

# The WRIT

OFFICIAL PUBLICATION OF THE WASHOE COUNTY BAR ASSOCIATION

**Wednesday, April 24, 2019, Harrah's Convention Center  
12:00 p.m. - 1 Hour CLE**

## WCBA Welcomes State Bar Chief Counsel - Dan Hooge

Meet your new Bar Counsel, Daniel Hooge. Dan will cover what to expect from attorney discipline including:

- Goal of Discipline
- Why is Discipline Public?
- Types of Discipline
- Factors to Consider when Imposing

### Discipline

- Aggravating Factors
- Mitigating Factors
- Discipline Process
- Screening Panel Options
- Diversion/Mentoring
- Hearing Panels
- Formal Hearing
- Supreme Court Review
- Negotiated Pleas
- Bar Counsel's Tips

Daniel Hooge is the Chief Bar Counsel for the State Bar of Nevada. While the Supreme Court of Nevada retains ultimate authority to regulate the legal profession, Mr. Hooge and the Office



**RSVP** by April 22, 2019. \$25 per person for members, tables of eight with signage \$200 and \$35 for non-members. Register online at [www.wcbar.org](http://www.wcbar.org) or call 786-4494.

of Bar Counsel serve as the Court's arm to investigate and prosecute claims that a lawyer has violated the Rules of Professional Conduct. Previously, Mr. Hooge served two terms as the District Attorney for Lincoln County, Nevada where he prosecuted criminal matters and represented the County in civil matters.

Mr. Hooge has written and lectured on legal topics relating primarily to prosecution and professional responsibility. He is a member of the National Organization of Bar Counsel and was formerly a member of the Nevada and National District Attorneys Association.

He earned his J.D. in 2007 from Brigham Young University and his B.A. in Business Management and Finance in 2003 from Brigham Young University. He is admitted to the bars of Nevada and Utah.

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RANDOM  
THOUGHTS  
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MILLENNIAL  
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# MILLENNIAL MINUTE

By Kelci Binau, McDonald Carano

## THE MILLENNIAL OFFICE AND THE POTENTIAL FOR PROFESSIONAL CONDUCT ISSUES

Millennials are those who were born between 1981-1996.<sup>1</sup> According to the U.S. Bureau of Labor Statistics, in two years the U.S. workforce will be comprised of approximately 50 percent of Millennials.<sup>2</sup> By 2030, Millennials in America will make up roughly 75 percent of the workforce.<sup>3</sup>

Millennials grew up during the internet explosion. As first-generation, digital natives, Millennials feel at home when utilizing the internet, computers, phones, tablets, or basically anything with a screen. Technology, particularly smart phones has drastically molded the way Millennials communicate and interact with the world around them. Although the iPhone did not launch until 2007, Millennials quickly adapted to the constant connectivity and demands of social media.

Predominantly Baby Boomers had private, personal offices and historically followed a strict hierarchy to arrive at the coveted corner office. Millennials on the other hand tend to desire less-conventional, democratized, workspaces that offer more flexible and open spaces for collaboration while still retaining a private workspace. Real estate trends demonstrate that law firms are actively taking steps to follow this movement and reduce their real estate costs. From 2016 to 2017 law firms created smaller individual workspaces thereby reducing their foot print by approximately 27 percent.<sup>4</sup>

Millennials also value the ability and freedom to work “flex hours.” Flex schedules provide attorneys the ability to meet their billable responsibilities on a more personalized schedule. While some attorneys may choose to begin conference calls at 7:00AM and head out to the gym at 4:00PM, others may choose to begin their day at a later time.

While young attorneys recognize the importance of face-to-face interoffice and client meetings, they also value the ability to work out of the office when engrossed in an intensive research project or drafting a time-sensitive pleading as well as the ability to work remotely. Attorneys can now create pop-up offices almost anywhere without being in the same room, let alone building as their colleagues. Effortless access to Wi-Fi, a laptop or a smartphone enables video-conferencing on the fly. Paperless storage in the cloud allows for easy access to client files without the need to flip through filing cabinets of folders.

Millennials’ untraditional views are often interpreted as a sense of entitlement or laziness. However, studies show that Millennials are working just as hard as other generations, just on their own terms.<sup>5</sup> Millennials, often called the “purpose over paycheck” generation, tend to blur their work life balance. Glued to their smart phones, Millennials often work longer hours because they remain “on,” checking emails and accessing client files in the cloud after-work hours

With the progression of technology and prevalence of virtual offices comes the responsibility to ensure compliance with the Nevada Rules of Professional Conduct. Rule 1.6(c), Confidentiality of Information states that “a lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.”<sup>6</sup> To comply with this rule, an attorney must evaluate the level of security of the technology being used, the legal ramifications if the information is intercepted by a third party and whether more precautions need to be taken when utilizing the technology. An attorney’s

location and the information being accessed may dictate whether an attorney should avoid connecting to an unsecured or free “guest” Wi-Fi connection entirely.<sup>7</sup> Additionally, an attorney should be sure to adhere to Rule 1.6(a) and be sure not to inadvertently reveal information relating to the representation of a client when holding out-of-office video-conferences or phone calls.

Each generation brings a new idealistic vision of the impact and footprint it would like to leave in its wake. With the inevitable rising of a new generation comes the descent of past generations. Transformation will come with time, but as past generations have demonstrated, patience and collegiality will allow for a smoother and more comfortable transformation for all. While it is natural for law firm culture to initially be resistant to workplace transformation, the numbers demonstrate that firms should pay attention to a destined paradigmatic shift. Adopting a modular plan that is flexible and allows for growth and change will supply law firms with a strategy that will allow for the growth of future work styles. Understanding and implementing these Millennial workplace trends will prove an invaluable step towards attracting the next generation of clients and retaining the next generation of legal talent. As the data depicts, Millennials will soon make up the majority of the workforce and unlike some laws, the future provides no exception for law firms.

*\*This article does not intend to express the beliefs of the author nor to represent that these are the beliefs or practices of every Millennial.*

Please see page 15 for footnotes and speaker biography

a writ petition challenging an order requiring the disclosure of emails that the petitioner claimed were protected by the attorney-client privilege. *Vistana Condo. Owners Ass'n, Inc. v. Eighth Judicial Dist. Court in & for Cty. of Clark*, 432 P.3d 218 (Nev. 2018). The merits of the petition, however, were not addressed in detail with the Court simply writing that “[h]aving considered the petition, we are not convinced that our intervention is warranted.” *Id.* Relying on the discretionary nature of the writ process, the Court did not render a decision that the emails were or were not privileged, leaving the petitioner to wonder whether intervention was not warranted because the emails were not privileged or because the issue was not significant. This uncertainty is the result of the balance struck in the current Nevada Rules of Appellate Procedure against the “institutional costs” of more frequent interlocutory appeals.

*Adam Hosmer-Henner is a partner at McDonald Carano and practices primarily in the areas of commercial litigation and appellate law. He regularly handles appeals and writ proceedings at the Nevada Supreme Court and the United States Court of Appeals for the Ninth Circuit.*



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charged felons with SMI. There are few crisis stabilization beds at NNAMHS and if admitted, they are released to the streets within hours. In Reno hospitals, ERs are full and inpatient mental treatment is for those with cash or commercial insurance, not Medicaid (even NNAMHS, a state agency, won't accept Medicaid). From my bench, the prospects for a solution seem bleak.

<sup>1</sup>The federal Substance Abuse and Mental Health Services Administration of the U.S. Department of Health and Human Services.

<sup>2</sup>The report and a video presentation of the data are available at <https://www.samhsa.gov/data/nsduh/reports-detailed-tables-2017-NSDUH>.

<sup>3</sup>Northern Nevada Adult Mental Health Services.

*Judge Dorothy Nash Holmes presides over Dept. 3 in Reno Municipal Court. She is adjunct faculty at TMCC and UNR, and teaches a course on Specialty Courts for the online Justice Management Master's Degree Program at UNR.*



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<sup>1</sup><http://www.pewresearch.org/fact-tank/2019/01/17/where-millennials-end-and-generation-z-begins/>.

<sup>2</sup>The Rise of the Millennial Workforce, <https://www.wired.com/insights/2013/08/the-rise-of-the-millennial-workforce/>.

<sup>3</sup>The Rise of the Millennial Workforce, <https://www.wired.com/insights/2013/08/the-rise-of-the-millennial-workforce/>.

<sup>4</sup>Legal Sector Trends in the United States: Witnessing Change, CBE, <https://www.cbre.us/research-and-reports/2017-US-Law-Firm-Trends>.

<sup>5</sup>Jeanette Settembre, Millennials are taking over the workforce, Market Watch, April 2018, <https://www.marketwatch.com/story/millennials-are-taking-over-the-workforce-2018-04-16-11884422>.

<sup>6</sup>NRPC 1.6(c).

<sup>7</sup>THE STATE BAR OF CALIFORNIA STANDING COMMITTEE ON PROFESSIONAL RESPONSIBILITY AND CONDUCT FORMAL OPINION INTERIM NO. 08-0002, <http://www.calbar.ca.gov/Portals/0/documents/publicComment/2009/Prop-Opin-Tech-Confidentiality.pdf?ver=2017-05-19-142143-280>.

*Kelci Binau is an Associate with McDonald Carano in the firm's Business Entities & Transactions and Real Estate & Land Use practice groups.*



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