



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

***City of Las Vegas v. Las Vegas Police Prot. Ass'n*, 141 Nev., Adv. Op. 1 (Jan. 9, 2025) (En banc) – Peace officer investigations.**

In a proceeding in which a peace officer may be subject to punitive action, NRS 289.060(2)(d) requires another peace officer to lead an investigation or conduct interrogations and hearings, rather than another public employee.

***Walker v. Walker*, 141 Nev., Adv. Op. 2 (Jan. 9, 2025) – Public Employees' Retirement System Beneficiaries (PERS).**

A party who exits PERS and then re-enters PERS under the Judicial Retirement System (JRS) may designate a former spouse *and* a current spouse as beneficiaries under Option 2 of PERS (designating the beneficiaries to be paid the members benefits upon the member's death). A former spouse of a PERS member retains a protected interest in the member's retirement benefits that is not extinguished if the member transfers service credits from PERS to JRS.

***Protective Ins. Co. v. State, Comm'r of Ins.*, 141 Nev., Adv. Op. 3 (Jan. 16, 2025) – Insurance subrogation.**

Spirit Auto Risk Retention Group became insolvent after it had agreed to pay a settlement related to an auto accident. The injured person sought and received payment under his own UM/UIM policy. His insurer asserted a subrogation claim against Spirit. When an insurer becomes insolvent, NRS 696B.420(1) provides a schedule classifying and prioritizing the order of payments. The Nevada Supreme Court held that the insurer did not fall into the highest priority for payment, but instead, as a subrogor, fell into the lowest priority. Public policy also supports placing consumers, rather than insurers, in higher priority because consumers are less able to absorb the loss.

***Nester v. Eighth Judicial Dist. Ct.*, 141 Nev., Adv. Op. 4 (Jan. 30, 2025) (En banc) – Family court media access.**

When determining whether to reconsider an order granting media access to a custody modification hearing, the district court erred by failing to apply the test outlined in *Falconi v. Eighth Judicial Dist. Ct.*, 543 P.3d 92 (Nev. 2024). To overcome the presumption against a closed hearing, a party must show (1) closure serves a compelling interest; (2) there is a substantial probability that, in the absence of closure, the compelling interest could be harmed; and (3) there are no alternatives to closure that would adequately protect the compelling interest. The question of closure is within the court's discretion but must be determined on a case-by-case basis.

***CCMSI, Nevada State of Dept. of Parks v. Robert Odell*, 141 Nev., Adv. Op. 5 (Ct. App., Jan. 30, 2025) – Workers' Compensation.**

NRS 617.457(1) creates a conclusive presumption for firefighters, police officers, and arson investigators that, under certain circumstances, heart disease arose out of and in the course of employment. This presumption can be rebutted under NRS 617.457(11) if a doctor orders the employee to correct predisposing conditions within the ability of the employee to control, and the employee failed to do so. The court held that, under a plain reading of NRS 617.457(1) and (11), the relevant predisposing conditions to consider are those conditions that cause the disabling heart disease covered by Subsection (1).

***Vaughn v. State*, 141 Nev., Adv. Op. 6 (Feb. 6, 2025) – Criminal law; forgery.** To support a felony conviction under NRS 239.330(1) for the filing, registration, or recording of a false or forged instrument, the State must first prove that there is a law

allowing the instrument at issue to be filed, registered or recorded through the office to which it is offered.

***In re Petition for Change of Name (Fleek)*, 141 Nev., Adv. Op. 7 (Feb. 6, 2025) – legal name changes.**

Although the district court did not abuse its discretion in denying appellants' petitions due to their admitted failure to comply with the notice publication or proof of publication required by NRS 41.280(1) and NRS 41.290(1), the Supreme Court found that the words "with prejudice" are without legal meaning in a non-adversarial proceeding like a name-change petition, and therefore the court ordered the district court to modify to strike the words "with prejudice."

***Backman v. Gelbman*, 141 Nev., Adv. Op. 8 (Ct. App., Feb. 13, 2025) – Family law, child support.**

When determining whether changed circumstances justifies modification of a child support award, the controlling order is the most recent substantive order setting the support obligation. A court must consider prima facie evidence to determine whether sufficient evidence of changed circumstances exists such that it would necessitate a substantive review. The court is required to substantively review child support orders when prima facie evidence demonstrates a change of 20 percent or more.

***Soldo-Allesio vs. Ferguson*, 141 Nev., Adv. Op. 9 (Ct. App., Feb. 13, 2025) – Family law; domestic violence and evidentiary standards.**

When addressing domestic violence issues in a custody determination, courts must apply two separate evidentiary standards: (1) For NRS 125C.0035(5) (rebuttable presumptions), a clear and convincing standard applies; and (2) For NRS 135C.0035(4)(f) (best interest factors), a

preponderance of evidence standard applies. This includes joint, sole, and primary physical custody. Courts must hear all information regarding domestic violence.

***Clark Cnty. Dep't. Of Fam. Serv. vs. Dist. Ct. (Sharp)*, 141 Nev., Adv. Op. 10 (Mar. 6, 2025) – DFS reports; confidentiality.**

When a court considers whether to order disclosure of information contained in records related to child abuse or neglect for use in an unrelated criminal case, NRS 432B.290(4) provides a limited privilege for protecting reporter identities when the agency possessing the information, such as the Department of Family Services (DFS), determines that disclosure would harm an investigation or the life or safety of any person.

***Clark Cnty. School Dist. v. Dist. Ct. (Angalia B.)*, 141 Nev., Adv. Op. 11 (Mar. 6, 2025) – Education records.**

Under the Family Education Rights and Privacy Act (“FERPA”)—which Nevada has incorporated through NRS 392.029—“education records” are defined as records that (1) “contain information directly related” to a student and (2) are “maintained by an educational agency or institution.” NRS 392.029(1) permits parents or legal guardians to make a request for a child’s education records. The Supreme Court held that a record is “maintained” when it is stored on an educational institution’s storage or database. Because the school district had not produced any of the at-issue emails, it was not possible to determine whether the emails were “directly related” to the student, so the Supreme Court directed the school district to produce the emails to the district court for in camera review.

***Golden Gates/S.E.T. Retail of Nevada, LLC v. Modern Welding Company of California, Inc.*, 141 Nev., Adv. Op. 12 (Mar. 6, 2025) – Statute of limitations; discovery rule.**

The discovery rule does not toll commencement of the limitations period for a breach of an implied warranty claim under NRS 104.2725(2), as the statute provides that the claim accrues “regardless of the aggrieved party’s lack of knowledge of the breach.”



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