PUBLISHED CASES

Shapiro v. Welt, 133 Nev. ___, 389 P.3d 262 (Adv. Opn. No. 6, Feb. 2, 2017)

Anti-SLAPP Case

Matter of Public Concern

We take this opportunity to adopt California's guiding principles, as enunciated in Piping Rock Partners, for determining whether an issue is of public interest under NRS 41.637(4).

(1) "public interest" does not equate with mere curiosity;
(2) a matter of public interest should be something of concern to a substantial number of people; a matter of concern to a speaker and a relatively small specific audience is not a matter of public interest;
(3) there should be some degree of closeness between the challenged statements and the asserted public interest—the assertion of a broad and amorphous public interest is not sufficient;
(4) the focus of the speaker's conduct should be the public interest rather than a mere effort to gather ammunition for another round of private controversy; and
(5) a person cannot turn otherwise private information into a matter of public interest simply by communicating it to a large number of people.

Absolute Litigation Privilege

For a statement to fall within the scope of the absolute litigation privilege it must be made to a recipient who has a significant interest in the outcome of the litigation or who has a role in the litigation. Id. at 436, 49 P.3d at 645-46; see also Jacobs, 130 Nev., Adv. Op. 44, 325 P.3d at 1287. In order to determine whether a person who is not directly involved in the judicial proceeding may still be "significantly interested in the proceeding," the district court must review "the recipient's legal relationship to the litigation, not their interest as an observer." Jacobs, 130 Nev., Adv. Op. 44, 325 P.3d at 1287. The review "is a case-specific, fact-intensive inquiry that must focus on and balance the underlying principles of the privilege." Id. (internal quotation marks omitted).

Adelson v. Harris, 133 Nev. ___, 402 P.3d 665 (Adv. Opn. No. 67, Sep. 27, 2017)

Nevada "has long recognized a special privilege of absolute immunity from defamation given to the news media and the general public to report newsworthy events in judicial proceedings." Sahara Gaming Corp. v. Culinary Workers Union Local 226, 115 Nev. 212, 214, 984 P.2d 164, 166 (1999); see also Circus Circus Hotels, Inc. v. Witherspoon, 99 Nev. 56, 60, 657 P.2d 101, 104 (1983) ("[There] is [a] long-standing common law rule that communications uttered or published in the course of judicial proceedings are absolutely privileged so long as they are in some way pertinent to the subject of controversy." (citation omitted)). "[T]he 'fair, accurate, and impartial' reporting of judicial proceedings is privileged and nonactionable affirming the policy that Nevada citizens have a right to know what transpires in public and official legal proceedings." Lubin v. Kunin, 117 Nev. 107, 114, 17 P.3d 422, 427 (2001) (quoting Sahara Gaming, 115 Nev. at 215, 984 P.2d at 166).

Additionally:

In Delucchi v. Songer, 133 Nev., Adv. Op. 42, 396 P.3d 826, 830 (2017), in which we determined that in 2013 the Legislature amended portions of Nevada's anti-SLAPP statutes in order to "clarif[y] that, under NRS 41.637, the scope of the anti-SLAPP protections is not limited to a communication made directly to a governmental agency." Thus, Nevada's anti-SLAPP statutes, prior to the 2013 amendment as now, covered "[c]ommunication that is aimed at procuring any governmental or electoral action, result or outcome . . . which is truthful or is made without knowledge of its falsehood," NRS 41.637(1) (1997), even if that communication was not addressed to a government agency.

New Horizon Kids Quest III v. Eighth Judicial Dist. Court, 133 Nev. ___, ___ P.3d ___ (Adv. Opn. No. 14 April 6, 2017)

The Nevada Rules of Professional Conduct operate to disqualify a lawyer, who while employed at his former firm, gained actual knowledge of information protected by confidentiality rules.

Petit v. Adrianzen, 133 Nev. ___, ___ P.3d ___ (Adv. Opn. 15 Apr 13, 2017)

As a matter of first impression, the standard of proof to be applied by district courts in resolving initial naming disputes for a child of married parents. Because neither married parent should have the burden of proof in an initial naming dispute, the focus should be on the best interests of their child. In the matter before us, the district court determined that the child's name should be hyphenated to include both parents' surnames, and in doing so, considered the best interests of the child. We thus affirm.

Pub. Employees' Ret. Sys. of Nev. v. Gitter, 133 Nev. ___, ___ P.3d ___, (Adv. Opn. 18, Apr 27, 2017)

In this consolidated matter, we are asked to determine whether (1) Nevada's general slayer statutes apply to the Public Employees' Retirement Act (PERS Act) for the purposes of determining payment of survivor benefits, (2) the Public Employees' Retirement System of Nevada (PERS) is exempted from paying prejudgment or postjudgment interest out of the PERS trust fund, (3) an expert consultant must testify to recover $1,500 or less in costs for that expert under NRS 18,005(5), and (4) attorney fees were appropriate under NRS 7.085 and 18.010. We hold that Nevada's general slayer statutes are applicable to the PERS Act so that any person who kills their PERS-member spouse must be treated as if they predeceased the PERS-member spouse for the purposes of determining payment of survivor benefits. In such a case, the PERS member shall be treated as unmarried at the time of his or her death so that benefits may be paid to a survivor beneficiary. We also hold that PERS is not exempt from paying prejudgment or post-judgment interest, though interest should have been awarded in this case under NRS 17.130. We further hold it is within the district court's discretion to award up to $1,500 in reasonable costs for a nontestifying expert consultant under NRS 18.005(5). Finally, we reverse the award of attorney fees, which we conclude should not have been awarded under NRS 7.085 and 18.010.

In the Matter of the Parental Rights as to M.M.L., Jr., a Minor, 133 Nev. ___, ___ P.3d ___(Adv. Opn. 21 May 11, 2017)

There is currently no statutory authority requiring a district court to continue a parental rights termination trial so that a parent may regain competence. In fact, to require all proceedings halted until a parent regains competence conflicts with potential grounds to terminate the parent's rights. Moreover, the district court considered all of the necessary due process interests before proceeding with the trial and appointed a guardian ad litem pursuant to NRCP 17(c). Therefore, the district court did not err by proceeding to trial without a competent mother to defend herself. Further, because the mother's counsel failed to object to the State's method of service in her initial pleading or at any time

in the district court, she waived her challenge to the service of the parental rights termination petition by publication. Accordingly, we affirm the district court's order.

In the Matter of D.T., A Minor, 133 Nev. ___, ___ P.3d ___ (Adv. Opn. 23 May 25, 2017)

District Court must consider the factors outlined in Seven Minors when determining whether to certify a juvenile to adult court. Here, though the District Court did not specifically enunciate each of the factors, the record is clear that the Court did consider them.

Klabacka v. Nelson, 133 Nev. ___, ___ P.3d ___ (Adv. Opn. 24 May 25, 2017)

We conclude (1) the family court has subject-matter jurisdiction over the trust-related claims in the Nelsons' divorce; (2) the SPA and SSSTs are valid and unambiguous; (3) the district court erred in considering parol evidence to determine the parties' intent behind the SPA and SSSTs; (4) the district court erred in equalizing the trust assets; (5) the district court erred in ordering Eric's personal obligations to be paid by Eric's Trust; (6) the district court did not err in awarding Lynita a lump sum alimony award of $800,000, but erred insofar that the alimony was awarded against Eric's Trust, and not Eric in his personal capacity; (7) the district court erred in making findings of unjust enrichment after the claim was dismissed; (8) the constructive trusts placed over the Russell Road and Lindell properties should be vacated; and (9) the June 8, 2015, order should be vacated to the extent it enforces or implements portions of the divorce decree relating to assets in Eric's Trust and Lynita's Trust and affirmed in all other respects.

A.J. v. Eighth Judicial District Court, 133 Nev. ___, ___ P.3d ___ (Adv. Opn. 28 Jun 1, 2017)

A.J. argues that the statute's legislative history does not support the State's interpretation as it would allow the district attorney to avoid triggering the statute by alleging fictitious conduct that does not involve prostitution or solicitation even if the juvenile's conduct puts her within the class of those intended to be protected. Therefore, A.J. argues, an interpretation of NRS 62C.240 in line with the legislative intent and public policy dictates that when the underlying circumstances of the arrest, the referral charge, or other persuasive evidence demonstrate that prostitution or solicitation was the basis for the juvenile's arrest, the court must apply NRS 62C.240. We agree.

Bertsch v. Eighth Jud. Dist. Ct., 133 Nev. ___, ___ P.3d 769 (Adv. Opn. No. 33, Jun 22, 2017)

Litigant sought to sue a court-appointed accountant as a result of his actions in his duty as a court appointed special master. The District Court allowed the suit to go forward, the accountant sought relief via a writ to the Supreme Court.

Because the Supreme Court extended the Barton doctrine[1] to a court-appointed accountant in the capacity of special master, we require an individual to seek leave of the appointing court prior to filing suit in a non-appointing court against a court-appointed special master for actions taken in the scope of his court-derived authority.

[1] *Barton v. Barbour*, 104 U.S. 126, 127, 26 L.Ed. 672 (1881).

Nguyen v. Boynes, 133 Nev. ___, ___ P.3d ___ (Adv. Opn. 32 June 22, 2017)

In this case, we consider whether the district court erred in granting respondent Robert Boynes (Rob) paternity over a child adopted by appellant Ken Nguyen. We hold that the district court did not err in granting Rob paternity under the equitable adoption doctrine. In addition, we consider whether the district court's order violated the United States and Nevada Constitutions' equal protection clauses and conclude that it does not. Lastly, we hold that there is substantial evidence to support the district court's order granting Rob joint legal and physical custody. Accordingly, we affirm the district court's order granting Rob paternity and joint legal and physical custody over the child.

Vaile v. Porsbol, 133 Nev. ___, ___ P.3d ___ (Adv. Opn. 30 June 22, 2017)

In this appeal, we are asked to consider: (1) whether a Nevada child support order controlled over a Norway order, and (2) whether this court lacks jurisdiction over appellant's challenges to contempt findings. We conclude that pursuant to NRS 130.207, the Nevada child support order controls. We further conclude that this court has jurisdiction over the challenges to contempt findings and sanctions in the order appealed from in Docket No. 61415, but we need not consider them because appellant has failed to assert cogent arguments or provide relevant authority in support of his claims. Thus, we affirm the judgments of the district court.

Rawson v. Dist. Ct. (Cain), 133 Nev. ___, ___ P.3d ___ (Adv. Opn. No. 44, Jun 29, 2017)

An unserved third party can be made jointly liable for a judgment if given the opportunity to defend in an order to show cause.

Writ relief is unavailable if a final judgment has been rendered and an appeal is available.

In the Matter of the Parental Rights as to R.T., K.G.-T., N.H.-T. and E.H.-T., 133 Nev. ___ , ___ P.3d ___ (Adv. Opn. 38 June 29, 2017)

Poverty has never been a reason to terminate the parental rights of a parent. Failure to meet the requirements of the established case plan for reunification is a basis for termination.

Gordon v. Geiger, 133 Nev. ___, ___ P.3d ___ (Adv. Opn. No. 69, Sep 27, 2017)

The district court's findings are not supported by substantial evidence due to the fact that the court relied upon the unrecorded child interviews and the unsubstantiated CPS report, neither of which were admitted into evidence. Therefore, without this evidence in the record, which was the basis for the district court's sua sponte order, we must reverse.

The Court took the opportunity to clarify that child interviews must be recorded and must abide by the Uniform Child Witness Testimony by Alternative Means Act (the Act).7 Further, they provided family law judges with guidance in interviewing child witnesses in the noncriminal proceedings over

which they preside.

Under the Act, a judge may sua sponte order a hearing in determining whether a child witness should be allowed to testify by an alternative method. NRS 50.570(1)(a); see also NRS 1.428 (defining "judge"). However, a court must order a hearing if a party makes a motion and shows good cause. NRS 50.570(1)(b). Regardless of whether a hearing is ordered sua sponte or after a party shows good cause, the parties must be reasonably notified of the hearing, and the hearing must be recorded. NRS 50.570(2).

Fredianelli v. Price, 133 Nev. ___, ___ P.3d ___(Adv. Opn. No. 74, Oct 5, 2017)

The Legislature's 2013 amendments to NRS 18.015 created an entirely new statutory method for enforcing a retaining lien. Thus, while Argentena and our other cases remain good law concerning common-law retaining liens, their description of a retaining lien as "passive" does not apply to the method in NRS 18.015, which permits an attorney to actively enforce a retaining lien. Accordingly, we reject Fredianelli's argument that an attorney cannot actively enforce a retaining lien under NRS 18.015.

In the Matter of the Parental Rights As to A.D.L. and C.L.B., Jr., Minors, 133 Nev. ___, ___ P.3d ___ (Adv. Opn. 72, Oct 5, 2017)

Forcing a parent to admit to criminal behavior as part of a reunification case plan or suffer the termination of parental rights, is a violation of the parent's Fifth Amendment rights.

Additionally, basing a termination or claiming that the case plan was not completed because a person invoked their Fifth Amendment rights as to self-incrimination would be an abuse of discretion.

(NOTE: Sometimes the Court will grant immunity to a parent so they do not have to worry about their statements being sued against them in a criminal proceeding. In this Case, DFS stated that they would have used such an admission to further their argument as to termination of the parental rights. Here, the parent was not offered immunity and as such, the SC did not address whether immunity would have changed the outcome.)

Yu v. Yu, 133 Nev. ___, ___ P.3d ___ (Adv. Opn. No. 90 Nov. 22, 2017)

An order that places a litigant on the vexatious litigant list is not individually appealable and is proper for either a writ of mandamus or prohibition. However, if other issues in the case are appealable, then the claim concerning being placed on the vexatious litigant list can be included in the appeal.

Abid v. Abid, 133 Nev. ___, ___ P.3d ___ (Adv. Opn. No. 94, Dec. 7, 2017)

Father placed a recording device in his child's backpack to record the interaction between the child and the mother. Neither the child nor the mother consented to be recorded.

Though the recordings possibly violated NRS 200.650, the evidence obtained was admissible in Court as the protection of a child (Child's Best Interest) far outweighs any exclusionary rule.

Additionally, the review of the recordings by a child psychologist who will be testifying as to her opinion was also proper considering the best interest of the child.

Affirmed.

In the Matter of the Parental Rights as to T.L., Minor Child, 133 Nev. ___, ___ P.3d ___ (Adv. Opn. No. 97, Dec 7, 2017)

Mother stipulated to her parental rights termination if she could participate in the placement hearings for her child. The stipulation contained no language that would allow mother to not terminate her parental rights if the child was not placed with a relative. As such, her parental rights were terminated after the placement hearing was held and the child was not placed with a relative.

The Court held that mother lacked standing to contest the placement as her rights were terminated. The Court also stated:

"we are concerned that the record does not reveal whether Tanya was informed of this possible consequence to her stipulation. We therefore encourage parties and counsel negotiating such stipulations to ensure that the parents are fully aware of the rights they are forgoing when they agree to terminate their parental rights."

Appeal dismissed for lack of standing.

Arcella v. Arcella 133 Nev. ___, ___ P.3d ___ (Adv. Opn. No. 104, Dec 26, 2017)

The Court established 10 factors to be be relevant to a court's determination as to what school a minor child attends when the parents can't agree:

(1) The wishes of the child, to the extent that the child is of sufficient age and capacity to form an intelligent preference;

(2) The child's educational needs and each school's ability to meet them;

(3) The curriculum, method of teaching, and quality of instruction at each school;

(4) The child's past scholastic achievement and predicted performance at each school;

(5) The child's medical needs and each school's ability to meet them;

(6) The child's extracurricular interests and each school's ability to satisfy them;

(7) Whether leaving the child's current school would disrupt the child's academic progress;

(8) The child's ability to adapt to an unfamiliar environment;

(9) The length of commute to each school and other logistical concerns;

(10) Whether enrolling the child at a school is likely to alienate the child from a parent.

These factors are illustrative rather than exhaustive; they are merely intended to serve as a starting point for a district court's analysis. Determining which school placement is in the best interest of a child is a broad-ranging and highly fact-specific inquiry, so a court should consider any other factors presented by the particular dispute, and it should use its discretion to decide how much weight to afford each factor. On remand here, the district court should utilize this factor-based approach to determine the child's best interest.

Finally, the Court strongly pointed out that the test is not which school is best, but which school is best for that particular child.

SUPREME COURT UNPUBLISHED

Culculoglu v. Culculoglu, No. 69930, Order of Affirmance (Unpublished Disposition Jan 13, 2017)

When appealing an award of attorney's fees, the appellant must show an abuse of discretion by the trial court.

In the Matter of the Parental Rights as to M.S.M. A Minor Child, No. 70850, Order of Affirmance (Unpublished Disposition, Feb. 16, 2017)

Appellant first challenges the district court's findings of parental fault. Appellant argues that his lack of contact with the child was due to respondent's concentrated efforts to withhold such contact, that his failure to provide child support resulted from his financial inability to do so, and that his acts of domestic violence were committed against respondent and not the child.

Because of appellant's domestic violence history and lack of contact with the child, the parties' divorce decree required appellant to engage in counseling before establishing a visitation plan, but appellant never followed through. Although the record contains evidence that respondent denied appellant contact with the child, in doing so, respondent directed appellant to follow the mandate of the divorce decree. As for appellant's failure to support the child, the district court weighed the testimony and found that appellant was willfully unemployed and had not demonstrated an inability to provide housing or support for the child.

Washoe Cnty, Dist Atty's Office v. Dist. Ct., No. 70371, Order Denying Petition (Unpublished Disposition, Feb 24, 2017)

The Washoe District Attorney request a writ of mandamus to stop the district court from adjusting child support as of the emancipation date instead of the date the request for a modification was filed.

Writ was denied as the real parties in interest did not object to the method of calculation and only they have standing to contest the calculation methodology. If they object, they must file a motion in district court first.

SPG Artist Media v. Primesites, No. 69078, Order of Affirmance (Unpublished Disposition, Feb. 28, 2017)

"The term 'good faith' does not operate independently, within the anti-SLAPP statute." Instead, the term "good faith" operates as part of the broader phrase defined by NRS 41.637. Id. To fit within the protections of Nevada's anti-SLAPP statutes, the "action [must be] brought against a person based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern."

The communication at issue here was appellant John Mahoney's private conversation with a friend in which Mahoney referred his friend to an attorney. Appellants SPG Artist Media, LLC, and John

Mahoney (collectively, SPG) argue that this speech was protected pursuant to NRS 41.637(1), 2 which defines a "[g]ood faith communication" as including a "[c]ommunication that is aimed at procuring any governmental or electoral action, result or outcome."

There was no petition to the government and the conversation was private thus is not subject to the protection of the anti-SLAPP statute.

Dalaimo v. Dalaimo, No. 66060, Order of Affirmance, (Unpublished Disposition Feb. 28, 2017)

Appellant asked to have his nonmodifiable spousal support (MSA) reduced due to job loss. He also sought to have his child support reduced.

When an agreement to nonmodifiable alimony is expressly left unincorporated and unmerged from the divorce decree, it loses its status as a court order and is therefore governed as a private contract.

The Court is required to revisit a child support order if there is a change in circumstance or at least three years has passed since the order. Here, the court held the hearing and found the obligor willfully underemployed and thus refused to modify the order.

Bazaldua vs. Dist. Ct. (State, Dep't Of Family Services), No. 70678, Order Denying Petition (Unpublished Disposition, Feb 28, 2017)

Petitioner requested a Writ of Mandamus for the issuance of a peremptory challenge of a judge sitting in an abuse and neglect case. Petitioner was aware of the date of the hearing and was advised by the sitting Senior Judge to file his peremptory immediately. The State did not file their action until the day before the hearing. The judge ruled that the peremptory filed the day before the hearing was untimely as it is required to be filed at least three days before the hearing.

Bohannon v. Eighth Jud. Dist. Ct., No. 69719, Order Granting Petition in Part (Unpublished Disposition, Mar 21, 2017)

This case highlights the difference between civil and criminal contempt.

The Court is required to issue unambiguous orders if it intends to hold a litigant in contempt of those orders. An ambiguous order will not hold up under Appellate scrutiny.

Second, if the sanction is intended to be civil in nature, there must always be a purge clause. If there is no purge clause, then the sanction is considered criminal in nature and the contemnor must be afforded counsel and the burden of proof rises to beyond a reasonable doubt.

This case contains all of the supporting case law for a contempt appeal.

(Of note, the Supreme Court seems to slightly back off the requirement for a written order to hold someone in contempt. (See Houston v. Eighth Judicial Dist. Court, 122 Nev. 544, 553, 135 P.3d 1269, 1274 (2006) Here, they hold:

The court notes that the district court did not enter any written findings of fact or conclusions of law following the contempt hearing. While a written order is not required by statute in instances of indirect contempt, see NRS 22.030, the lack of a formal written order greatly complicates this court's review of this matter. The court encourages entry of a written order in future contempt proceedings. [Emphasis added].)

In Re Parental Rights as to K.S., K.M., and J.M., No. 69497, Order of Affirmance (Unpublished Disposition April 14, 2017)

The children were removed from appellant's care after she left them home alone without proper supervision and with insufficient food. After they were removed, she was involved in additional criminal activity. The district court found to be credible evidence that before appellant's incarceration she had failed to consistently visit her children, failed to complete a substance abuse assessment or a mental health assessment, and failed to complete parenting classes.

In the Matter of the Parental Rights as to T.R.C. No. 70421, Order of Affirmance (Unpublished Disposition May 25, 2017)

Appellants contend court error in denying petition for the termination of parental rights.

Judge weighed the evidence of parental fault in accordance with NRS 128.105(1)(b) and found none. Additionally, the court correctly found that mother had not abandoned the child even though the child was in a guardianship for greater than 4 years. (Mother still visited weekly and made twice weekly phone calls to the child.)

Keene v. Santos, No. 70913, Order Dismissing Appeal (Unpublished Disposition June 9, 2017)

Appellant appeals a minute order awarding attorney fees that where a notice of entry of order was entered and served on the parties.

The Supreme Court held that for an order to be subject to an appeal, it must be written, signed, and file stamped. The minute order -- though enforceable -- did not meet this criteria and thus the Supreme Court lacked jurisdiction to hear the case.

In the Matter of the Parental Rights as to N.S.T. and S.A.G., Minors, No. 70230, Order of Affirmance (Unpublished Disposition June 15, 2017)

Court affirmed the termination of parental rights based on the mother's inability to comply with the case plan for reunification.

In the Matter of the Parental Rights as to A.M.S., D.J.S-R and E.L.S-R, Minors, No. 70378 (Unpublished Disposition June 15, 2017)

Affirmed termination. District Court found mother learned nothing from the lessons of her case plan and thus, even though she technically completed the case plan, the children were still considered in

danger in her care.

In the Matter of I.M. and J.M., Minors Under 18 Years of Age, No. 71129 Order of Affirmance (Unpublished Disposition June 15, 2017)

Termination affirmed. Father did not comply with the requirements of his case plan.

In the Matter of the Parental Rights as to J.W.J. and J.C.J., Minors, No. 71522 (Unpublished Disposition June 15, 2017)

Though the Appellant technically completed the case plan, she still violated the no contact order with the abusing father. Also, she waived her argument of bias by the District Court Judge by not requesting a disqualification in the lower court.

Hammer v. Rasmussen, No. 67368, Order Vacating Judgment and Remanding (Unpublished Disposition June 27, 2017)

District Court ordered a second father (a total of three parties) to be listed on the child's birth certificate. Even though Appellant did not dispute the order at the District Court level which made the request unappealable, the Supreme Court found that the District Court needed to hold an evidentiary hearing to determine if Nevada Law allowed for three parents to be listed on the birth certificate.

In re Parental Rights as to K.C.L., No. 69531, Order of Reversal and Remand (Unpublished Disposition June 27, 2017)

In Nevada, to terminate parental rights, the district court must find clear and convincing evidence that (1) at least one ground of parental fault exists, and (2) termination is in the child's best interests. However, since the child was of American Indian descent, two additional requirements are called for under the Indian Child Welfare Act (ICWA). They are: (1) it has been proven beyond a reasonable doubt, which must include the testimony of a qualified expert witness, "that the continued custody of the child by the parent or Native American custodian is likely to result in serious emotional or physical damage to the child,' and (2) 'active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Native American family and that these efforts have proved unsuccessful.

Since the Respondent did not meet these additional requirements, the termination was reversed.

In the Matter of the Application of Huddle, No. 70074, Order Vacating Judgment in Part and Remanding (Unpublished Disposition June 27, 2017)

District Court granted a name change for a transgender individual but did not grant a gender marker change.

The Supreme Court found that the District Court erred in its determination that not enough evidence

supporting a gender marker change was presented. Alternatively, Appellant can now ask the State Registrar to make the change rather than go through the Court system.

In the interests of justice, the Supreme Court required the Chief Judge on remand to re-assign the case to a different District Court Judge.

In the Matter of the Parental Rights as to I.M.J. and E.G.J., No 70612, Order of Affirmance (Unpublished Disposition July 11, 2017)

District Court found at least one count of parental fault and the record supports such finding.

In the Matter of the Parental rights of S.L.M., No. 71271, Order of Affirmance (Unpublished Disposition July 11, 2017)

Abandonment is a ground for termination. Appellant did not even appear personally at the termination trial. District Court's findings were supported by the evidence.

In the Matter of the Parental Rights as to L.L.S-C., 71293, Order of Affirmance (Unpublished Disposition July 11, 2017)

Substantial evidence supports the district court's finding that termination of appellant's parental rights is in the child's best interest. Appellant failed to rebut the presumption that because the child has resided outside of her care for 14 of 20 consecutive months, termination was in the child's best interest. NRS 128.109(2). Additionally, further services are unlikely to bring about a lasting change allowing the return of the child to appellant. NRS 128.107(4). Also, the child requires mental health treatment herself and appellant is not in a position to assist her child with obtaining treatment.

In the Matter of the Parental Rights as to L.J.A., a Minor, No. 72324, Order of Affirmance (Unpublished Disposition Sep. 19, 2017)

Parents due process rights were not violated by having the same judge sit in the abuse and neglect case and the termination of parental rights case. (One Family, One Judge rule applies.)

Additionally, only one incident of parental fault is required to establish the reason for termination. The District Court found multiple instances of parental fault.

Mott v. Mott, No. 70402, Order of Affirmance (Unpublished Disposition Sep 11, 2017)

Dad voluntarily relinquished his parental rights during a divorce. There was no separate action filed for the termination. Mom remarried and new husband adopted the children.

Nine years later, Dad discovered that Mom and new husband were being investigated for child abuse. He moved to have the termination struck as void and to void the adoption. The District Court agreed and reinstated Dad's parental rights and voided the adoption.

The Supreme Court, in a split decision, affirmed the District Court, finding that the requirements under Nevada statutory law were not complied with and thus the termination was void ab initio.

The dissent argues that finality of judgments should prevail here and that Dad's motion was not filed in a timely manner. Additionally, they argue that the Court terminating the parental rights had substantially complied with the statute.

Ariza v. Rose, No. 71541, Order of Reversal and Remand (Unpublished Disposition Sep 19, 2017)

District Court abused in discretion in not granting NRCP60(b) relief to the Appellant for excusable neglect as her attorney was a few minutes late for the hearing and arrived after the decision had been made.

Additionally, it was argued that Appellant did not produce the children for DNA testing as orally ordered by the Court. Since no written order was ever issued, the order was unenforceable and should not have been relied upon as a reason for denying the paternity of the Respondent.

Stanford v. Browne, No. 70021, Order of Affirmance (Unpublished Disposition Sep 28, 2017)

This is a case where the former spouse was named the beneficiary of a deferred compensation account before the divorce.

At divorce, the account was awarded in its entirety to the husband.

After the divorce, husband began naming new partner as the beneficiary of his life insurance and other retirement accounts. Though the new partner testified that a new designation was sent to the deferred compensation plan, they had no record of it.

This divorce occurred before the 2011 addition of NRS 111.781 which is Nevada's divest at divorce statute. Prior to 2011, specific language in the Decree was required to divest a beneficiary of their interest. Both the District Court and the Supreme Court held that the Decree contained such language.

The District Court ruled that divorce divested first wife of all of her interest and awarded new partner and the children as the beneficiaries. SC Affirmed.

Terry v. Cruea, No. 71930, Order of Reversal and Remand (Unpublished Disposition, Oct 13, 2017)

In Terry's arguments on appeal, she asserts that she was the prevailing party below and, because the memorandum of costs was timely and Cruea did not move to retax those costs, she is entitled to an award of all the costs sought in the memorandum. We agree; by failing to file a motion to retax costs, Cruea waived any appellate review of that issue.

DeCesare v. Hutchison & Steffen, LLC., No 72042, Order of Reversal (Unpublished Disposition, Nov 15, 2017)

This is an attorney's lien case. Counsel attempted to obtain a charging lien against client's retention in ownership of an LLC. SC indicated that counsel can't place a charging lien against a property interest that the client already owns.

Footnote allows attorney to file independent action for collection of fees owed.

In the Matter of the Parental Rights As To A.R.B., No. 71571, Order of Reversal and Remand (Unpublished Disposition, Dec 27, 2017)

Appellant is a registered sex offender who impregnated his 14 year old girlfriend. Upon completeion of his prison sentence and having met the conditions of his parole, he sought to have custody of his minor child. (Mom lost custody.)

The District Court found parental fault and terminated his rights.

The District Court erred in not making substantive findings to support its decision. Reversed and Remanded for new hearing.

\\wlgserver\company\wp16\RICHARD\00220687.WPD