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# Message from the President

By Alan J. Lefebvre, Esq., President, State Bar of Nevada



## LET'S GET ORGANIZED FOR THE COURT OF APPEALS INITIATIVE IN 2014

"If we lacked courts, dispute resolution would be conducted in the street and the outcome decided by the more physically or politically powerful or the best armed."

It is a hallmark of Nevada that we improve infrastructure at a furious pace. If we need more roads, we build them and connect them with off-ramps and fly-overs, to more roads and new development. Yet our court infrastructure remains a remnant of the last century, or even the one before that. Nevada's economy would not tolerate letting the old spaghetti bowls maneuver around our northern and southern urban valleys. Yet we tolerate a congested Supreme Court docket, which could turn into a proverbial parking lot in a judicial traffic jam. I say this as a small government advocate; we need a fly-over or two to assist our appellate processes.

We cannot perceive of a system of justice that does not provide for courts. Further, we cannot imagine a system that does not provide for oversight of the exercise of judicial power by a reviewing court. However, because growth of its docket has overwhelmed the Nevada Supreme Court, our incomplete court infrastructure hamstrings effective judicial review. Because the court infrastructure is incomplete, we have an overwhelming need for the creation and implementation of a court of appeals. The issue is on the ballot in November of 2014, not that far off.

Our courts function to keep the peace and set us apart as a civil society. If we lacked courts, dispute resolution would be conducted in the street and the outcome decided by the more physically or politically powerful or best armed. Care to live in a third-world country?

Our tradition includes a system of checks on any power; thus, enter the appellate courts. The opportunity for meaningful review



means fewer miscarriages of justice can go undetected, a vital component of due process of the law. The operative word is “meaningful.”

Nevada’s system of “checks” is overwhelmed to the breaking point. We have a seven-person Supreme Court sitting atop 88 trial courts statewide. The justices are overwhelmingly outnumbered. The annual Supreme Court docket for 2012 was 2,500 cases. Divide that by seven and you get 357 cases for each justice to resolve per year; that is nearly one case, per justice, per calendar day, to resolve. (No more associate whining about billable hours!)

## History Has Caught Up

The court resolved 10,000 cases the in 113 years from 1864 to 1977. Now, 10,000 cases are resolved every four years and filings are growing at a rate of 5 percent per year. The justices need some appellate help. They resolve everything from driver license revocations to the imposition of the death penalty. Three hundred and twenty-nine civil writs were filed last year, and despite its caseload, the court is giving these writs closer scrutiny than ever before. I will gladly match our court’s disposition on civil writs to that of any court – and the opinions have grown the case law to supply more predictability.

The proposed appeals court will allow cases to be routed to where they can best and most quickly be managed. The New Mexico “push down” model will allow flexibility over time and adjustment to suit the needs of swifter resolution – and time to write seminal opinions that burnish our body of law.

## Quality Precedent Reflects on the Competence of the Legal System – and that Means You and Me

When I read a well-crafted opinion, it makes me proud that I invested 35 years as a member of this bar. The court can’t contribute to the quality of superior jurisprudence without some breathing room. Judicial precedent supplies the ingredient of predictability in ordering business and personal affairs. We plan our lives and businesses on knowing the rules as set down in common law case development. Precedent is a rule of law, tied to specific facts, that reveals an outcome. Without precedent, planning, in business, for instance, is doomed. We judge courts by the quality of their opinions, and each other by our written output. If you have pride in your profession, you need to prepare yourself to make the case for a new appeals court in the 2014 general election cycle. The case must be made, one voter at a time, and it starts with you and me. I plan to write more on this topic as the election season ramps up. ■



## Questions? Comments?

*Nevada Lawyer* welcomes feedback from our readers! Contact us at [nvlawyer@nvbar.org](mailto:nvlawyer@nvbar.org).