



Summaries of Published Opinions: The Nevada Supreme Court and Nevada Court of Appeals

The following summaries include, in bold, a case citation along with the primary areas of practice and/ or subject matter addressed in the decisions. In addition, each summary identifies significant new rules of law or issues of first impression decided by Nevada’s appellate courts.

These summaries are prepared by the state bar’s Appellate Litigation Section as an informational service only and should not be relied upon as an official record of action. While not all aspects of a decision can be included in these brief summaries, we hope that readers will find this information useful, and we encourage you to review full copies of the Advance Opinions, which are located on the Nevada Supreme Court’s website at: https://nvcourts.gov/Supreme/Decisions/Advance_Opinions/.

***Freeman Expositions, LLC v. Eighth Judicial Dist. Ct.*, 138 Nev., Adv. Op. 77 (December 1, 2022) (En Banc) – Medical marijuana; employment.** Employees have a private right of action under NRS 678C.850(3), which requires employers to provide reasonable accommodations for employees who use medical marijuana outside of work hours. Because NRS 678C.850(3) provides an exclusive statutory remedy to employees, employees do not have a cause of action for tortious discharge, unlawful employment practices under NRS 616.333, or negligent hiring, training or supervision for employer conduct proscribed by NRS 678C.850(3).

***Martin v. Martin*, 138 Nev., Adv. Op. 78 (December 1, 2022) (En Banc) – Federal/state law; divorce decree.** Federal law prohibits a state court from dividing a veteran’s military disability pay in a decree of divorce, but division of military retirement pay is permitted. A state court is permitted, however, to enforce an indemnity agreement between the parties incident to a divorce decree whereby a veteran agrees to reimburse his or her spouse should the veteran elect to waive divisible retirement pay in order to take indivisible disability pay.

***In re Trust of Burgauer*, 138 Nev., Adv. Op. 79 (December 15, 2022) (En Banc) – Trusts & Estates**
The effect test announced in *Calder v. Jones* applies when determining whether a court has specific personal

jurisdiction over a nonresident trustee sued in a trust administration case, so long as the underlying claims sound in intentional tort. NRS 164.010(5) (b) provides a statutory basis for exercising personal jurisdiction in certain circumstances, however the due process clause requires that the nonresident has sufficient minimum contacts with the forum state.

***L.V. Review-Journal v. Clark Cty. Coroner*, 138 Nev., Adv. Op. 80 (Dec. 15, 2022) (En Banc) – Attorneys’ fees.** While a district court enjoys wide discretion in determining what attorneys’ fees are reasonable to award, the court should provide a concise but clear explanation of the reasoning behind its award amount and abuses its discretion by imposing a substantial discount on an award of attorneys’ fees without explaining its reasons for doing so.

***Taylor v. Brill*, 138 Nev., Adv. Op. 81 (December 15, 2022) (En Banc) – Judicial disqualification.** Nevada Code of Judicial Conduct 2.11(A)(6)(d) requires judges to disqualify themselves from cases where they “previously presided as a judge over the matter in another court.” In considering appellant’s motion to disqualify a Supreme Court justice from hearing her appeal on the grounds that he had briefly been administratively assigned to her matter, the Supreme Court held that a judge has “presided” over a matter for the purposes of the disqualification rule

only if he or she has exercised some control or authority over the matter.

***Nelson v. Eighth Jud. Dist. Ct.*, 138 Nev., Adv. Op. 82 (Dec. 22, 2022) – Law firm disqualification.** A law firm is not automatically disqualified from a case when it employs a non-lawyer employee who worked on the same case for the adverse party. The party seeking disqualification must show actual disclosure of confidences or ineffectiveness of the screening measures at the new firm. An evidentiary hearing to determine the sufficiency of the screening process is not required when there are no specific factual or credibility disputes.

***Arce v. Sanchez*, 138 Nev., Adv. Op. 83 (December 22, 2022) – Annexed arbitration award; NRCP 60(b).** Nevada Arbitration Rule 19(c) limits post-judgment relief to correcting clerical mistakes and errors, and thus bars a district court from setting aside a judgment confirmation and arbitration award under NRCP 60(b).

***In re Tr. Agreement, 23 Partners Trust I*, 138 Nev., Adv. Op. 84 (December 22, 2022) – Trusts; accounting.** Under NRS 165.1207, a trustee does not have to provide an accounting to a discretionary beneficiary of a trust if the trust does not otherwise require such an accounting. Furthermore, a trustee is only obligated to provide copies of trust documents to beneficiaries as directed by the trust itself.