

ALEX VELTO RECEIVES
VOLUNTEER OF THE YEAR AWARD
FROM STATE BAR OF NEVADA



The Firm congratulates associate Alex Velto for receiving the State Bar of Nevada Volunteer of the Year award. The award was presented to Alex as a part of the 2020 Membership Awards at the Board of Governors’ August meeting. The Volunteer of the Year award recognizes outstanding service to a committee, section, or program by a member of the State Bar of Nevada. Alex received the award in recognition for his organization and participation in the State Bar-sponsored debate on licensing reciprocity, a much debated topic within the State Bar.

“Alex is a great attorney and exceptional debater, with experience going back to high school,” said John T. Steffen, managing partner. “I’m so grateful to have Alex on our team, and extremely proud of him for stepping up for the State Bar and presenting a concise and cohesive argument addressing licensing reciprocity. Congratulations to Alex on this well-deserved award.” ■

DANIEL H. STEWART
SELECTED AS CONTRIBUTOR
BY THE NEVADA INDEPENDENT



The Firm is pleased to announce partner Dan Stewart has been selected as an ongoing contributor by The Nevada Independent. Stewart leads the Firm’s Election, Campaign, and Political Law Practice representing clients before government agencies, boards, and commissions. His articles and commentary will focus on these subjects.

The Nevada Independent is a nonpartisan, nonprofit news and opinion online publication founded in 2017 that provides Nevadans with in-depth news coverage and informed opinions that shed light on the matters that affect them most. As a native Nevadan, Stewart will be writing bi-weekly columns addressing political and public interest topics. For a list of Stewart’s columns, visit thenevadaindependent.com.

“Dan has been an essential asset to our Firm and our clients in areas of administrative law practice, particularly in election, campaign, and political disputes and issues. We are very excited for him to share his insights with the readers of The Nevada Independent,” said managing partner, John T. Steffen. “He is well respected in both the legal and political communities, and we are glad to have his voice and opinions in the publication.” ■

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.

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Hutchison & Steffen Named Pro Bono Law Firm of the Year



Subchapter V Bankruptcy and the Absolute Priority Rule



Alex Velto Receives Volunteer of the Year Award

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Legal Matters

SUMMER 2021

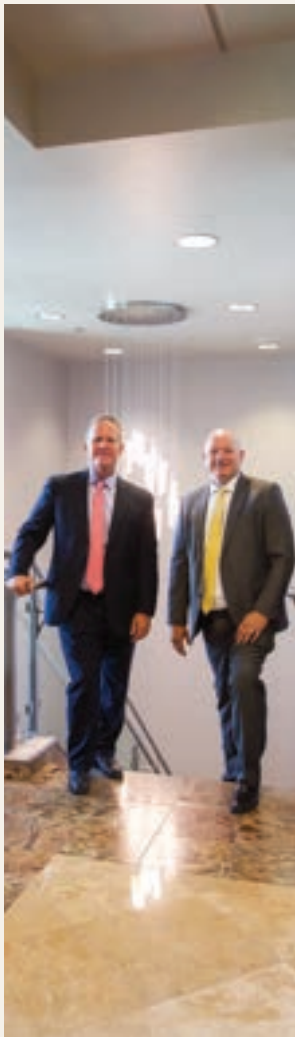
25 Anniversary
YEARS CELEBRATION

MESSAGE FROM MARK A. HUTCHISON

Hutchison & Steffen is celebrating its 25th Anniversary this year! John Steffen and I started the law firm 25 years ago this spring in a small building with two offices on 4th Street in downtown Las Vegas. The Firm has since grown to one of the largest state-wide firms with nearly 50 attorneys and over 100 employees who live and work in both Reno and Las Vegas.

We know clients have many choices in selecting a law firm. We take seriously the trust and confidence they place in us as lawyers to help them navigate often difficult and challenging legal matters. Although we bring many resources to the table when a client engages us, the greatest assets Hutchison & Steffen has to offer are professional excellence and unyielding integrity. As a law firm, Hutchison & Steffen prides itself in knowing how to win for clients and earning and keeping their trust. And we work hard to achieve these objectives. Over the past 25 years, I have often left the office late at night with several cars still in the parking lot and lights on in different offices throughout the building.

“Far and away the best prize that life has to offer is the chance to work hard at work worth doing.” Theodore Roosevelt was right. It’s been an honor to work hard for wonderful clients on worthy causes alongside professional colleagues who are some of the finest people who have ever lived on earth. From all of us at Hutchison & Steffen, thank you for 25 great years! ■



Hutchison & Steffen Named Pro Bono Law Firm of the Year by Legal Aid Center of Southern Nevada

Firm Also Received the Lied Award for Most Pro Bono Cases by a Law Firm

The Firm is honored to be named the Pro Bono Law Firm of the Year by the Legal Aid Center of Southern Nevada. Additionally, Hutchison & Steffen received the Lied Award for Most Pro Bono Cases by a Law Firm. These awards come after a years-long commitment from the Firm to provide high-quality pro bono legal service to the Southern Nevada community in conjunction with the Legal Aid Center. The awards were presented at the 20th Annual Pro Bono Awards in December 2020 during a virtual ceremony.

For years, Hutchison & Steffen has been a proponent of the work of the Legal Aid Center of Southern Nevada, and its attorneys have dedicated countless hours and resources to the assistance of the Center's clients. Early in 2012, the Firm announced that they would be adopting a practice group through the Center and became the first Firm in Southern Nevada to ever "formally adopt" a practice group. While the Legal Aid group does have full-time attorneys on staff, they are only able to handle approximately 80 percent of the domestic violence cases. When this information was presented to the Firm, the partners decided adopting the

practice group would make the most significant impact.

"Pro bono work has always been a priority for the Firm, and I'm pleased that even through the tough times of the pandemic, all attorneys were able to make time to care for the members of the community who need them most," said Patricia Lee, partner with Hutchison & Steffen. "Throughout 2020, we've seen countless legal matters come up as a result of the COVID-19 crisis – domestic violence has increased, evictions and bankruptcies have increased as a result of job loss, and more, and people should have access to the legal counsel they need to help them."

In 2020, the attorneys of Hutchison & Steffen spent more than 600 hours working on pro bono cases for the Legal Aid Center of Southern Nevada, with four attorneys in the 100+ hour club.

"The Legal Aid Center of Southern Nevada has a special place in the community and in our Firm," said John T. Steffen, managing partner. "The Firm's ability to come together to provide hours of legal counsel to those who would otherwise be unable

to afford it is amazing. We, of course, don't work with the Legal Aid Center of Southern Nevada for the recognition, but it is an honor to receive these awards for our pro bono service, especially this year when so many have struggled. I look forward to many more years working with the Center to provide the legal assistance our community needs."

Legal Aid Center of Southern Nevada is the agency of last resort for many low-income individuals and families who face critical legal problems that affect their basic needs. The Pro Bono Project coordinates private attorneys who generously volunteer to provide free legal assistance to individuals who cannot afford an attorney.

"In my opinion, nothing we do at Hutchison & Steffen is more important than the pro bono work we do. Everyone deserves to have high-quality legal representation irrespective of their ability to pay for it, and I thank the Legal Aid Center of Southern Nevada for allowing Hutchison & Steffen to be able to provide that for the Las Vegas community," said Lee. ■



HAVE YOUR CAKE AND EAT IT, TOO: SUBCHAPTER V BANKRUPTCY AND THE ABSOLUTE PRIORITY RULE

By Brenoch R. Wirthlin

The Small Business Reorganization Act of 2019, effective for just over a year beginning on February 19, 2020, enacted a new subchapter V of chapter 11 bankruptcy ("Subchapter V"). Perhaps one of – if not the most – significant advantage of the new Subchapter V for business debtor companies is the elimination in its entirety of what is known as the "Absolute Priority Rule" ("APR"). The APR was, and remains, a feature of a standard Chapter 11 bankruptcy. Essentially, under the APR, if a business debtor's unsecured creditor class, which

is often not happy with a "cramdown" of their obligations – an often very reduced recovery in a Chapter 11 repayment plan – votes against the debtor's proposed Chapter 11 plan, the equity holders of the business debtor cannot receive anything unless the unsecured creditors have their claims paid in full. So, if the equity holders of the debtor company did not pay the claims of the unsecured creditor class in full, the equity holders would lose their interest in the debtor company. The only way around this rule was for the equity holders to provide "sufficient new value"

to the debtor company to "ensure" a successful reorganization. In re Gen. Teamsters, Warehousemen & Helpers Union, Loc. 890, 265 F.3d 869, 873 (9th Cir. 2001). Making this "new value" exception even more unappealing to business owners, the "new value" cannot be future labor, expertise, or management; rather former equity owners must offer value that is "(1) new; (2) substantial; (3) money or money's worth; (4) necessary for a successful reorganization; and (5) reasonably equivalent to the value or interest received." In re Elmwood, Inc., 182 B.R. 845, 852 (D. Nev. 1995). For many small business debtors, losing equity is a death knell for the company because the owners are often the only executives who are able and willing to run the business. Small business owners often do not have enough funds to buy the debtor's reorganized equity. Thus, the APR gave unsecured creditors considerable leverage over the Chapter 11 small business debtor.

Subchapter V, however, eliminates this requirement. No new value is needed for the equity holders of the small business Subchapter V debtor to maintain their equity. Rather, under Subchapter V, a debtor company may obtain confirmation from the Bankruptcy Court of a plan that provides for the equity holders to maintain their ownership of the business, even over the objection of unsecured creditors not receiving full payment on their claims, so long as the plan provides that all projected "disposable income"[1] of the debtor for a 3-5 year period – as determined to be appropriate by the Bankruptcy Court – will be applied to the plan. In that event, unsecured creditors who otherwise would have been able to successfully prevent confirmation of such a plan are unable to do so. This new avenue for the small business debtor will effectively assist in the accomplishment of the Subchapter V bankruptcy, to make business bankruptcy proceedings much more expeditious, less costly, and more beneficial to companies in need of such relief. ■

¹ The Bankruptcy Code defines "disposable income" as income that is "received by the debtor and that is not reasonably necessary to be expended...for the payment of expenditures necessary for the continuation, preservation, or operation of the business of the debtor."

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PRO BONO

