

The Tickler



A Monthly Publication of Douglas-Carson Legal Professionals

May 2022

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President's Message

Our speaker this month is Jim Valentine. He will be speaking on "Private Property Rights". He is not a lawyer but a 42-year realtor in Douglas County. He knows his stuff and will give us a great presentation. See more about him in this Tickler.

Private property rights are one of the pillars of capitalist economies, as well as many legal systems, and moral philosophies. Within a private property rights regime, individuals need the ability to exclude others from the uses and benefits of their property. (investopedia.com)

Private property may consist of real estate, buildings, objects, intellectual property (for example, copyrights or patents). This is distinguished from Public Property, which is owned by the state or government or municipality. (private property/Wex/USLaw/LII/Legal Information Institute)

Please join Mr. Valentine's Zoom presentation on Wednesday, May 4 at noon.

—Maria Nelson, PLS



DCLP LIVE!!

No Reservation Needed

Via ZOOM Wednesday, May 4 at 12 p.m.
No charge for guests.

Meeting ID: 922 280 3023
Passcode: 412889



Douglas-Carson Legal Professionals

Welcomes

Jim Valentine

Realtor

Jim Valentine was born in Seattle, Washington and lived in many places including Germany, Oregon, Alaska and Washington, D.C. before settling in Douglas County in 1977. He moved to Nevada from Alaska where he fished commercially including crabbing and serving as the First Mate on a 165 foot freezer ship. His move to Nevada was to start a business taking pictures of people boarding the M.S. Dixie tour boat at Lake Tahoe. He subsequently acquired the snack bar at Zephyr Cove with a liquor license and had gift shops on the beach and on the Dixie.

Jim has an extensive background in photography, turning pro when he was 15 working for Goodyear shooting GT races at Nürburgring and F1 races at Hockenheim and Monza. He also photographed for the promoter of rock groups in Frankfurt shooting the shows of the time, 1968/69, including The Doors, Jimi Hendrix, Janis Joplin, Frank Zappa, Donovan, etc.

Jim started fencing in high school in Germany, and became world class as evidenced when he beat four members of the Canadian Olympic team in their biggest home competition of the year in Vancouver, B.C. He was licensed to sell real estate in 1980 and has been selling real estate full time in Nevada ever since. He and his wife closed over 2,000 transactions in all areas of real estate including the niche markets of ranches, development, water rights, and commercial/industrial properties as well as residential. Jim has a long history of working with professional clients such as the FDIC, banks, corporations, bankruptcy trustees, assorted attorneys and two judges for which he was selected to handle their personal real estate matters.

Jim is active in the community and is known for his participation in Douglas Pop Warner where he has served as the President for over 30 years. He is also the Vice Regional Director for the Pacific Northwest Region of Pop Warner making him responsible for football for Pop Warner from Alaska to Northern California and over to Montana. He was the recipient of the National Volunteer of the Year in 2010. He gives many hours of his time for the benefit of the youth participants with the belief that he is improving their lives and the quality of the community by creating value driven citizens that will shape the region's future.

Jim is known for his writings about real estate having been published weekly in the Record Courier, Nevada Appeal and other newspapers since 2003. The subject matter varies but is always of an informative and service nature to assist the real estate consumer and professional.

Jim lives on a small ranch where he has many rescue animals including two retired U.S. Park Police horses that retired from Golden Gate Park, donkeys, llamas, a variety of birds including ducks, geese, chickens and even a rescue emu, dogs and cats. Jim likes to travel and in the last few months enjoyed seeing the Eagles (rock group) in Phoenix from the first row, middle seat, the Seahawks in Green Bay from front row behind the Seahawk's team bench, and the F1 race in Austin, Texas with an intimate crowd of 140,000 people. He loves spending time with his son and daughter and their children.



Who knew?



By Dee Beardsley, Emeritus PP, PLS

Who knew there was such a thing as emoji law?

A recent *Above the Law* podcast titled “What You Need to Know: How the Courts Define Emojis” caught my attention. Being a researcher at heart, my curiosity led me to an American Bar Association Journal article written by Heather King titled: *Emojis and Emoticons: How Courts and Litigators are Dealing with Interpretation of Digital Wordless*. (More about the podcast at the end of this article.)

The ABA article discusses what happens when a communication containing an emoji or emoticon is admitted into the record. In that event, courts look to the surrounding text to discern whether the emoticon/emoji materially alters the intended meaning of the message. An emoji at first glance may appear harmless but when taking the text or the community into consideration, has a different meaning entirely. For example, a “sticking out tongue” emoticon may render a communication a joke as it did in the 2014 *Ghanam v. Does* case, when the Michigan Court of Appeals found that the text connected to the emoticon was not intended to be taken seriously. The facts of the case along with other points analyzed, negated the defamation claim in the defendant’s favor.

On the other hand, the use of an emoji did not help the defendant in *Commonwealth v. Danzey*. In 2019, the Superior Court of Pennsylvania upheld the defendant’s conviction for stalking and harassment based in part on a social media post whose wording demonstrated the defendant’s state of mind and revealed his criminal intent, despite the words being accompanied by the common “smiley face” emoji.

Things to consider if an emoji is included in evidence:

- **Age of the sender and recipient.** The intent of an adolescent may differ from that of an adult.
- **Cultural differences.** The “thumbs up” emoji is considered vulgar in many countries in the Middle East; the “smiley face” is often taken as expressing sarcasm in China.
- **Emojis alone** without text can be confusing, e.g., the “sunglasses” emoji could mean a sunny day or someone cool. A “smoking nose” emoji could be read as angry or triumphant.

The Unicode Consortium sets the standards for emojis. However, are you aware that an emoji sent from your Apple iPhone may not appear the same on the recipient’s Samsung? That different look may result in a different interpretation by the receiver than was intended by the sender because each company designs its own platform. The same issues can arise on Facebook, Twitter and other social networks. That’s where intent becomes the primary issue and courts must drill down exactly what was intended on each side, and whether that intention is misread by an alternate platform. For those intrigued by the complexities of this topic, the work of Professor Eric Goldman of Santa Clara University School of Law is an excellent source of legal disputes involving these wordless communications. Goldman kept a running study of judicial opinions that mentioned emojis/emoticons used in court between 2004 and 2019.

Continued on page 4

Who Knew? (cont'd)

Goldman's list includes:

- the case citation, type of emoticon/emoji, method of communication (email, text, etc.)
- whether the court allowed it to be published
- the trier of fact, and
- the specific legal issue addressed.

In addition to criminal charges and charges associated with harassment, Goldman cites to cases addressing issues such as contract disputes (establishment/breach), defamation, and patent/copyright. Some cases of the cases cited mention issues of attorney discipline, attorney's fees and formation of the attorney-client relationship. Goldman's studies teach us that lawyers must be wary of the potential of emoticons/emojis in creating contracts or other agreements, including those between the attorney and the client.

Ms. King concluded the article with this advice: "Litigators should narrow their focus when interpreting wordless communications. The focus should be on factors such as the sender's and recipient's intent, surrounding circumstances and accompanying text. Litigators should also keep in mind age of the parties involved and varying cultural opinions as they apply to specific witnesses, while investigating any differences as a result of the use of different technological platforms. Judges will be faced with the same challenges in their decision-making process. When it comes to emoticons/emojis and other wordless communications, 1 + 2 does not always equal 3—and things often are not as they may appear merely because of a certain electronically generated animated face."

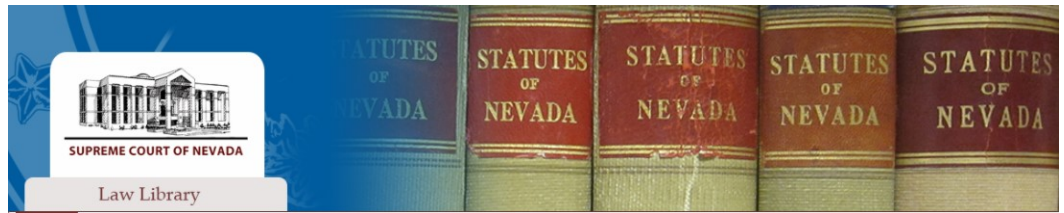
Source: American Bar Association, Law Practice Magazine, The TECHSHOW Issue *Emojis and Emoticons: How Courts and Litigators are Dealing with Interpretation of Digital Wordless Communications*, https://www.americanbar.org/groups/law_practice/publications/law_practice_magazine/2022/jf22/king/ (last visited April 27, 2022).

The podcast referred to above featured Leslie Garfield-Tenzer, a professor at Pace University, who wrote *A Legal Emoji Dictionary* Pitt. L.Rev. Online (*forthcoming*). In the first part of the interview, Professor Tenzer discusses how she decided to get into legal academia and the twists and turns of her career that have led her to this point. The meat of the topic comes after. She talks about why she decided to write the Legal Emoji Dictionary, and speaks about how emojis have been used in legal cases. She shares which emojis have a surprising legal definition, and talks about some of the pitfalls for lawyers if their cases do involve emojis. In it she spoke about cases which have hinged on the interpretation of emojis, and about the ramifications of social media on jurors and the issues with mixed-age juries (comparing with the CSI effect on juries which came to light a decade ago).

You can listen to the interview [here](#).

Be curious.





Resources Outside of Nevada

RESOURCES BY SUBJECT

It is important to remember that forms you find here are just a starting point. They may provide you with ideas on content and style, but specific requirements vary greatly by court. If the sample form is from a court other than the one in which you are filing, you **MUST** change the form to reflect the court in which you are filing. You **MUST ALSO** contact the [*clerk of the court*](#) where your item will be filed to make sure you meet all [***formatting, content and procedural requirements.***](#)

If you have Microsoft Word on your computer, you can create pleading paper on which to type your forms. For instructions on how to create this form, please click [here](#).

WHERE TO START

When trying to locate Nevada forms, it's best to begin your search with the information and resources available at self-help centers and court websites:

[State of Nevada Self-Help Center](#) (All Nevada Counties)

[Civil Law Self-Help Center](#) (Clark County)

[Family Law Self-Help Center](#) (Clark County)

[Second Judicial District Court Forms & Packets](#) (Washoe County)

The above list is provided as a starting point only and is not intended as an exhaustive list. We have included additional resources for specialized legal situations below.

Library staff are unable to recommend forms, but they can help with locating resources. If you need assistance locating resources, please contact the Law Library at (775) 684-1640 or reference@nvcourts.nv.gov.

All States

[List of State Court Web Pages](#) from the [National Center for State Courts](#)

[List of State Legislatures, State Statutes and State Regulations - Web Pages and Phone Numbers](#) from Cornell's [Legal Information Institute](#)

[National Center for State Courts](#)

[National Conference of State Legislatures](#)

California Resources

[California Code](#)

[California Court Info](#) - Judicial Branch page includes links to all levels of courts, court rules, and sample forms

[Online Self-Help Center](#)

[California Code of Regulations](#)

[Research Guides](#) from [Alameda County Law Library](#)

[Learn about the Law](#) from [Sacramento County Law Library](#)

[Legislative Information](#)

[List of State Agencies](#)

**DCLP presents
Cognitive Fitness**

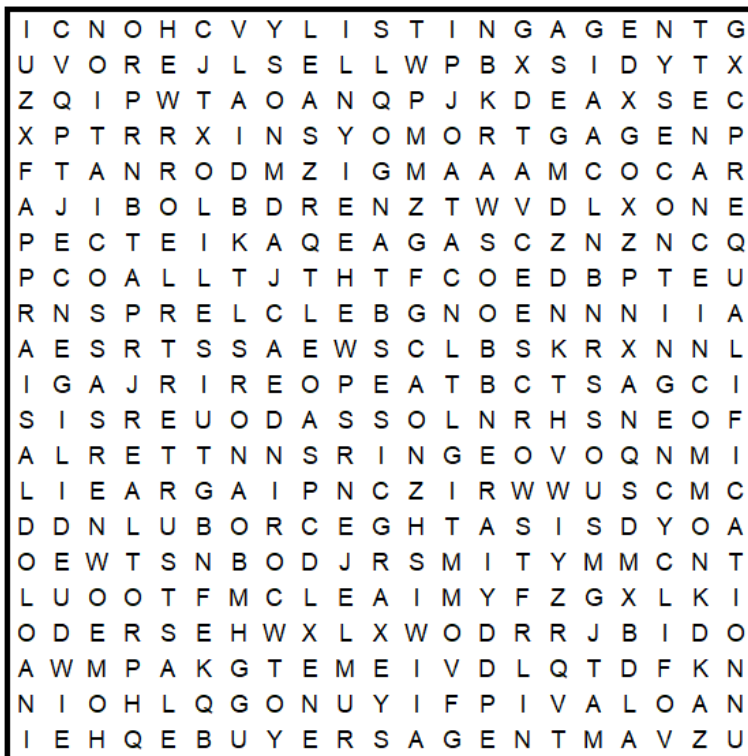


Answer to the April 2022 Puzzle
regarding Law Day Topics



Are you enjoying these puzzles?
What kind is your favorite? Please
let The Tickler know by emailing:
NALSdclp@gmail.com

May 2022 – Real Estate Terminology



Find and circle/mark the words below in the grid above.
Words may be printed forwards, backwards, up, down,
or diagonal.

- APPRAISAL
- BUYERS AGENT
- TITLE SEARCH
- VA LOAN
- LISTING AGENT
- TERMITE
- DUE DILIGENCE
- MORTGAGE
- CLOSING COSTS
- HOMEOWNERS ASSOCIATION
- LOAN
- EARNEST MONEY
- REALTOR
- LAND LEASE
- INSPECTION
- TRUST SALE
- NATURAL HAZARDS
- PROBATE SALE
- AS IS
- DEBT TO INCOME
- ESCROW
- SHORT SALE
- CONTINGENCY
- EQUITY
- TENANCY IN COMMON
- FIXED RATE
- PREQUALIFICATION
- OPTION PERIOD
- TITLE REPORT

Answer to the May puzzle will appear in the next issue.

7 Qualities of People Who Are Highly Respected

By Jacqueline Whitmore

Respect is something not automatically given. It must be earned. When you're in a leadership position, it is imperative that the people with whom you work respect you. They might respect your work habits, your intelligence, or your ability to close a deal. Yet, there's more to respect than that. If you can earn their respect as a person, *then* you've really won the game.

Here are some tips for earning more respect.

1. Be polite.

Always be polite to *everyone* you meet during the day, from your family members to your co-workers, to the checkout person at the grocery store. Give others the same respect you'd like to receive yourself. Seek out actions you can take to offer politeness. Open the door at the coffee shop for the person behind you, or let the person with one item go ahead of you in the grocery store. Say please and thank you whenever possible.

2. Act respectfully.

Eliminate disrespectful behaviors such as rolling your eyes, interrupting or talking negatively about someone. Not only are these actions not respectful of the person you're interacting with, they deter or prevent further involvement or resolution of issues, and create a wedge that can become permanent. Instead, foster an environment of respectful listening. Everyone deserves to be heard, even if you don't agree with a person's views or opinions. Consider how you'd like to be treated if you have something to say, especially if there is an important issue at hand.

3. Listen well.

Listening is an active process, not a passive one. Think before you speak. Most often in today's conversations, one person's comments "trigger" thoughts in the listener, who then brings forth their own story along the same lines. Instead of telling your tale, ask questions that encourage the speaker to tell you more. Most people will be flattered that you care.

4. Be helpful.

People earn respect by always being ready to lend a hand or an ear whenever they're needed or notice an opportunity to help. Look for opportunities to help that you might have previously overlooked. Does a co-worker need help with a big project? Can you grab a cup of coffee for someone? Strive to be helpful several times a day.

5. Don't make excuses.

Your actions are based on your choices, and barring some unforeseen circumstance, there is no reason for excuses. Own your actions. For example, if you're constantly late, don't make lame excuses. Own up to your mistakes and instead of dwelling on them, look for opportunities to move past them and do better next time. Instead of focusing on your shortcomings, ask [yourself], "How can I rectify my behavior or situation?"

6. Let go of anger.

Holding on to anger or a grudge doesn't hurt anyone but yourself. If you get upset, allow yourself to be angry momentarily, then move on and either rectify the situation or put it behind you. Give yourself and others a break. Forgive, and then forget.

7. Be willing to change.

Being intractable won't get you anywhere. Realize that the process of evolution includes change. Make an effort to grow as a person; learn new skills, try new activities, and especially, re-examine your automatic behaviors. And don't forget to congratulate yourself on progress you make along the way to becoming a better person.

—Originally published on March 15, 2016 at Entrepreneur.com/article/271849



The Blue Diamond Gallery under a Creative Commons Attribution-ShareAlike license.

Attitude is Everything

By Francine Baltazar-Schwartz

Jerry was the kind of guy you love to hate. He was always in a good mood and always had something positive to say. When someone would ask him how he was doing, he would reply, "If I were any better, I would be twins!"

He was a unique manager because he had several waiters who had followed him around from restaurant to restaurant. The reasons the waiters followed Jerry was because of his attitude. He was a natural motivator. If an employee was having a bad day, Jerry was there telling the employee how to look on the positive side of the situation. Seeing this style really made me curious, so one day I went up to Jerry and asked him, "I don't get it! You can't be a positive person all of the time. How do you do it?" Jerry replied "Each morning I wake up and say to myself, 'Jerry, you have two choices today. You can choose to be in a good mood or you can choose to be in a bad mood.' I choose to be in a good mood. Each time something bad happens, I can choose to be a victim or I can choose to learn from it. I choose to learn from it. Every time someone comes to me complaining, I can choose to accept their complaining or I can point out the positive side of life. I choose the positive side of life."

"Yeah, right, it's not that easy," I protested. "Yes it is," Jerry said. "Life is all about choices. When you cut away all the junk, every situation is a choice. You choose how you react to situations. You choose how people will affect your mood. You choose to be in a good mood or a bad mood. The bottom line: it's your choice how you live life."

I reflected on what Jerry said. Soon thereafter, I left the restaurant industry to start my own business. We lost touch, but I often thought about him when I made a choice about life instead of reacting to it. Several years later, I heard that Jerry did something you are never supposed to do in a restaurant business: he left the

back door open one morning and was held up at gunpoint by three armed robbers. While trying to open the safe, his hand, shaking from nervousness, slipped off the combination. The robbers panicked and shot him. Luckily, Jerry was found relatively quickly and rushed to the local trauma center. After 18 hours of surgery and weeks of intensive care, Jerry was released from the hospital with fragments of the bullets still in his body.

I saw Jerry about six months after the accident. When I asked him how he was, he replied, "If I were any better, I'd be twins. Wanna see my scars?" I declined to see his wounds, but did ask him what had gone through his mind as the robbery took place. "The first thing that went through my mind was that I should have locked the back door," Jerry replied. "Then, as I lay on the floor, I remembered that I had two choices: I could choose to live, or I could choose to die. I chose to live."

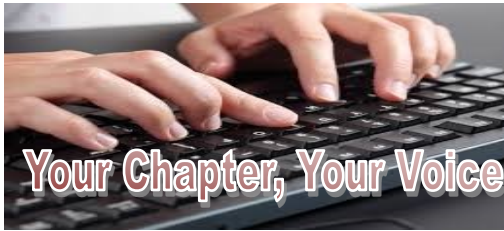
"Weren't you scared? Did you lose consciousness?" I asked. Jerry continued, "The paramedics were great. They kept telling me I was going to be fine. But when they wheeled me into the emergency room and I saw the expressions on the faces of the doctors and nurses, I got really scared. In their eyes, I read, 'He's a dead man.' I knew I needed to take action."

What did you do?" I asked.

"Well, there was a big burly nurse shouting questions at me," said Jerry. She asked if I was allergic to anything? "Yes, I replied. The doctors and nurses stopped working as they waited for my reply. I took a deep breath and yelled, 'Bullets!' Over their laughter I told them, 'I am choosing to live. Operate on me as if I am alive, not dead.'"

Jerry lived thanks to the skill of his doctors, but also because of his amazing attitude. I learned from him that every day we have the choice to live fully. Attitude, after all, is everything.

Editor's Note: This article has appeared in numerous publications over several decades. The earliest source I could find was the Pafinder, Vol. 7, Issue 7, August 1997. No copyright infringement is intended.



Birthdays of the Month

April 10 — Regina Nichols, PLS, CP
(Happy Belated Birthday!)

May 28 — Sharon Smith, PLS

May 30 — Vicki Van Pelt

New to Zoom?

You can join DCLP's meetings as a participant without creating a Zoom account.

Windows or Mac

1. Open the **Zoom** desktop client.
2. **Join** a meeting using one of these methods: (a) Click **Join a Meeting** if you want to **join without** signing in, or (b) sign in to Zoom and then click **Join**.
3. Enter the **meeting** ID number and your display name. If you're signed in, you can change your display name. If you're not signed in, enter a display name.
4. Select if you would like to connect to audio and/or video and click **join**.

For other devices, visit:

<https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-meeting>



@Law, the NALS eMagazine for Legal Professionals, has been published for over 50 years. Each digital issue of @Law contains articles chosen by the Editorial Board, a committee of individuals in the legal support profession. It contains content to assist legal support professionals in their duties and recognizes NALS members for their achievements.

Requires NALS Membership or Subscription to Access



The NALS Legal Brief is a biweekly newsletter that delivers to you the trends, updates, and news from around the legal industry that is necessary to help you succeed in your career. Along with some association news, the NALS Legal Brief will give you a rundown of the current state of the legal support world by giving you a list of relevant industry-focused articles to educate and inform you.

[View past publications](#) of the NALS Legal News Brief

MEMBER RENEWALS



If you are unsure of your renewal date visit nals.org OR contact VP Sharon Coates, PP, CLP

**Don't Forget to Renew
Your Membership**



*Dance like no one is watching.
Email like it may one day be
read aloud in a deposition.*

NALS Code of Ethics & Professional Responsibility

Members of NALS are bound by the objectives of this association and the standards of conduct required of the legal profession. Every member shall:

- Encourage respect for the law and administration of justice
- Observe rules governing privileged communications and confidential information
- Promote and exemplify high standards of loyalty, cooperation, and courtesy
- Perform all duties of the profession with integrity and competence
- Pursue a high order of professional attainment

Integrity and high standards of conduct are fundamental to the success of our professional association. This Code is promulgated by NALS and accepted by its members to accomplish these ends.

Canon 1. Members of this association shall maintain a high degree of competency and integrity through continuing education to better assist the legal profession in fulfilling its duty to provide quality legal services to the public.

Canon 2. Members of this association shall maintain a high standard of ethical conduct and shall contribute to the integrity of the association and the legal profession.

Canon 3. Members of this association shall avoid a conflict of interest pertaining to a client matter.

Canon 4. Members of this association shall preserve and protect the confidences and privileged communications of a client.

Canon 5. Members of this association shall exercise care in using independent professional judgment and in determining the extent to which a client may be assisted without the presence of a lawyer and shall not act in matters involving professional legal judgment.

Canon 6. Members of this association shall not solicit legal business on behalf of a lawyer.

Canon 7. Members of this association, unless permitted by law, shall not perform legal functions except under the direct supervision of a lawyer and shall not advertise or contract with members of the general public for the performance of paralegal functions.

Canon 8. Members of this association, unless permitted by law, shall not perform any of the duties restricted to lawyers or do things which lawyers themselves may not do and shall assist in preventing the unauthorized practice of law.

Canon 9. Members of this association not licensed to practice law shall not engage in the practice of law as defined by statutes or court decisions.

Canon 10. Members of this association shall do all other things incidental, necessary, or expedient to enhance professional responsibility and participation in the administration of justice and public service in cooperation with the legal profession.

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