

Glade L. Hall Joins the Firm's Reno Office

Glade L. Hall has joined the Firm as Of Counsel in the Reno office. His years of experience in business and commercial litigation, the eminent domain, and administrative law add considerable value to the Firm's practice in Reno. He has practiced law in Northern Nevada for more than 35 years.

"Glade is a tremendous addition to the Firm," explained managing partner John T. Steffen. "He brings unparalleled experience across a wide range of legal matters, and we welcome him to our team."

Glade served as Deputy Attorney General for the Nevada Public Service Commission before entering private practice. He also served on the Board of Litigation for the Mountain States Legal Foundation.

Glade has been admitted to practice in all state courts in Nevada, the U.S. 9th Circuit Federal Court of Appeals, the United States Court of Claims, and the United States Supreme Court. Glade has successfully handled numer-



*Glade L. Hall
Of Counsel*

ous jury trials in his career in various Nevada district courts as well as Federal District Court. He has also argued numerous cases before the Nevada Supreme Court and the U.S. 9th Circuit Federal Court of Appeals.

Glade received his Bachelor of Science degree in Political Science (major) from Brigham Young University in 1968. He then earned his Juris Doctor degree from the University of Washington School of Law in 1970.

When away from the office, Glade enjoys spending time with his wife and grandchildren. Glade is also an avid outdoors-

man. He loves fishing, running, and hiking. In his past, Glade ran marathons competitively and at one time held the course record for the St. George Marathon in the Masters division. He has also climbed Mount McKinley, Mount Aconcagua, and Mount Kilimanjaro. These days, he enjoys leisurely hikes with his grandchildren and an afternoon of fishing for cutthroat trout in Pyramid Lake. ■

Hutchison & Steffen is Proud to Announce Benjamin J. Comin and Nancy J. Heimerle as Associates

Hutchison & Steffen managing partner John T. Steffen announced that Benjamin J. Comin has joined the Firm as an associate in the Firm's corporate and commercial practice group. Ben practices primarily in the areas of corporate, commercial, real estate, and technology-related law.

"We welcome Ben to the Firm," Steffen said. "He is a wonderful addition to the Firm's corporate and commercial law team."

Ben attended Brigham Young University and received a bachelor's degree in Political Science. While an undergraduate, Ben worked as a legislative aide in the Utah House of Representatives. After graduating, Ben attended The Ohio State University Moritz College of Law and received a Juris Doctorate degree. While in law school, Ben served as Managing Editor of the Entrepreneurial Business Law Journal, was recognized as a Dean's Merit Scholar, and had the privilege of participating in the school's Law and Leadership Program.

Since graduation from law school, Ben has represented clients in a variety of business



*Benjamin J. Comin
Associate*

transactions and partnership disputes. Ben has been involved in businesses both as an advisor and as an owner and employs his experience, entrepreneurial mindset, and practical knowledge to help his clients start, grow, and protect their businesses.

John Steffen also welcomed Nancy J. Heimerle to the Firm as an associate in the business litigation and family law practices.

Nancy received her Bachelor's degree from the University of Nevada, Reno. She then earned a Juris Doctorate from the William S. Boyd School of Law at the University of Nevada, Las Vegas. After graduating from law school, Nancy became a staff attorney for the Children's Attorneys Project of Clark County Legal Services. She then practiced civil litigation at several private Las Vegas firms before accepting a position with Hutchison & Steffen.

Nancy is originally from the small town of East Setauket on Long Island, New York. She now lives in Henderson, Nevada, with her two daughters. ■



*Nancy J. Heimerle
Associate*

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Legal Matters

Fall 2012

HUTCHISON & STEFFEN ATTORNEYS NAMED AS MOUNTAIN STATES SUPER LAWYERS AND RISING STARS 2012

The Firm is pleased to announce that Partners Mark A. Hutchison, John T. Steffen, Joseph R. Ganley, and James H. Randall have been named to the 2012 edition of Mountain States Super Lawyers. Hutchison and Ganley were recognized for their business litigation practice, while Randall was honored for his personal injury defense practice and Steffen for his work in real estate matters, particularly landlord/tenant disputes.

In addition, Firm partner Patricia Lee and associates Richard L. Doxey and David W. Gutke were named to the 2012 edition of Mountain States Rising Stars. Lee was recognized for her intellectual property practice, Doxey for his real estate practice, and Gutke for his business litigation practice and their respective successes in 2011.

Attorneys are selected using a rigorous, multiphase rating process in which peer nominations and evaluations are combined with third-party research. ■



*Mark A.
Hutchison
Partner*



*John T.
Steffen
Partner*



*James H.
Randall
Partner*



*Joseph R.
Ganley
Partner*



*Patricia
Lee
Partner*



*Richard L.
Doxey
Associate*



*David W.
Gutke
Associate*

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ATTORNEYS

A FULL-SERVICE, AV-RATED LAW FIRM
PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NEVADA 89145
702-385-2500 • FAX 702-385-2088
HUTCHILEGAL.COM
LAS VEGAS • RENO • SALT LAKE CITY • PHOENIX
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HEALTHCARE PROFESSIONALS ADVOCACY
INSURANCE LITIGATION
LANDLORD/TENANT
PERSONAL INJURY
PROFESSIONAL LIABILITY DEFENSE
REAL ESTATE LAW
TRUST & PROBATE LITIGATION



ADR BASICS

By Erin Lee Truman

Alternative Dispute Resolution (ADR) is a process of settling legal challenges or claims without utilizing the traditional judicial system. Small businesses typically utilize several forms of ADR when attempting to both avoid or resolve litigation. These forms of ADR include arbitration, mediation, and private trials. The ADR process involves opposing parties coming together with a neutral third party—arbitrator, mediator, private judge, or private jury—to resolve their conflict.

ADR allows the parties to play a more integral role in resolving their differences and can potentially allow them to maintain a positive working relationship. Small businesses should consider ADR if negotiations are stalemated or not advancing in a constructive way. There are many benefits to ADR. The processes are generally less formal, less stressful and more confidential than traditional court proceedings. ADR also encourages the parties to actively participate in the process of resolving their disputes.

Let's look at some differences between the most commonly used forms of ADR:

ARBITRATION: The opposing parties select an impartial third party or parties—an arbitration or panel of arbitrators—to determine the outcome of their dispute. Parties can also mutually agree to parameters or rules for their arbitration. Then, they present evidence and arguments to the arbitrator or panel in a more relaxed manner than a traditional court proceeding. Arbitration hearings most often take place in a legal office with all parties and counsel present. The neutral's decision is legally binding and a written decision is provided to those involved. Another advantage to arbitration is the speed in which it can be accomplished. Arbitration can usually be completed in a few months. This allows the parties to save money on legal fees and costs, compared to protracted litigation.

MEDIATION: The parties voluntarily enter discussions with a neutral third party—the mediator—who facilitates the parties' communication so they can work to resolve their differences. Unlike arbitrations or trials, the parties retain complete control over the outcome of their dispute in mediation. The mediator does not decide the case, but helps the parties explore a variety of outcomes. Parties can privately arrange a mediation

at any point during a case that is postured for arbitration or litigation. If the mediation ends with a settlement contract, then the parties are bound to it. If the parties are unable to reach an agreement, they then can proceed in the judicial system. Mediation costs far less than litigation and it increases the probability of the parties being satisfied with the final result. Business relationships are more likely to stay healthy give the process' collaborative nature.

PRIVATE TRIALS: The opposing parties submit their claims or causes of action to a private judge and/or privately selected jury. This form of ADR is less commonly used, but is a tool that can be effectively employed in cases that involve particularly sensitive or confidential information. This forum is similar to a trial in the judicial system, in that it has a judge and the option for a jury. However, private trials enjoy privacy and confidentiality not available in open court; all involved can be required to sign a confidentiality agreement. The involved parties can also create many of the rules of a private trial. Another advantage of a private trial is the shortened time to reach a courtroom. The parties determine when their case is submitted for trial, rather than waiting for an available trial date in the traditional judicial system.

The Law Firm of Hutchison & Steffen provides advice and representation to clients who desire to resolve disputes in Alternative Dispute Resolution proceedings, including negotiation, arbitration, mediation, and private trials. Also, the Firm counsels clients at the time of contract formation about the merits of various resolution processes and how to achieve the greatest benefits through contract language. Our attorneys are seasoned practitioners before arbitrators, mediators, and private judges. Many of our attorneys also serve as mediators and arbitrators in matters that do not involve the Firm's clients. Hutchison and Steffen is your best choice for all matters regarding Alternative Dispute Resolution. ■



ERIN LEE TRUMAN

Erin Lee Truman is Of Counsel with the Firm, practicing primarily in tort litigation and serving as head of the Firm's Alternative Dispute Resolution Department. Erin attended Brigham Young University as a Trustee Scholar. She received a Bachelor of Science degree in Accounting, with a minor in Business Management, from Brigham Young University's Marriott School of Management in 1988. She earned the degree of Juris Doctor from J. Reuben Clark Law School in 1991.



PATRICIA LEE

Partner Patricia Lee Joins Legal Aid of Southern Nevada Pro Bono Advisory Council

Hutchison & Steffen is pleased to announce that Patricia Lee has joined the Legal Aid of Southern Nevada's first-ever Pro Bono Advisory Council. The goals for the Advisory Council are, among other things, to increase awareness of the Pro Bono Project in the legal community and beyond, expand pro bono participation among lawyers in Southern Nevada, and improve satisfaction levels and retention of all volunteers.

"I am so pleased that I was asked to be a part of this group," says Lee. "My pro bono work is very important to me and it is an honor to join this group of professionals in an attempt to get others involved as well."

Patricia Lee is a partner of the Firm practicing primarily in business and commercial litigation (including partnership/shareholder disputes, contract enforcement/defense, non-competition agreements, and commercial lease review and litigation). In addition, Patricia practices in the areas of family law, trademark registration and litigation, collections, mechanic's liens/foreclosures, and medical claims billing. Patricia's range of experience allows her to manage the legal needs of entrepreneurs and small business owners through the Firm's program entitled The Legal Solution for Entrepreneurs & Small Businesses. ■

LLC Member Personally Liable

The owner of a lot on which a four-unit condo complex was to be built contracted with a small residential construction company to build the condos. The construction company was formed as a limited liability company (LLC), the only members of which were a licensed home builder and his wife. The licensed builder served as general contractor on the project, overseeing subcontractors that the LLC had selected.

A couple of months into construction, some structural problems surfaced. At first the builder's assurances that the problems would be fixed calmed the tensions with the owner, but over time, old defects weren't fixed and new ones arose, and the relationship deteriorated. Eventually the builder walked off the project, leaving dozens of defects unremedied. When the owner sued for damages, based on negligence and breach of warranties, he named as defendants not only the LLC but one of its individual members, the licensed builder.

One of the appealing characteristics of a limited liability company, as its very name indicates, is that a member of the LLC generally is not personally liable for the LLC's liabilities. In fact, the state LLC statute that applied in this case states that a "member or manager is not per-

sonally liable for a debt, obligation, or liability of the company solely by reason of being or acting as a member or manager."

As the individual builder discovered when he was found personally liable for a judgment of nearly \$1 million, the LLC shield against personal liability is not impenetrable. The state supreme court ruled that the protection against personal liability applies only to vicarious liability for nontortfeasor members. An individual who has done nothing wrong will not be held liable simply by virtue of being a member or manager of the LLC. Where, as in this case, the individual is guilty of negligence, the protection of the LLC business form is lost.

The court acknowledged that, at least at first blush, its decision appeared to strip away one of the main reasons why a person chooses to form an LLC. But it was satisfied that there are other unaffected benefits to choosing to start a business as an LLC. The controlling rationale is akin to the concept of "piercing the corporate veil," that is, under some circumstances holding an individual corporate officer liable for wrongful conduct. Or as the court put it: "You don't buy immunity from suits for your torts by being a member of a business corporation." ■

Actual resolution of legal issues depends upon many factors, including variations of fact and state laws. This newsletter is not intended to provide legal advice on specific subjects, but rather to provide insight into legal developments and issues. The reader should always consult with legal counsel before taking any action on matters covered by this newsletter. Nothing herein should be construed to create or offer the existence of an attorney-client relationship.