

McClendon v. Collins, 132 Nev. ___, P.3d ___ (Adv. Opn. No. 28, Apr. 21, 2016)

Question: Whether a witness who was originally designated as a testifying expert by a party but was later de-designated may be deposed or called to testify at trial by an opposing party.

Held: After an expert report has been disclosed, a testifying expert witness cannot regain the confidentiality protections of NRCP 26(b)(4)(B) by de-designating that witness to the status of a nontestifying expert. After the expert witness has lost NRCP 26(b)(4)(B)'s protections, it is at the district court's discretion whether to allow the witness to be further deposed or called to testify at trial by an opposing party.