



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/.

***Las Vegas Review-Journal v. Las Vegas Metro Police Dep’t*, 139 Nev., Adv. Op. 8 (March 30, 2023) (en banc) – Public records; confidential informant.**

In cases involving a confidential informant, NRS 49.335 does not permit a governmental entity to refuse to disclose records where selective and narrow redactions would adequately protect the informant’s identity. In weighing assertions of potentially harmful private information against the public’s interest in access, unsubstantiated assertions of harm do not justify withholding investigative records.

***Newson v. State*, 139 Nev., Adv. Op. 9 (March 30, 2023) (en banc) – Confrontation Clause; COVID-19.**

The right to confrontation in a criminal case is satisfied by remote testimony only if (1) having a witness testify remotely is necessary to further an important public policy, and (2) the reliability of the witness’s testimony is otherwise assured. Although preventing the spread of COVID-19 is an important public policy, a trial court must make case-specific findings related to COVID-19 before citing it as a justification for permitting a witness to testify remotely. Convenience, efficiency, and cost-savings generally do not justify permitting witnesses to testify remotely.

***Las Vegas Metro Police Dep’t v. Holland*, 139 Nev., Adv. Op. 10 (April 20, 2023) (en banc) – Petition for judicial review; burden of proof.**

NRS 617.457(1) provides a conclusive presumption that a heart disease that renders a police officer disabled arose out of and in the course of their employment if certain conditions are met. NRS 617.457(11) creates a defense to that presumption. If employer asserts the defense, the employer must demonstrate that the employee had predisposing conditions that led to heart disease, had the ability to correct those conditions, and failed to do so when ordered in writing by an examining physician. An employee then has an opportunity to rebut the employer’s evidence to establish their entitlement to the presumption.

***Pepper v. C.R. England*, 139 Nev., Adv. Op. 11 (May 4, 2023) – Forum non conveniens; foreign plaintiffs.**

A sister-state resident should be treated “foreign” plaintiff for the purposes of a forum non conveniens analysis, and thus should be afforded less deference in their choice of forum unless they can prove Nevada is a convenient forum by showing bona fide connections to the state. Here, the district court abused its discretion in granting a motion to dismiss a complaint based on forum non conveniens because it did not include a supporting affidavit.

***Clark Cty. Ass’n of Sch. Adm’rs v. CCSD*, 139 Nev., Adv. Op. 12 (May 11, 2023) (en banc) – Education/ labor & employment.**

In reorganizing large school districts of Clark County into local precincts, the Legislature required superintendents to transfer the authority to select teachers and staff to local precincts. This authority, however, remains subject to collective bargaining terms and parallels that which the superintendent of a large school district previously enjoyed. The local school precinct’s authority is likewise limited, meaning its selection decisions must also comply with collectively bargained-for terms.

***Wishengrad v. Carrington Mortg. Servs.*, 139 Nev., Adv. Op. 13 (May 18, 2023) – Foreclosures; real property.**

A home equity line of credit with a defined maturity and closed draw period may be classified as a negotiable instrument as well as a promissory note, as it involves an unconditional promise to pay a fixed amount of money rather than a revolving line of credit. A property held in the name of its residents’ trust is owner-occupied for the purposes of NRS 107.015(6) and NRS 40.437(12)(c).