

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/.

***In the matter of D.C., Jr.*, 140 Nev., Adv. Op. 25 (Apr. 18, 2024) (En Banc) – Juveniles; competency.**

A juvenile who faces the possibility of prosecution as an adult for serious crimes as the result of a certification proceeding must meet the adult criminal court standard for competence. Because the juvenile court failed to properly resolve the competency issue, proceeding to the adult certification hearing was in error.

***Ene v. Graham*, 140 Nev., Adv. Op. 26 (April 18, 2024) – Alter egos.**

Determining whether a person is the alter ego of an LLC requires the court to conduct the same analysis that applies to corporations under NRS 78.747.

***Jones v. Ghadiri*, 130 Nev., Adv. Op. 27 (April 18, 2024) (En Banc) – Easements.**

Although rare, Nevada will recognize a comprehensive prescriptive easement excluding an owner of the servient estate from the subject property when the movant can demonstrate exceptional circumstances warranting such an easement. Whether these exceptional circumstances exist is a fact-intensive inquiry dependent on the circumstances of the case.

***Nevadans for Reproductive Freedom v. Washington*, 140 Nev., Adv. Op. 28 (April 18, 2024) (En Banc) – Initiative petitions.**

An initiative petition seeking to enshrine a state constitutional right to reproductive freedom did not violate NRS 295.009's single subject rule because all its provisions were all fundamentally related or germane to that single subject. The description of initiative's effect was legally sufficient because it addressed the initiative's goals of recognizing and protecting a fundamental right to reproductive freedom, noting that a description of effect cannot be required to address all possible ramifications of an initiative in a limited 200-word summary.

Finally, the initiative did not require an expenditure of money.

***City of Las Vegas v. 180 Land Co.*, 140 Nev. Op. 29 (April 18, 2024) (En Banc) – Takings.**

The Supreme Court, sitting *en banc*, ruled that zoning ordinances trump the designation in a master plan, and the city's own "land use hierarchy" places zoning designations at the pinnacle. The court held that a *per se* taking had occurred, which requires just compensation. The appropriate value for just compensation "is determined by the property's market value 'by reference to the highest and best use for which the land is available and for which it is plainly adaptable.'" The landowner's expert witness provided uncontroverted evidence that the highest and best use was residential development, not a golf course, and that the value of the land was \$34,135,000.

***Sisolak v. Polymer80, Inc.*, 140 Nev. Adv. Op. No. 30 (April 18, 2024) (En Banc) – Firearm regulation; statutory interpretation.**

NRS Chapter 202 prohibits a person from engaging in certain acts relating to unfinished frames or receivers and proscribe certain acts relating to firearms that are not imprinted with serial numbers, thereby enjoining several statutes that regulate ghost-guns. The Supreme Court held that the terms used to define "unfinished frame or receiver" have ordinary meanings such that vagueness does not pervade. Further, the statutes are general intent statutes and do not lack a scienter requirement, nor do they pose a risk of arbitrary or discriminatory enforcement.

***Bowman v. Elkanich, M.D.*, 140 Nev., Adv. Op. 31 (Ct. App. April 18, 2024) – Professional negligence; statute of limitations.**

In an action alleging that a doctor committed professional negligence during a surgery, the district court erred

in dismissing the complaint as untimely because factual disputes remained regarding when the cause of action accrued, in particular that the defendant doctor continually reassured the plaintiff that his post-operative condition would improve.

***B.Y. and A.F. v. Dist. Ct. (Burdiss)*, 140 Nev., Adv. Op. 32 (April 25, 2024) – Guardianship proceedings.**

A district court must hold a hearing on an emergency *ex parte* petition for temporary guardianship, or if granted without a hearing, provide a hearing allowing the respondent an opportunity to address the disputed allegations.

***Gilbert v. State*, 140 Nev., Adv. Op. 33 (May 9, 2024) – Fourth Amendment; inventory searches.**

While an inventory search of a vehicle cannot be a ruse for general rummaging, an investigatory motive does not necessarily invalidate an inventory search, so long as the search is the same as would have been done had there been no investigatory motive. The court must look at the totality of the circumstances including: (1) the extent law enforcement departed from standardized procedures; (2) whether the scope of the search was as expected in light of underlying justification for inventory searches; (3) whether the inventory produced served the purposes of an inventory search.

***Capital Advisors, LLC v. CAI*, 140 Nev., Adv. Op. 34 (May 23, 2024) – Derivative actions; liability for parent companies.**

Officers and directors of a parent company can be individually liable where those officers and directors have knowledge of proposed action by a wholly owned subsidiary that is adverse to the parent company and intentionally implement or knowingly permit the adverse action. That liability is not dependent upon piercing the corporate veil and is not limited to wholly owned subsidiaries directly beneath the parent company.