

Mr. Horne received a Bachelor's in Criminal Justice from the University of Nevada, Las Vegas, and Juris Doctor from William S. Boyd School of Law. After working for numerous firms he focused his legal practice on criminal defense, personal injury and contract disputes. In addition to his practice of law, Mr. Horne serves in the Nevada State Legislature as the Honorable Assemblyman for District 34.

Christine Guerci-Nyhus, Esq., challenges the incumbent Honorable Judge Douglas Smith in Department 8. Judge Smith was first elected to the bench in 2008, and previously served as a Justice of the Peace and a prosecutor for the Clark County District Attorney's Office. In the 2013 judicial review in the Las Vegas Review Journal, Judge Smith received an approval rating of approximately 48% from Las Vegas attorneys.

Ms. Guerci-Nyhus received a Bachelor's degree in History with a minor in Physics from New York University, and graduated from New York Law School in 1991. Currently, Ms. Guerci-Nyhus is a Deputy Attorney General for the Nevada Attorney General's Mortgage Lending Division. She has served as the interim City Attorney in Henderson and the Regional Chief Deputy Attorney General for Southern Nevada.

In Department 14, Michael Root, Esq., challenges the incumbent Honorable Judge Adriana Escobar. Judge Escobar was appointed to the bench in 2012. Prior to her appointment, she served as a Deputy Nevada Attorney General and special counsel at Fox Rothschild where she focused on corporate, immigration and administrative law. In the 2013 judicial review in the Las Vegas Review Journal, Judge Escobar received an approval rating of approximately 71% from Las Vegas attorneys.

Mr. Root received a Bachelor's degree from the University of Nevada, Las Vegas and his Juris Doctor from California Western School of Law. He is a solo practitioner and focuses his practice on family and administrative law, criminal defense and personal injury.

Cliff Marcek, Esq., challenges Las Vegas Justice Court Judge William "Bill" Kephart for the vacant position in Department 19. Mr.

Marcek received a Bachelor's degree from the University of Nevada, Las Vegas in 1986 and a Juris Doctor from the University of the Pacific McGeorge School of Law in 1989. Mr. Marcek currently focuses his practice on plaintiff's personal injury and medical malpractice. Judge Kephart was elected to the Justice Court bench in 2010 and has since spearheaded the night court schedule to assist in relieving overcrowded court calendars. Prior to taking the bench, Judge Kephart was a prosecutor for the Clark County District Attorney's Office. In the 2013 judicial review in the Las Vegas Review Journal, Judge Kephart received an approval rating of approximately 69% from Las Vegas attorneys.

In Department 20, Nicholas Anthony Perrino, Esq., challenges the incumbent Honorable Judge Jerome Tao. Judge Tao was appointed to the bench in 2011. Prior to his appointment, Judge Tao was employed at the Clark County Public Defender's Office. In the 2013 judicial review in the Las Vegas Review Journal, Judge Tao received an approval rating of approximately 86% from Las Vegas attorneys.

Mr. Perrino has been a licensed attorney for over 45 years. He is currently in private practice, which appears to focus largely on criminal defense work. Mr. Perrino also serves as a Las Vegas Municipal Court Alternate Judge.

For Department 22, Jacob Hafter, Esq., challenges the incumbent Honorable Judge Susan Johnson. Judge Johnson primarily hears civil and construction defect matters. Before being elected in 2006, Judge Johnson focused her private practice on personal injury, premises claims, family law, and estate planning. In the 2013 judicial review in the Las Vegas Review Journal, Judge Johnson received an approval rating of approximately 71% from Las Vegas attorneys. Mr. Hafter's practice currently focuses on health care law and predatory mortgage lending.

Craig Friedberg, Esq., challenges the incumbent Honorable Judge Stefany Miley for the bench in Department 23. Judge Miley was elected to the bench in 2004, and had previously practiced in civil litigation, criminal defense, estate planning, family and juvenile law. In the 2013 judicial review in the Las Vegas Review Journal, Judge Miley received an approval rating of approximately 62% from Las Vegas attorneys.

Mr. Friedberg's practice focuses on consumer protection and copyright infringement. He is also a Short Trial Judge for the District Court, a Judge Pro Tem for the Justice Court, an Arbitrator and a Hearing Officer in Clark County.

Jim Crockett, Esq., and Joe Hardy, Jr., Esq.,



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are competing for the vacancy in Department 24. Mr. Crockett earned a Bachelor's degree from Loyola Marymount University in 1971 and graduated from McGeorge School of Law in 1974. Mr. Crockett is a partner at Crockett & Myers and focuses his practice on plaintiff's personal injury and medical malpractice. Mr. Hardy received a Bachelor's degree from Brigham Young University and his Juris Doctor from J. Reuben Clark Law School. He is currently a partner at Gordon, Rees, Scully & Mansukhani and focuses on commercial litigation, professional liability defense, employment law and bankruptcy.

Sean Connell, Esq., challenges the incumbent Honorable Judge Kathleen Delaney in Department 25. Prior to being elected to the bench in 2008, Judge Delaney worked for the Nevada Attorney General's Office in the Bureau of Consumer Protection. She also worked for the Mirage Casino and Hotel and the Treasure Island Corporation as general counsel. In the 2013 judicial review in the Las Vegas Review Journal, Judge Delaney received an approval rating of approximately 65% from Las Vegas attorneys.

Mr. Connell is an associate at Palumbo & Bergstrom and focuses on insurance coverage,

bankruptcy, predatory lending claims and construction defect. He has defended wrongful death and negligence claims.

Susan Bush, Esq., challenges the incumbent Honorable Judge Ronald J. Israel in Department 28. Prior to being elected to the bench in 2010, Judge Israel's practice focused on plaintiff's personal injury. He also served as a Judge Pro Tempore for the Clark County Short Trial Program and was a court appointed arbitrator. In the 2013 judicial review in the Las Vegas Review Journal, Judge Israel received an approval rating of approximately 61% from Las Vegas attorneys.

Ms. Bush obtained a Bachelor's in Communication from University of Nevada, Las Vegas and obtained her Juris Doctor from William S. Boyd School of Law. She worked for a law firm handling insurance defense cases before establishing her own firm, focusing primarily on family and criminal law and personal injury.

In Department 30, Jeffrey Rugg, Esq., challenges the incumbent Honorable Judge Jerry Wiese. Judge Wiese was elected to the bench in 2011. Judge Wiese practiced in the private sector for over 15 years and focused on personal injury, medical malpractice, wrongful death, contract litigation and insurance defense. In the

2013 judicial review in the Las Vegas Review Journal, Judge Wiese received an approval rating of approximately 70% from Las Vegas attorneys.

Mr. Rugg graduated law school from Columbia University and practiced law in New York before being admitted into the Nevada Bar in 2008. Mr. Rugg's current practice focuses on dispute resolution, Nevada stockholder disputes, shareholder class actions, derivative matters and general commercial litigation.

In Department 32, Randall Tindall, Esq., challenges the incumbent Honorable Judge Rob Bare. Prior to his election to the bench in 2010, Judge Bare was bar counsel for the State Bar of Nevada, a Las Vegas Municipal Court Judge and a trial lawyer in the Judge Advocate General's Corps. In the 2013 judicial review in the Las Vegas Review Journal, Judge Bare received an approval rating of approximately 80% from Las Vegas attorneys.

Mr. Tindall has been practicing law for 16 years and focuses his practice on civil litigation defense. He is also an arbitrator, small claims court referee and is on the Nevada State Bar Fee Dispute Committee. Mr. Tindall's campaign promises his decisions will not be influenced by "ambulance chasers" or campaign contributions.