

THE RULE OF LAW



BY JUSTICE MARK GIBBONS, NEVADA SUPREME COURT

WHO PROTECTS THE RULE OF LAW?

In continuing the discussion of the Rule of Law, Justice Mark Gibbons offers his thoughts on why the rule of law is of utmost importance to lawyers and judges.

The rule of law is the bedrock upon which our nation is built and serves as the primary check and balance to the exercise of governmental power. The law provides protection to the individual liberties set forth in our Constitution and protects citizens from arbitrary and capricious abuses. It is the lawyer's role to protect and uphold the rule of law, in part, by being governed by it. It is important for lawyers of all levels of experience to remember this all-important duty while carrying out daily tasks.

While a lawyer must represent his or her clients with zealous advocacy, such advocacy should not come at the cost

of the rule of law. So often arguments of merit are hindered by the superfluous, including misstatement of case holdings, fabricated facts, refusal to abide by discovery rules or frivolous suits filed to force settlement. It is easy to assume that the responsibility to uphold the rule of law can be punted downfield to judges—let them sort the wheat from the chaff. However, that is not, and should not be, the case. It is the duty of the entire profession to serve the rule of law every step of the way. No client, however big the paycheck, merits abandoning that aim.

For judges especially, upholding the rule of law can seem an impossible task. Caseloads become overwhelming, and suddenly outcomes are based on facts where they should be based on law. Lady Justice's blindfold represents the rule of law—and that blindness is both a gift and a curse. The blindfold can give judges the power to right the scales between the oppressed and the oppressors. However, the blindfold can also leave a judge feeling powerless in the face of bad facts. At times the blindness can feel unjust. This is where abiding by the rule of law becomes most challenging, the use of discretion most delicate. In these moments, it is essential to remember that we have the power to change our rules and our laws; these are not intractable, but the rule of law is unchanging and, for us, not to be compromised.

A public that does not trust in the integrity of lawyers and judges does not trust in the integrity of the rule of law, and it begins to doubt the pillar of justice on which democracy is built. This disillusionment hurts us as a profession and as a nation. These are the ideals taught to us in law schools, but are so often forgotten with the passage of time and the realities of daily practice. As a self-regulating profession, it is up to us to serve as our own reminders. **NL**

Professional Liability Insurance Is **OUR BUSINESS.**

Don't Let It Be Your Problem.

→ We handle all your
Business Insurance Coverages:

- Professional Liability Insurance
- Errors & Omissions
- Employment Practices Liability Insurance
- Directors and Officers
- Workers Compensation
- Comprehensive General Liability Insurance
- Excess and Umbrella Liability



Contact us for your free, no obligation quote

Monica Plaxton Garin, Esq.
9900 Covington Cross Dr., Suite 120 ♦ Las Vegas, NV 89144
702.375.7448 ♦ 702.382.1512 fax

www.charlestoninsurancegroup.com

JUSTICE MARK GIBBONS was first elected to the Nevada Supreme Court in 2002 and was elected to his third six-year term in 2014. He had a long career as a private attorney specializing in real estate-related litigation, and he served as presiding judge of the civil division of the Clark County District Court in 1998. In 2001 he was elected chief judge of the Clark County District Court. He served as chief judge until assuming his duties as a Supreme Court Justice. Gibbons served as the Chief Justice of the Nevada Supreme Court in 2008 and 2014.