



# 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 area 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/](https://nvcourts.gov/Supreme/Decisions/Advance_Opinions/).

***Saticoy Bay, LLC Ser. 9720 Hitching Rail v. Peccole Ranch Cmty. Ass’n*, 137 Nev., Adv. Op. 52 (Sept. 23, 2021) – When ADR required before filing claim against homeowner association.**

Where appellant’s tort claims did not require the interpretation, application, or enforcement of homeowner association CC&Rs, NRS 38.310 did not require that appellant attempt alternative dispute resolution (ADR) before filing a civil action asserting those claims. A dismissal without prejudice pursuant to an exhaustion statute like NRS 38.310 is a final, appealable judgment.

***Dekker/Perich/Sabatini, Ltd. v. Eighth Judicial Dist. Court*, 137 Nev., Adv. Op. 53 (Sept. 23, 2021) – Retroactivity of statute of repose to construction defect claim.**

The amended statute of repose in NRS 11.202 is retroactive and applies to all cases commenced within the time frame provided by the amended statute.

***Nuveda, LLC v. Eighth Judicial Dist. Court*, 137 Nev., Adv. Op. 54 (Sept. 23, 2021) – Accused contemnor’s peremptory challenge.**

Under NRS 22.030(3), an accused contemnor must exercise a peremptory challenge to the presiding judge within a reasonable time.

***State, Dep’t of Bus. & Indus., Fin. Insts. Div. v. Titlemax of Nev., Inc.*, 137 Nev., Adv. Op. 55 (Sept. 23, 2021) – Review of title loans statute.**

NRS 604A.5074(3)(c) prohibits a title loan lender from refinancing the loan and thereby extending it beyond the 210-day period provided by statute. The limitation on the fair market value of the

vehicle securing the loan only refers to the principal amount of the loan.

***Salloum v. Boyd Gaming Corp.*, 137 Nev., Adv. Op. 56 (Sept. 23, 2021) – Retroactivity of statutory enlargement of limitations period.**

Statutory enlargements of limitation periods will not revive previously-barred actions absent a clear expression of such application by the Legislature. Because the Legislature did not provide for retroactive application of a 2019 amendment that enlarged the limitation period for filing employment discrimination claims in NRS 613.430, and because retroactive application was not necessary to advance the amendment’s purpose, the amendment did not revive appellant’s expired employment discrimination claims.

***Jim v. State*, 137 Nev., Adv. Op. 57 (Sept. 23, 2021) – Plain-view exception to search warrant requirement.**

The plain-view exception to the warrant requirement applied where an officer lawfully began an inventory search of the defendant’s vehicle, saw a firearm and crystalline-like substance in plain view, then ceased the inventory search and followed police policy for vehicles with evidentiary value by obtaining a warrant.

***Sunseri v. State*, 137 Nev., Adv. Op. 58 (Sept. 23, 2021) – Motions to withdraw guilty pleas.**

The district court erred in denying defendant’s motion to withdraw his guilty plea before sentencing where he made a colorable claim that his prior attorney was ineffective by failing to advise him that his right to a speedy trial had potentially been violated before he entered the guilty plea agreement.

***In re Discipline of Arabia*, 137 Nev., Adv. Op. 59 (Sept. 23, 2021) – Professional discipline of attorney elected to public office.**

An attorney elected to public office cannot rely on qualified immunity to avoid professional discipline, and the State Bar of Nevada has jurisdiction to discipline such officials.

***Byrd v. Byrd*, 137 Nev., Adv. Op. 60 (Ct. App. Sept. 30, 2021) – Divorce decree not properly reopened; federal law preempted ordering alimony be paid from veteran’s disability benefits.**

Divorce decree was not properly reopened under NRCP 60(b)(6) based on alleged misrepresentations made when the marital settlement agreement was entered, where relief would have been available under NRCP 60(b)(1) or 60(b)(3) had a motion been timely brought. Federal preemption precluded district court from ordering alimony to be paid directly from veteran’s disability benefits as indemnification for waiving a portion of a military pension plan.

***Martinez Guzman v. Second Judicial Dist. Court*, 137 Nev., Adv. Op. 61 (Sept. 30, 2021) (en banc) – Venue for criminal offenses committed in multiple counties.**

Generally, venue will only be proper in the county where the crime occurred. Venue under NRS 171.030 for criminal offenses committed in more than one county may not be based on mere preparatory acts occurring within a county unless evidence shows that those acts were undertaken with the intent to commit the charged crime and in furtherance of that crime.