

ing nonexclusive factors may aid in assessing whether a party exercised diligence in attempting, but failing, to meet the filing deadline:

- (1) the explanation for the untimely conduct,
- (2) the importance of the requested untimely action,
- (3) the potential prejudice in allowing the untimely conduct, and
- (4) the availability of a continuance to cure such prejudice.

Even where good cause has been shown under NRCP 16(b), the district court must still independently determine whether the amendment should be permitted under NRCP 15(a). Under NRCP 15(a), leave to amend, even if timely sought, need not be granted if the proposed amendment would be “futile.” *Nutton v. Sunset Station, Inc.*, 131 Nev. Adv. Op. No. 34, ___ P.3d ___ (June 11, 2015).

Exhaustion of Administrative Remedies: The exhaustion-of-administrative-remedies requirement imposed by the federal Prison Litigation Reform Act of 1995’s (PLRA) amendment of 42 U.S.C. § 1997e(a) requires inmate-plaintiffs to exhaust their administrative remedies prior to filing any § 1983 civil-rights complaints in Nevada state

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Pro Bono Corner

Pro Bono: An Appealing Opportunity

By Seth Floyd, Esq.

As many of you know, the Supreme Court of Nevada recently began formally seeking counsel for certain appeals brought in proper person. This program has already been an overwhelming success, with over 69 clients placed with counsel since September 2013. Several of those appeals have already resulted in published opinions, creating new law in several practice areas. This program has been so effective that the Court of Appeals has requested that the program expand to its appeals as well.

For practitioners, both young and old, the benefits of taking an appeal cannot be understated. The Supreme Court of Nevada and Court of Appeals hold oral argument on all cases assigned through the program. This gives attorneys a great opportunity to hone their oral advocacy skills and interact with Nevada’s appellate courts. It also offers newer attorneys the opportunity to manage their own case, learn about the appellate process, and gain valuable skills to market to potential clients (or senior partners).

Representing a client on appeal is an incredibly rewarding experience. Through my first case, which I took in my second year of practice, I had the opportunity to argue before the Southern Panel of the Supreme Court of Nevada. Because my appeal involved a novel issue, it resulted in a published opinion that is now part of Nevada law. This experience has been one of the highlights of my legal career to date.

Recognizing that appeals are time-consuming, the program also offers an optional mentorship component for those who cannot commit to taking an appeal or who would prefer to assist a new attorney instead. Through this facet of the program, a mentor is paired with counsel to assist in the appellate process. This is a great way for seasoned practitioners to work with new attorneys and improve appellate practice in Nevada.

The Nevada Appellate Pro Bono Program is administered by the Legal Aid Center of Southern Nevada’s Pro Bono Project. To get on the mailing list for future appeals, contact Melanie Kushnir at mkushnir@lacs.nv.org.

Seth Floyd is an associate at the Urban Law Firm where he practices labor law, appellate litigation, commercial litigation, and land use/zoning. Seth is also the Chair of the Appellate Litigation Section of the State Bar of Nevada.

