

# **PATHWAYS OF COMPLAINTS: INTRO**

# **WHAT DO YOU KNOW ABOUT THE OMBUDSMAN'S OFFICE?**

- Training Officers:
- Dre Anderson
- Andrei Tcacenco

**Introductions/Icebreaker**

**Definitions and Topics**

**Intro to Intervention Affidavit, Alternative  
Dispute Resolution, and Statement of Facts**

**The Alternative Dispute Resolution Process**

# **AGENDA**

**BEFORE WE BEGIN, YOU ARE REMINDED THAT, AS TRAINING OFFICERS, WE ARE HERE TO PROVIDE GENERAL INFORMATION AND EDUCATION ON NRS/NAC 116, 116A, 116B AND NAC 38. WE DO NOT PROVIDE LEGAL ADVICE, INTERPRET THE LAW, OR GIVE OPINIONS ON INDIVIDUAL CIRCUMSTANCES.**

**OUR GOAL IS TO IS TO HELP YOU LEARN, UNDERSTAND, AND APPLY THE RELEVANT STATUTES, REGULATIONS, AND YOUR COMMUNITY'S CC&RS. WE WANT TO EQUIP YOU WITH THE KNOWLEDGE AND TOOLS NECESSARY TO EFFECTIVELY MANAGE AND LIVE WITHIN YOUR COMMON-INTEREST COMMUNITIES.**

**WE WILL HAVE DEDICATED TIME FOR QUESTIONS AND ANSWERS TOWARDS THE END OF THE CLASS. PLEASE NOTE THAT THE Q&A SESSION IS INTENDED TO CLARIFY THE MATERIAL COVERED TODAY AND NOT TO ADDRESS SPECIFIC ISSUES YOU MIGHT BE FACING. FEEL FREE TO JOT DOWN ANY QUESTIONS REGARDING THE CLASS THAT YOU MAY HAVE AS WE GO ALONG, AND WE WILL ADDRESS THEM DURING THE Q&A PERIOD.**

**FOR ONLINE LIVE CLASSES:  
PLEASE ENSURE YOUR WEBEX  
DISPLAY NAME IS THE NAME  
YOU WANT YOUR CERTIFICATE  
OF ATTENDANCE TO BE  
ISSUED IN.**

# LEARNING OBJECTIVES

- **By the conclusion of this class, you will:**
  - **Be able to define the major terms from Pathways of Complaints.**
  - **Learn the basics of the three possible Pathways of Complaints, including Intervention Affidavit, Alternative Dispute Resolution, and Statement of Facts.**
  - **Understand the required steps and the process for filing an Alternative Dispute Resolution (ADR) form.**



## COMPLAINANT/CLAIMANT

- ▶ A complainant is any individual aggrieved by an alleged violation of NRS 116 (116.760), 116A (116A.400) or 116B (116B.510).
- ▶ A claimant is any individual who participates in the Alternative Dispute Resolution process, as covered later.

# THE RESPONDENT

According to NRS 116.085, a respondent means a person against whom:

An affidavit has been filed pursuant to NRS 116.760.

A complaint has been filed pursuant to NRS 116.765.

What does this mean?





## **IN “PLAIN” LANGUAGE**

**The respondent is the individual who allegedly committed the violation or is being asked to participate in one of the upcoming processes to address the allegation.**



► **NRS 116.035: “Declarant” means any person or group of persons acting in concert who:**

► **As part of a common promotional plan, offers to dispose of the interest of the person or group of persons in a unit not previously disposed of; or**

► **Reserves or succeeds to any special declarant’s right.**

**DECLARANT**

# POTENTIAL PATHWAYS

## Alternative Dispute Resolution

- Form 520
- For alleged issues related to governing documents.

## Intervention Affidavit

- Form 530
- For alleged violations of NRS 116.

## Statement of Facts

- 514A (against CAMs)
- 514B (against RSS)



# WHAT IS ADR? (ALTERNATIVE DISPUTE RESOLUTION, FORM 520)

## Purpose of ADR

ADR exists for parties with a dispute involving the interpretation, application, or enforcement of the governing documents or the procedures for increasing or decreasing the assessments:

- Any covenants, conditions or restrictions, or any other governing documents applicable to the residential property.
- No statute of limitations.

## Referee vs Mediator

Referees are licensed attorneys approved by the Division to hear disputes based on evidence.

- Unlike referees, mediators are certified and approved by the Division to promote agreement and compromise.

STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY – REAL ESTATE DIVISION  
OFFICE OF THE OMBUDSMAN FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM HOTELS  
3300 West Sahara Avenue, Suite 350, Las Vegas, Nevada 89102  
(702) 486-4400 / Toll free: (877) 829-9907 / Fax: (702) 486-4520  
E-mail: [CLIC@ohbudsman@real.nv.gov](mailto:CLIC@ohbudsman@real.nv.gov) / <http://real.nv.gov>

**ALTERNATIVE DISPUTE RESOLUTION (ADR) CLAIM FORM**

Date: \_\_\_\_\_ Signature of Claimant: \_\_\_\_\_

**\*Only one claimant per claim form is allowed for tracking purposes.**

Claimant: \_\_\_\_\_

*\*If individual, provide full name as it appears with the assessor's office in order to verify that you are a Unit Owner. If an Association, provide COMPLETE Association name as it appears on the Secretary of State's website.*

Law Firm and Attorney (if applicable): \_\_\_\_\_  
*Please provide the name of the law firm and the name of the attorney. An attorney is not required.*

Mailing Address: \_\_\_\_\_  
*Street and number, city, state, and zip code*

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_ Email Address: \_\_\_\_\_

Respondent: \_\_\_\_\_

*\*If individual, provide full name. If an Association, provide COMPLETE Association name as it appears on the Secretary of State's website. Please list only one party. Attach an Additional Respondent Form 520B if there is more than one Respondent.*

Mailing Address: \_\_\_\_\_  
*Street and number, city, state, and zip code*

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_ Email Address: \_\_\_\_\_

**PLEASE SELECT YOUR METHOD OF RESOLUTION:** ☐ Mediation ☐ Reference Program\*

\*Claims involving multiple parties may be excluded from the Reference Program.  
\*\*If all parties agree to the Reference Program, the cost will be fully subsidized by the Division, if funds are available.

☐ Yes ☐ No Has the above-listed Claimant filed an Intervention Affidavit (Form 530) regarding the same or similar issues? *If yes, provide the file number(s):* \_\_\_\_\_

**INITIAL**  
☐ I have read and agree to the policies stated in the ADR Overview (Form 523).

**INITIAL IF APPLICABLE**  
☐ I acknowledge that if an Intervention Affidavit (Form 530) has been filed with the Division based upon the same issues, by filing an ADR claim, the Division will not move forward with investigating the Intervention Affidavit pursuant to NAC 116.630.

☐ If the Referee Program is selected, and the Respondent chooses Mediation, the claim will default to mediation.

**For office use only**

Receipt Number: \_\_\_\_\_ Claim Number: \_\_\_\_\_ Date Received: \_\_\_\_\_

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# INTERVENTION AFFIDAVIT (FORM 530)

(NRS 116.760)

1. Used for complaints regarding NRS/NAC 116 or any other Division order, including but not limited to:
  - a. The election process.
  - b. Records access.
  - c. Meeting notifications.
  - d. Financial process.
  - e. Fining process.

May be filed against:

- Association officer/employee/agent.
- Board member.
- Unit owner.
- Has a statute of limitations of 1 year.

STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY  
REAL ESTATE DIVISION  
3300 West Sahara Avenue, Suite 325, Las Vegas, NV 89102  
(702) 486-4480 / Toll free: (877) 829-9907 / Fax: (702) 486-4520  
[IC.Ombudsman@red.nv.gov](mailto:IC.Ombudsman@red.nv.gov) / <https://red.nv.gov>

**Intervention Affidavit (Form 530)**

The statements immediately below must be met before filing this Affidavit. Please verify that you have met each requirement by INITIALING each box. As the aggrieved party, you are attesting you:

INITIALS

1. Understand that this Affidavit cannot be filed more than 1 year after you discovered or reasonably should have discovered the alleged violation (if more than 1 year, you cannot file this Affidavit).  
Date alleged violation took place: \_\_\_\_\_
2. Have mailed to the Respondent's last known address, allowing at least 10 business days, a certified return receipt requested notice, specifying in reasonable detail:
  - (a) all alleged violations, which are identical to the allegations listed on the Affidavit
  - (b) any actual damages suffered, and
  - (c) any corrective actions proposed
3. Have provided with this Affidavit a copy of the notice with the certified return receipt from the post office stapled to it.
4. Have included on this form all allegations listed in the certified notice and understand that any allegation not identically listed on both the notice and Affidavit will not be addressed by the Division.
5. Have in lieu of a notice, sent certified with return receipt requested, the Intervention Affidavit. ☐ Yes ☐ No  
If yes, the certified receipt has been stapled to the Affidavit. Identify exhibits sent: \_\_\_\_\_
6. Before filing this Affidavit, have provided the Respondent with at least 10 business days to address/correct the alleged violation(s) of NRS/ NAC 116 and/or the governing documents, and all other reasonable efforts to resolve allegation(s) have failed.
7. Have listed only one alleged violation on page 2 and included the applicable labeled attachments (Exhibits) behind each alleged violation (use a separate page 2 for each alleged violation).
8. I understand once the Affidavit is submitted, the Division cannot provide me with a copy of my submittal.

Have spoken with Ombudsman staff before filing the Affidavit. ☐ Yes ☐ No If yes, name: \_\_\_\_\_  
Have filed an ADR claim or litigation involving the same allegation(s). ☐ Yes ☐ No If yes, case number: \_\_\_\_\_

STATE OF NEVADA COUNTY OF \_\_\_\_\_ DATE: \_\_\_\_\_  
I, \_\_\_\_\_ (Complainant), after being first duly sworn, state under penalty of perjury and based upon personal knowledge have been aggrieved by an alleged violation of Chapter 116 of the Nevada Revised Statutes, Nevada Administrative Code, or the governing documents of the Association.

1. The person or entity who committed the alleged violation and who was sent the required certified letter or certified Affidavit is (if multiple, list each Respondent): \_\_\_\_\_
2. The Respondent(s) role in the community: \_\_\_\_\_
3. The name of the Association where the alleged violation took place: \_\_\_\_\_
4. The Association's Secretary of State (SOS) Business ID Number: \_\_\_\_\_  
SOS Look-up: <https://sos.nv.gov/EntitySearch/OnlineEntitySearch>

Revised 9/1/2021 Page 1 of 2 Form 530

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E-mail: [CICombudsman@red.nv.gov](mailto:CICombudsman@red.nv.gov) <http://www.red.nv.gov>

**STATEMENT OF FACT**  
**AGAINST A COMMUNITY MANAGER (#514a)**

Statements 1 through 4 cited below must be met prior to filing this Statement of Fact. **Please verify that you have met the requirements by initialing in each box.** As the aggrieved party, you:

- ☐ 1. Have sent the allegations of misconduct in writing to the Community Manager in an attempt to resolve the issue **before** filing a complaint with the Division and provided proof of the written communication in the form of an e-mail or letter. The written communication must include all allegations that you request the Division to consider for possible investigation.
- ☐ 2. Have waited at least 12 working days for the Community Manager to acknowledge and respond in writing to the alleged violation(s).
- ☐ 3. Have listed only one (1) alleged violation per page and have included applicable attachments (Exhibits) behind each such page. You must provide all supporting documentation with the complaint.
- ☐ 4. If you are a tenant, you must have had the complaint approved (written communication) by the unit's owner without the use of a Power of Attorney.

Please indicate whether you have spoken to a staff representative from the Ombudsman's Office to understand which specific provision of NRS or NAC 116 may have been violated. ☐ Yes ☐ No If yes, name: \_\_\_\_\_

**Please Print or Type**

Your Name: \_\_\_\_\_  
Your complete physical address: \_\_\_\_\_  
Unit Address, if different: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Home Phone: \_\_\_\_\_ Business Phone: \_\_\_\_\_

Name of Community Manager the complaint is against: \_\_\_\_\_  
Name of Management Company: \_\_\_\_\_  
Address of Management Company: \_\_\_\_\_  
Management Company Telephone No. \_\_\_\_\_  
Name of the Association: \_\_\_\_\_  
Legal action pending pertaining to the allegations filed? ☐ Yes ☐ No If so, what action? \_\_\_\_\_  
Alternative Dispute Resolution (ADR) claim filed? ☐ Yes ☐ No If so, what date & claim#: \_\_\_\_\_

## STATEMENT OF FACT FORMS 514 A&B

- Forms used when a complainant alleges that a Community Manager (CAM) violated their Standards of Practice, as outlined in NRS **116A.630**.
- OR the complainant alleges that the Reserve Study Specialist (RSS) violated their Standards of Practice, as outlined in NAC **116A.425**.
- No statute of limitations.



## QUICK REVIEW

**Please answer the following question:**

### Question 1

Which of the following are true regarding the Intervention Affidavit?

- a. It has a statute of limitations of 1 year.
- b. It is used for disputes involving the interpretation of association governing documents.
- c. It is filed against CAMs or RSSs.
- d. It is used for complaints regarding NRS 116.

## Question 2

- Fill in the blank:
- A respondent is a \_\_\_\_\_



# IMPORTANCE OF RECORDS IN THE COMPLAINT PROCESS



**To file a formal complaint, having access to complete and accurate records is essential. Unit owners may need to request association records to support their claims effectively.**



**If a unit owner submits a written request to an association for access and/or copies of the books, records and other documents of the association pursuant to NRS 116.31175, the association must comply within 21 days.**

## **FAILURE TO PROVIDE RECORDS**



## FAILURE TO COMPLY

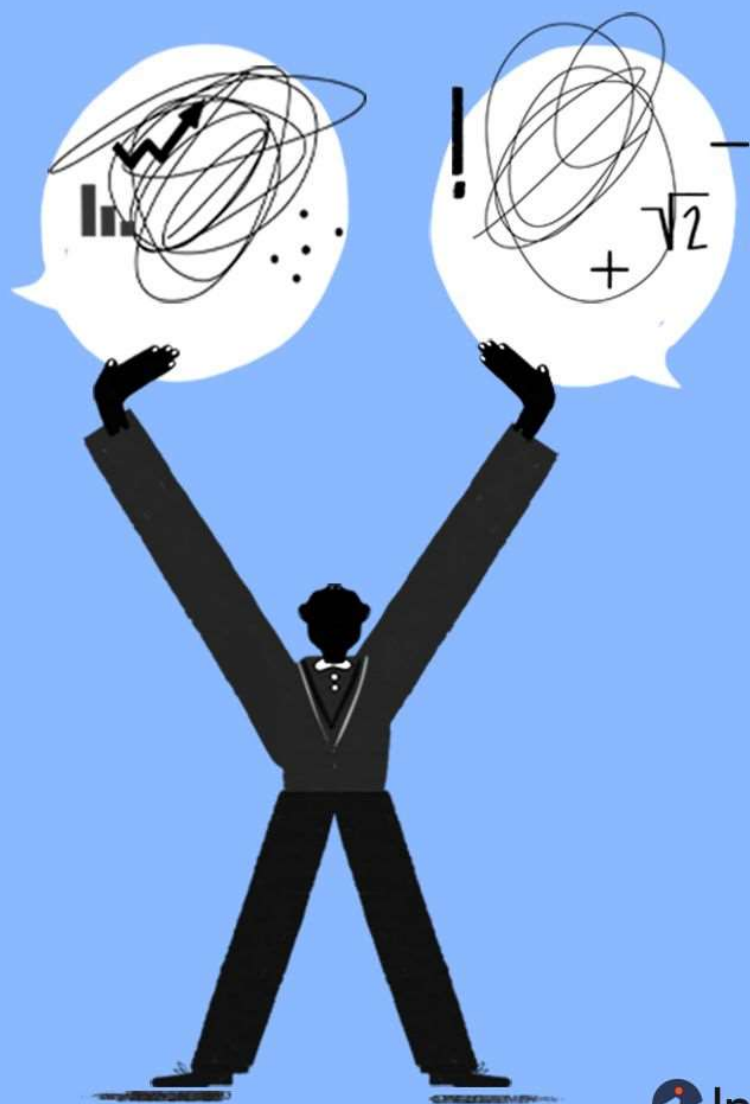
**If the association fails to comply within 21 days:**

- ▶ The Unit owner can complete the complaint form 530 and file with the Division.
- ▶ If the Division receives a properly completed complaint form, they will send a formal notice to the association requesting the specified records be supplied within **14** days.

## SUMMARY

Action	Used for	Statute of Limitations
Alternative Dispute Resolution (ADR)	Disputes and violations of any association governing documents.	No statute of limitations.
Intervention Affidavit (IA)	Used for violation of NRS/NAC <b>116</b> .	<b>1</b> year from reasonable discovery of violation.
Statement of Facts	Used primarily against CAMs and RSS for violating Standards of Practice.	Reasonable time following reasonable discovery of violation.

# PATHWAYS OF COMPLAINTS: ALTERNATIVE DISPUTE RESOLUTION AND CIVIL ACTION



# Alternative Dispute Resolution (ADR)

*[ɒl-'tər-nə-tiv di-'spyüt ,re-zə-'lü-shən]*

Processes used to settle  
disputes outside of a  
courtroom.

## SCOPE OF ADR

▶ Remember, ADR is for parties with a dispute regarding the following (NRS 38.300):

- ▶ The procedures used for increasing, decreasing, or imposing additional assessments.
- ▶ The interpretation, application, or enforcement of:
  - ▶ CC&Rs
  - ▶ Any other governing documents applicable to the residential properties.



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E-mail: [OCIOmbudsman@red.nv.gov](mailto:OCIOmbudsman@red.nv.gov) / <http://www.ombudsman.nv.gov>

**ALTERNATIVE DISPUTE RESOLUTION (ADR) CLAIM FORM**

Date: \_\_\_\_\_ Signature of Claimant: \_\_\_\_\_

**\*Only one claimant per claim form is allowed for tracking purposes.**

Claimant: \_\_\_\_\_  
\*If individual, provide full name as it appears with the assessor's office in order to verify that you are a Unit Owner. If an Association, provide COMPLETE Association name as it appears on the [Secretary of State's website](#).

Law Firm and Attorney (if applicable): \_\_\_\_\_  
Please provide the name of the law firm and the name of the attorney. An attorney is not required.

Mailing Address: \_\_\_\_\_  
Street and number, city, state, and zip code

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_ Email Address: \_\_\_\_\_

Respondent: \_\_\_\_\_  
\*If individual, provide full name. If an Association, provide COMPLETE Association name as it appears on the [Secretary of State's website](#). Please list only one party. Attach an Additional Respondent Form 520B if there is more than one Respondent.

Mailing Address: \_\_\_\_\_  
Street and number, city, state, and zip code

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_ Email Address: \_\_\_\_\_

PLEASE SELECT YOUR METHOD OF RESOLUTION: ☐ Mediation ☐ Referee Program\*

\*Claims involving multiple parties may be excluded from the Referee Program.  
\*\*If all parties agree to the Referee Program, the cost will be fully subsidized by the Division, if funds are available.

☐ Yes ☐ No Has the above-listed Claimant filed an Intervention Affidavit (Form 530) regarding the same or similar issues? If yes, provide the file number(s): \_\_\_\_\_

INITIAL \_\_\_\_\_ I have read and agree to the policies stated in the ADR Overview (Form 523).

INITIAL IF APPLICABLE \_\_\_\_\_ I acknowledge that if an Intervention Affidavit (Form 530) has been filed with the Division based upon

► The claimant must completely fill out and acknowledge all applicable boxes on Form 520.

► Claimant must provide one (1) original and two (2) copies of the Claim form 520 and supporting documents.

► Page 2 of the form allows space for a brief statement outlining the dispute and to list the relevant provision(s) of the governing documents.

# ADR COMPLAINTS



# MEDIATOR VS. REFEREE: UNDERSTANDING THE DIFFERENCE IN CONFLICT RESOLUTION

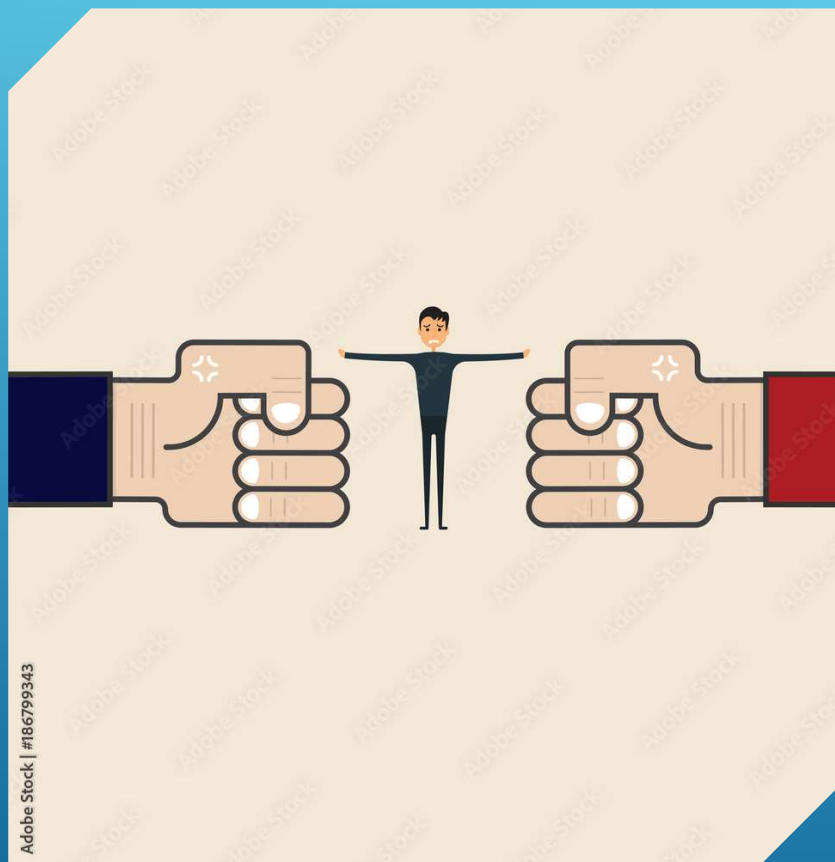


## Mediator

Mediators are certified and approved by the Division to promote agreement and compromise. Mediators may charge up to **\$167** per hour, not to exceed **\$500** for a **3-hour** mediation; each party pays half.

## Referee

Referees are licensed attorneys approved by the Division to hear disputes and render a decision based on evidence provided. Applicants may receive an automatic subsidy once per year if they are in good standing.



► **The claimant can request either mediation or a referee.**

- **Reminder:** Mediators are licensed and made available by the Division to promote agreement and compromise.
- Referees are licensed attorneys on the Division's panel to hear disputes based on evidence Division to hear disputes and render a decision based on evidence provided.
  - If both parties do not agree to go to a referee, the claim defaults to mediation.

The last page of Claim Form **520** contains a list of current mediators and referees to select from.

A **\$50** filing fee **MUST** be paid to NRED to begin the ADR process (**NRS 38.320 (2)**).

## **MEDIATION OR REFEREE?**

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## Referees, Arbitrators and Mediators

The following are names and resumes of the Referees, Arbitrators and Mediators currently on the approved panel for the referee program, mediation and arbitration process.

Additional names will be added periodically.

### ADR MEDIATORS/REFEREES

- [Eric Dobberstein, Esq. \(South\) \(North Virtual\)](#)
- [Henry Melton \(South\) \(North Virtual\)](#)
- [Janet Trost, Esq. \(South\) \(North Virtual\)](#)
- [Malcolm Doctors \(South\) \(North Virtual\)](#)
- [Phillip A. Silvestri, Esq. \(South\) \(North Virtual\)](#)
- [Dee Newell, JD \(South\) \(North Virtual\)](#)
- [Paul H. Lamboley, Esq. \(North\)](#)

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Version 3.1

# REFEREES, ARBITRATORS, AND MEDIATORS

<https://red.nv.gov/Content/CIC/ADR/Panel/>



**Within 7-10 days after the claim is filed, the Division will mail the claimant:**

- ▶ A copy of the processed ADR Claim Form **520**.
- ▶ Overview Form **523**.
- ▶ Blank Respondent Answer Form **521**.
- ▶ Application for Mediation Subsidy Form **668**.
- ▶ Affidavit of Service Form showing the required documents that must be served to the respondent.

## **NOTIFYING THE RESPONDENT**

► This packet must be served, by the claimant or at the claimant's expense to the respondent within **45 days (NAC 38.350 (1))**.

- If there are multiple respondents:
  - Each respondent must be served separately.
  - A separate Affidavit of Service Form, completed by the server, must be notarized and filed with the Division for each respondent.

# **REQUIREMENTS FOR RESPONDENTS**

**After hearing back from the Division, respondents MUST:**

- 1. Review all documents served upon them.**
- 2. Complete and file Form 521 within 30 days. One copy must be sent to the Division and the other to the claimant.**
- 3. Provide a brief statement regarding the allegations.**
- 4. Pay a \$50 filing fee to “NRED” either by check, money order, or cash at the time of filing. This fee is non-refundable.**

STATE OF NEVADA

JOE LOMBARDO  
Governor



DR. KRISTOPHER SANCHEZ  
Director

SHARATH CHANDRA  
Administrator

CHARVEZ FOGER  
Deputy Administrator

SONYA MERIWEATHER  
Ombudsman

DEPARTMENT OF BUSINESS AND INDUSTRY  
REAL ESTATE DIVISION  
COMMON-INTEREST COMMUNITIES AND CONDOMINIUM HOTELS

■■■■ 2024

ATTN: ■■■■

LAS VEGAS, NV ■■■■

Alternative Dispute Resolution (ADR) Control #: ■■■■

Claimant(s): ■■■■

Respondent(s): ■■■■

Dear ■■■■

According to the Real Estate Division's records the above noted Alternative Dispute Resolution claim along with the ADR Overview form #523 and Respondent form #521 was served to Respondent listed on the claim, ■■■■ on ■■■■. A response was due to the Division by ■■■■.

Pursuant to Nevada Revised Statute (NRS) 38.320(4) "Upon being served pursuant to subsection 3, the person upon whom a copy of the written claim was served shall, within 30 days after the date of service, file a written answer with the Division, which must include a statement of whether the person wishes to have the claim referred to a program. The answer must be accompanied by a filing fee of \$50."

As of the date of this letter, no response has been received regarding this claim from ■■■■. As a result, mediation was unable to be scheduled; therefore, this matter is considered closed.

Pursuant to the statute below, after completing the Alternative Dispute Resolution process, you may consider using this letter of completion provided by our office to inform the court of competent jurisdiction that NRS 38.310 was fulfilled to bring forth a civil complaint.

NRS 38.310 Limitations on commencement of certain civil actions.

1. No civil action based upon a claim relating to:

(a) The interpretation, application or enforcement of any covenants, conditions or restrictions applicable to residential property or any bylaws, rules or regulations adopted by an association; or

(b) The procedures used for increasing, decreasing or imposing additional assessments upon residential property.

may be commenced in any court in this State unless the action has been submitted to mediation or arbitration pursuant to the provisions of NRS 38.300 to 38.360, inclusive, and, if the civil action concerns real estate within a planned community subject to the provisions of chapter 116 of NRS or real estate within a condominium hotel subject to the provisions of chapter 116B of NRS, all administrative procedures specified in any covenants, conditions or restrictions applicable to the property or in any bylaws, rules and regulations of an association have been exhausted.

2. A court shall dismiss any civil action which is commenced in violation of the provisions of subsection 1.

Sincerely,

■■■■

ADR Facilitator

Enclosures

Carson City: 1818 E. College Parkway, Suite 110 Carson City, Nevada 89706 - Telephone (775) 694-1900 - Fax (775) 687-4868

Las Vegas: 3300 W. Sahara Avenue, Suite 325 Las Vegas, Nevada 89102 - Telephone (702) 486-4480 - Fax (702) 486-4520  
[www.reid.nv.gov/Content/CIC/Main](http://www.reid.nv.gov/Content/CIC/Main) [sombudsman@reid.nv.gov](mailto:sombudsman@reid.nv.gov)



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**ALTERNATIVE DISPUTE RESOLUTION (ADR) RESPONDENT FORM**

*Please review the ADR Overview, Form 523, prior to completing this form.*

**NOTE:** Referee and arbitration decisions are public records and will be published on the Division's website. Parties that participated in a referee hearing or arbitration resulting in a decision can request, in writing, to the Division to have their identifying information (name, address, phone number) redacted from the decision that is published.

Date: \_\_\_\_\_ Signature of Respondent or Attorney: \_\_\_\_\_

Claim Number: \_\_\_\_\_  
*Located at the bottom of the Claim Form*

Respondent: \_\_\_\_\_

*If individual, provide full name. If an Association, provide COMPLETE Association name as it appears on the [Secretary of State's website](#).*

**Please list only one party; attach Additional Claimant Form 520B if there is more than one Respondent**

Law Firm and Attorney (if applicable): \_\_\_\_\_  
*Provide the name of the law firm and the name of the attorney. An attorney is not required.*

Contact Address: \_\_\_\_\_  
*Street and number, city, state, and zip code*

Contact Phone: \_\_\_\_\_ Fax Number: \_\_\_\_\_ Email Address: \_\_\_\_\_

PLEASE SELECT YOUR METHOD OF RESOLUTION: ☐ Mediation ☐ Referee Program\*

\* Please Note: If Claimant has elected to participate in the Referee Program, you must also agree; otherwise the claim will be submitted to Mediation.

**INITIAL**

☐ I have read and agree to the policies stated in the ADR Overview (Form #523).

☐ I mailed a copy of this Respondent Form and any supporting documents to the Claimant at the address on the Claim Form.

Date packet was mailed: \_\_\_\_\_

☐ I agree to use the mediator/referee identified by the Claimant on page 4 of the Claim Form  
Mediator/Referee listed on Claim Form: \_\_\_\_\_

- The respondent will state on Form 521 whether they agree with the claimant's selection of mediator or referee.
- Both parties (no more than two) must agree to participate in the referee program, or the dispute will automatically default to mediation.
- If both parties cannot agree on a mediator/referee, one will be appointed by the Division at random.

## FORM 521



## RESOLUTION: MEDIATED CASES



- If mediation is successful, the parties sign a written agreement, which becomes enforceable.
- If mediation is unsuccessful, the parties may proceed to court with a letter from the Division.
  - OR both parties may agree to apply for binding or non-binding arbitration.



- ▶ If either party is unhappy with the referee's decision, they have 60 days to request that the complaint be heard by a judge (**NRS 38.325 (3)**).
- ▶ If both parties are happy with the decision, it is non-binding until confirmed in court (within 1 year).

## **RESOLUTION: REFEREED CASES**

# Mediation

- If unhappy with mediation, may proceed to binding or non-binding arbitration.
- Or may proceed to civil court.

# Referee

- Unilaterally renders a decision.
- **60** days to have the complaint heard by a judge.



## SUBSIDY

- ▶ The Division may subsidize proceedings for mediation (NAC 116.520).
- ▶ If there are available funds in the account.
- ▶ Both parties are advised to submit the Subsidy Application (form 668) at the time of filing Claim form 520 or Response form 521 with the Division.
- ▶ Note: Mediation may be subsidized up to **\$250** per party; **\$500** per mediation.



## **SUBSIDY, CONTINUED**

### **A. To receive a subsidy:**

- **Unit owners may apply only once during each fiscal year of the State (July 1 to June 30) for each unit owned.**
- **Associations must be in good standing with the Secretary of State and the Office of the Ombudsman.**

- ▶ **ADR process is not required, and parties may proceed directly to court for (NRS 38.300 (3)):**
  - ▶ Claims for injunctive relief (court ordering specific action) where there is an immediate threat of irreparable harm; and
  - ▶ Actions relating to the title of a residential property.

## **EXCEPTIONS TO THE ADR REQUIREMENT**



**Disclaimer: If a civil action is filed between a homeowner and an association concerning governing documents or an assessment dispute before the ADR process has been completed, the court MAY dismiss that case without taking any action, in accordance with NRS 38.300.**



# **CIVIL ACTION**



## **NRS 116.4117**

**NRS 116.4117 Effect of violations on rights of action; civil action for damages for failure or refusal to comply with provisions of chapter or governing documents; members of executive board not personally liable to victims of crimes; circumstances under which punitive damages may be awarded; attorney's fees.**

**1. Subject to the requirements set forth in subsection 2, if a declarant, community manager or any other person subject to this chapter fails to comply with any of its provisions or any provision of the declaration or bylaws, any person or class of persons suffering actual damages from the failure to comply may bring a civil action for damages or other appropriate relief.**

**2. Subject to the requirements set forth in NRS 38.310 and except as otherwise provided in NRS 116.3111, a civil action for damages or other appropriate relief for a failure or refusal to comply with any provision of this chapter or the governing documents of an association may be brought:**

**(a) By the association against:**

- (1) A declarant;**
- (2) A community manager; or**
- (3) A unit's owner.**

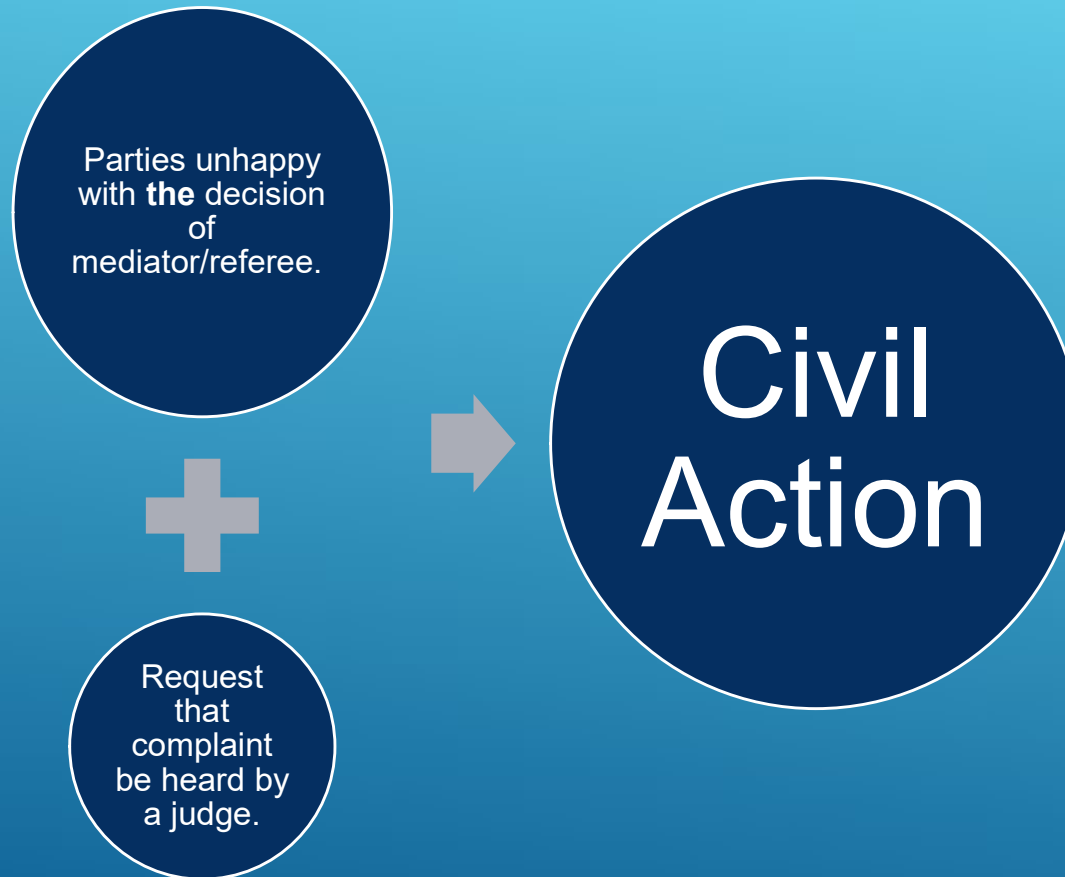
**(b) By a unit's owner against:**

- (1) The association;**
- (2) A declarant; or**
- (3) Another unit's owner of the association.**

**(c) By a class of units' owners constituting at least 10 percent of the total number of voting members of the association against a community manager.**

## **NRS 38.300 (3)**

**3. “Civil action” includes an action for money damages or equitable relief. The term does not include an action in equity for injunctive relief in which there is an immediate threat of irreparable harm, or an action relating to the title to residential property.**



**WHY DO YOU THINK THAT ADR IS REQUIRED  
BEFORE PROCEEDING TO COURT?**

## SUMMARY

Action	Used for	Statute of Limitations
Alternative Dispute Resolution (ADR)	Dispute and violation of any association governing documents	No statute of limitations
Intervention Affidavit (IA)	Used for violation of NRS/NAC <b>116</b>	1 year from reasonable discovery of violation
Statement of Facts	Used primarily against CAMs and RSS for violating Standards of Practice	Reasonable time following reasonable discovery of violation

Before we move on to the Q&A session, I'd like to remind everyone that we are here to provide general information and guidance. We cannot give legal advice, interpret the law, or provide opinions on individual circumstances.

The purpose of this Q&A session is to help clarify the material covered in today's class. Please keep your questions focused on understanding and the application of the statutes, regulations, and CC&Rs relevant to your roles within your community. For specific legal concerns or individual issues, please consult with a qualified attorney.





# THANK YOU



Andrei Tcacenco & Dre Anderson

Email: [cicombudsman@red.nv.gov](mailto:cicombudsman@red.nv.gov)

Phone number: 702-486-4480

# **PATHWAYS OF A COMPLAINT: INTERVENTION AFFIDAVIT AND STATEMENT OF FACTS**

Intros/Icebreaker

Prior to Filing

Intervention Affidavit (IA)

Division Processes

Statement of Facts (SOF)

# AGENDA

**BEFORE WE BEGIN, YOU ARE REMINDED THAT, AS TRAINING OFFICERS, WE ARE HERE TO PROVIDE GENERAL INFORMATION AND EDUCATION ON NRS/NAC 116, 116A, 116B AND NAC 38. WE DO NOT PROVIDE LEGAL ADVICE, INTERPRET THE LAW, OR GIVE OPINIONS ON INDIVIDUAL CIRCUMSTANCES.**

**OUR GOAL IS TO IS TO HELP YOU LEARN, UNDERSTAND, AND APPLY THE RELEVANT STATUTES, REGULATIONS, AND YOUR COMMUNITY'S CC&RS. WE WANT TO EQUIP YOU WITH THE KNOWLEDGE AND TOOLS NECESSARY TO EFFECTIVELY MANAGE AND LIVE WITHIN YOUR COMMON-INTEREST COMMUNITIES.**

**WE WILL HAVE DEDICATED TIME FOR QUESTIONS AND ANSWERS TOWARDS THE END OF THE CLASS. PLEASE NOTE THAT THE Q&A SESSION IS INTENDED TO CLARIFY THE MATERIAL COVERED TODAY AND NOT TO ADDRESS SPECIFIC ISSUES YOU MIGHT BE FACING. FEEL FREE TO JOT DOWN ANY QUESTIONS REGARDING THE CLASS THAT YOU MAY HAVE AS WE GO ALONG, AND WE WILL ADDRESS THEM DURING THE Q&A PERIOD.**

**FOR ONLINE LIVE CLASSES: PLEASE ENSURE  
YOUR WEBEX DISPLAY NAME IS THE NAME  
YOU WANT YOUR CERTIFICATE OF  
ATTENDANCE TO BE ISSUED IN.**

# LEARNING OBJECTIVES

- **By the conclusion of this class, students will:**
  - Understand the purpose of the Intervention Affidavit.
  - Understand how the intervention process works in the Real Estate Division.
  - Understand how to use the Statement of Facts form.



- ▶ Prior to submitting a complaint to the Division, a complainant must send a notice by certified mail, with return receipt requested, to the respondent. (NRS 116.760).
- ▶ Allow 10 business days for the respondent to address the alleged violation.

## **INTERVENTION AFFIDAVIT PREPARATORY STEPS**

## WHY IS CERTIFIED RETURN RECEIPT REQUESTED NOTICE REQUIRED?

- What is the reasoning behind this requirement?







## **PRIOR TO FILING:**

- ▶ The complainant must mail a written notice to the respondent and give the respondent at least ten (10) business days to correct the alleged violation.
- ▶ The complainant must have attempted to resolve the alleged violation with the respondent.

**Ticket No**  
**000363**

**NOTICE OF VIOLATION**

Unit \_\_\_\_\_

Parking stall P1 P2  
☐ ☐

Time \_\_\_\_\_ am pm  
☐ ☐

Date noticed \_\_\_\_\_

It is alleged that on the date indicated, the unit or parking stall committed the following building bylaw violation.

**smoking in the building**  
☐ balcony ☐ parkade

to and/or sta  
a visit

- The notice must describe the violation, actual damages incurred, and any proposed corrective action (NRS 116.760).

STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY  
REAL ESTATE DIVISION

3300 West Sahara Avenue, Suite 325, Las Vegas, NV 89102  
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[CICombudsman@red.nv.gov](mailto:CICombudsman@red.nv.gov) / <https://red.nv.gov>

**Intervention Affidavit (Form 530)**

The statements immediately below must be met before filing this Affidavit. **Please verify that you have met each requirement by INITIALING each box.** As the aggrieved party, you are attesting you:

1. Understand that this Affidavit cannot be filed more than 1 year after you discovered or reasonably should have discovered the alleged violation (**if more than 1 year, you cannot file this Affidavit**). .....  
Date alleged violation took place:
2. Have mailed to the Respondent's last known address, allowing at least 10 business days, **a certified return receipt requested notice**, specifying in reasonable detail:
  - (a) all alleged violations, which are identical to the allegations listed on the Affidavit .....
  - (b) any actual damages suffered; and .....
  - (c) any corrective actions proposed .....
3. Have provided with this Affidavit a copy of the notice with the certified return receipt from the post office stapled to it. ....

## WHAT IS THE PURPOSE OF IA FORM 530?

- ▶ **Complaints regarding NRS, NAC, 116, such as:**
  - ▶ The election process.
  - ▶ Meeting notifications.
  - ▶ Records Access.
  - ▶ Amending the CC&Rs.
  - ▶ Financial Reporting.
  - ▶ Fining Process.
  - ▶ (Refer to NRS 116.760).

# AGAINST WHOM MAY COMPLAINTS BE FILED?

- Complaints may be filed against any person within the jurisdiction of NRS 116, except Community Managers (CAMs) and Reserve Study Specialists (RSS) (NRS 116.750 & 760). This includes:
  - Association officers, employees, or agents.
  - Board members.
  - Unit Owners.



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INITIALS

1. Understand that this Affidavit cannot be filed more than 1 year after you discovered or reasonably should have discovered the alleged violation (if more than 1 year, you cannot file this Affidavit).  
Date alleged violation took place: \_\_\_\_\_
  2. Have mailed to the Respondent's last known address, allowing at least 10 business days, a **certified return receipt requested notice**, specifying in reasonable detail:
    - (a) all alleged violations, which are identical to the allegations listed on the Affidavit \_\_\_\_\_
    - (b) any actual damages suffered; and \_\_\_\_\_
    - (c) any corrective actions proposed \_\_\_\_\_
  3. Have provided with this Affidavit a copy of the notice with the certified return receipt from the post office stapled to it \_\_\_\_\_
  4. Have included on this form all allegations listed in the certified notice and understand that any allegation not identically listed on both the notice and Affidavit will not be addressed by the Division. \_\_\_\_\_
  5. Have in lieu of a notice, sent certified with return receipt requested, the Intervention Affidavit. ☐ Yes ☐ No  
If yes, the certified receipt has been stapled to the Affidavit. Identify exhibits sent: \_\_\_\_\_
  6. Before filing this Affidavit, have provided the Respondent with at least 10 business days to address/correct the alleged violation(s) of NRS/ NAC 116 and/or the governing documents, and all other reasonable efforts to resolve allegation(s) have failed. \_\_\_\_\_
  7. Have listed only one alleged violation on page 2 and included the applicable labeled attachments (Exhibits) behind each alleged violation (use a separate page 2 for each alleged violation). \_\_\_\_\_
  8. I understand once the Affidavit is submitted, the Division cannot provide me with a copy of my submittal. \_\_\_\_\_
- Have spoken with Ombudsman staff before filing the Affidavit. ☐ Yes ☐ No If yes, name: \_\_\_\_\_
- Have filed an ADR claim or litigation involving the same allegation(s). ☐ Yes ☐ No If yes, case number: \_\_\_\_\_

STATE OF NEVADA	COUNTY OF _____	DATE: _____
I, _____ (Complainant), after being first duly sworn, state under penalty of perjury and based upon personal knowledge have been aggrieved by an alleged violation of Chapter 116 of the Nevada Revised Statutes, Nevada Administrative Code, or the governing documents of the Association.		
1. The person or entity who committed the alleged violation and who was sent the required certified letter or certified Affidavit is (if multiple, list each Respondent): _____		
2. The Respondent(s) role in the community: _____		
3. The name of the Association where the alleged violation took place: _____		
4. The Association's Secretary of State (SOS) Business ID Number: _____ SOS Look-up: <a href="https://esos.nv.gov/EntitySearch/OnlineEntitySearch">https://esos.nv.gov/EntitySearch/OnlineEntitySearch</a>		

STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY  
REAL ESTATE DIVISION

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[CICombudsman@red.nv.gov](mailto:CICombudsman@red.nv.gov) / <https://red.nv.gov>

1. You are required to provide a brief description, per allegation, per page (*reprint this page for each separate alleged violation*). Only the first allegation is required to be notarized.
2. Each allegation must have its own supporting documentation (Example: Exhibit #1 for allegation #1), which must be placed directly behind the allegation. Do not submit any documents printed double-sided.
3. If you provide video or audio via a USB drive or another electronic format, you MUST indicate the time stamp, which identifies the alleged violation, and where NRED should start viewing.
4. Do not write "See Attached." If additional space is needed, please use a separate sheet. If "See Attached" is written in any section below, your complaint will not be processed and is incomplete.

Pursuant to Nevada Revised Statutes 116.760 (4) The Commission or a hearing panel may impose an administrative fine of not more than \$1,000 against any person who knowingly files a false or fraudulent Affidavit with the Division.

**ALLEGED VIOLATION:** Allegation # \_\_\_\_\_ Briefly describe the allegation that occurred. NRED must be able to understand what allegedly happened. Do not list/cite statutes, regulations, or governing documents sections in this space.

**RECOMMENDED CORRECTIVE ACTION** (Within the board's or NRED's authority):

**SUPPORTING LAW AND/OR GOVERNING DOCUMENTS:**

I have read the foregoing Affidavit consisting of \_\_\_\_\_ pages (including all additional attached pages), and it is true and correct to the best of my knowledge and belief.

Complainant Name: \_\_\_\_\_

Complainant Signature: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

State of Nevada County of \_\_\_\_\_

Subscribed and sworn before me on \_\_\_\_\_ by \_\_\_\_\_

(Name(s) of person(s) making statement)

(Notary Stamp) Signature of Notarial Officer \_\_\_\_\_

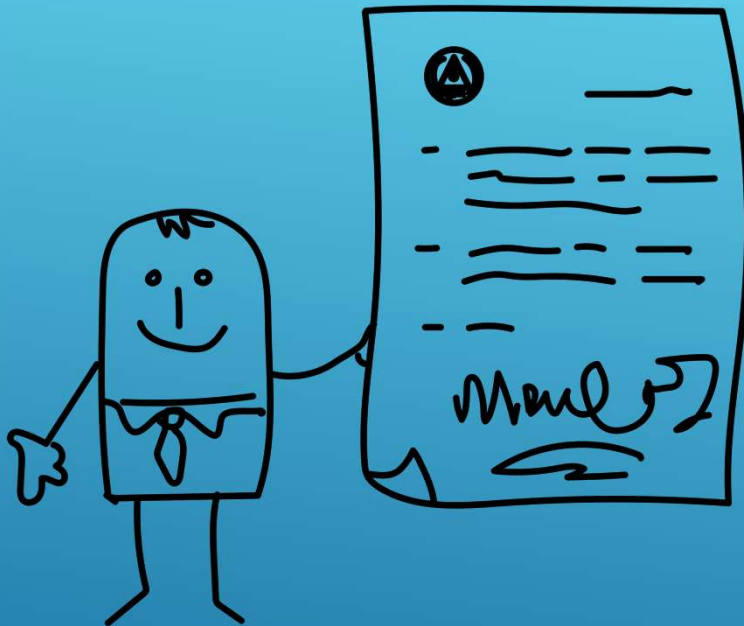
Mail or hand-deliver the completed Affidavit package to:  
NRED, OFFICE OF THE OMBUDSMAN  
3300 W. SAHARA AVE., SUITE 325,  
LAS VEGAS, NEVADA 89102  
**Email and fax submissions will not be accepted.**  
Retain a copy of this packet for yourself before submission as copies  
from NRED cannot be provided.

Revised 9/1/2021

Page 2 of 2

Form 530





**When completing Form 530, keep the following in mind:**

- ▶ Form 530 is a 2-page form.
- ▶ Allegations are detailed on page 2.
- ▶ Only one allegation per page 2.
- ▶ The Form 530 must be notarized.
- ▶ If multiple page 2 copies are submitted, only one (1) needs to be notarized.

## **COMPLETING THE IA 530 FORM**

# COMPLETING THE FORM, CONTINUED

A quick reminder that:

- All supporting documentation must be attached and labeled following each allegation. Examples include:
  - Meeting minutes.
  - Budgets.
  - Violation notices.

**DO NOT WRITE “SEE ATTACHED”.**



## **SUBMITTING THE FORM**

**Forms can be submitted either by mail or in person to:**

**NV Real Estate Division, Office of the Ombudsman, CICCH  
Program, 3300 W. Sahara Ave., Suite 325, Las Vegas, NV  
89102**



## INTERVENTION AFFIDAVIT

STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY  
REAL ESTATE DIVISION

3300 West Sahara Avenue, Suite 325, Las Vegas, NV 89102  
(702) 486-4480 / Toll free: (877) 829-9907 / Fax: (702) 486-4520  
[CICombudsmen@red.nv.gov](mailto:CICombudsmen@red.nv.gov) / <https://red.nv.gov>

### Intervention Affidavit (Form 530)

The statements immediately below must be met before filing this Affidavit. **Please verify that you have met each requirement by INITIALING each box.** As the aggrieved party, you are attesting you:

1. Understand that this Affidavit cannot be filed more than 1 year after you discovered or reasonably should have discovered the alleged violation (**if more than 1 year, you cannot file this Affidavit**).  
Date alleged violation took place:
2. Have mailed to the Respondent's last known address, allowing at least 10 business days, a **certified return receipt requested notice**, specifying in reasonable detail:
  - (a) all alleged violations, which are identical to the allegations listed on the Affidavit
  - (b) any actual damages suffered; and
  - (c) any corrective actions proposed
3. Have provided with this Affidavit a copy of the notice with the certified return receipt from the post office stapled to it.

- ▶ A person who alleges that they have been harmed by a violation must file a written affidavit with the Division within 1 year after reasonable discovery of the alleged violation. The complaint should make any allegations, any damages suffered and proposed corrective action. (NRS 116.760).



- ▶ **The affidavit must be on a prescribed form and include evidence that the respondent was given proper notice.**
- ▶ **The respondent must also be given a reasonable opportunity to address or correct the violation after receiving the notice.**
- ▶ **You must provide proof that previous efforts to resolve the dispute were unsuccessful (NRS 116.760 (3)(B)).**

## ACTIVITY: FORM 530 (INTERVENTION AFFIDAVIT)

STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY  
REAL ESTATE DIVISION

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  - (a) all alleged violations, which are identical to the allegations listed on the Affidavit .....
  - (b) any actual damages suffered; and .....
  - (c) any corrective actions proposed .....
3. Have provided with this Affidavit a copy of the notice with the certified return receipt from the post office stapled to it. ....

- Analyze the completed affidavit shown on the next slide.

STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY  
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The statements immediately below must be met before filing this Affidavit. **Please verify that you have met each requirement by INITIALING each box.** As the aggrieved party, you are attesting you:

INITIALS

1. Understand that this Affidavit cannot be filed more than 1 year after you discovered or reasonably should have discovered the alleged violation (**if more than 1 year, you cannot file this Affidavit**). ..... JD  
Date alleged violation took place: 01/01/2024
2. Have mailed to the Respondent's last known address, allowing at least 10 business days, a **certified return receipt requested notice**, specifying in reasonable detail:
  - (a) all alleged violations, which are identical to the allegations listed on the Affidavit ..... JD
  - (b) any actual damages suffered; and ..... JD
  - (c) any corrective actions proposed ..... JD
3. Have provided with this Affidavit a copy of the notice with the certified return receipt from the post office stapled to it. .... JD
4. Have included on this form all allegations listed in the certified notice and understand that any allegation not identically listed on both the notice and Affidavit will not be addressed by the Division. .... JD
5. Have in lieu of a notice, sent certified with return receipt requested, the Intervention Affidavit. ☐ Yes ☒ No JD  
If yes, the certified receipt has been stapled to the Affidavit. Identify exhibits sent: .....
6. Before filing this Affidavit, have provided the Respondent with at least **10 business days** to address/correct the alleged violation(s) of NRS/ NAC 116 and/or the governing documents, and **all other reasonable efforts to resolve allegation(s) have failed**. .... JD
7. Have listed only one alleged violation on page 2 and included the applicable labeled attachments (Exhibits) behind each alleged violation (use a separate page 2 for each alleged violation). .... JD
8. I understand once the Affidavit is submitted, the Division cannot provide me with a copy of my submittal. .... JD

Have spoken with Ombudsman staff before filing the Affidavit. ☒ Yes ☐ No If yes, name: Sonya Meriweather

Have filed an ADR claim or litigation involving the same allegation(s). ☐ Yes ☒ No If yes, case number: .....

STATE OF NEVADA COUNTY OF Washoe DATE: 06/01/2024

I, John Doe (Complainant), after being first duly sworn, state under penalty of perjury and based upon personal knowledge have been aggrieved by an alleged violation of Chapter 116 of the Nevada Revised Statutes, Nevada Administrative Code, or the governing documents of the Association.

1. The person or entity who committed the alleged violation and who was sent the required certified letter or certified Affidavit is (if multiple, list each Respondent): Nevada Sage HOA Board of Directors
2. The Respondent(s) role in the community: HOA Board of Directors
3. The name of the Association where the alleged violation took place: Nevada Sage HOA, Elko, NV
4. The Association's Secretary of State (SOS) Business ID Number: C35600-2006  
SOS Look-up: <https://esos.nv.gov/EntitySearch/OnlineEntitySearch>



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1. You are required to provide a brief description, per allegation, per page (*reprint this page for each separate alleged violation*). Only the first allegation is required to be notarized.
2. Each allegation must have its own supporting documentation (Example: **Exhibit #1 for allegation #1**), which must be placed directly behind the allegation. Do not submit **any** documents printed double-sided.
3. If you provide video or audio via a USB drive or another electronic format, you **MUST** indicate the time stamp, which identifies the alleged violation, and where NRED should start viewing.
4. **Do not write "See Attached."** If additional space is needed, please use a separate sheet. If "See Attached" is written in any section below, your complaint will not be processed and is incomplete.

Pursuant to Nevada Revised Statutes 116.760 (4) The Commission or a hearing panel may impose an administrative fine of not more than \$1,000 against any person who knowingly files a false or fraudulent Affidavit with the Division.

**ALLEGED VIOLATION:** Allegation # 1 Briefly describe the allegation that occurred. NRED must be able to understand what allegedly happened. **Do not** list/cite statutes, regulations, or governing documents sections in this space.

Upon written request our Nevada Sage HOA Board of Directors refused to make available the books, records, and other papers of our Association for review. (Reference attached the Initial Request made on June 1, 2023). Once again, our HOA Board of Directors has refused to respond to our certified receipt letter written request for review of these documents made on September 1, 2023. (Reference attached with Certified Receipt for Documentation).

**RECOMMENDED CORRECTIVE ACTION** (Within the board's or NRED's authority):

Make available the books, records, and other requested papers of our Association for review by the Compliance section of the State of Nevada HOA Ombudsman Real Estate Division. This review should focus on a fair and equitable reserve funding plan for both new (occupancy in 2020) and old (occupancy in 2004) condominium building unit owners to make up for a 20 year condominium building common elements significant reserve funds shortfall.

**SUPPORTING LAW AND/OR GOVERNING DOCUMENTS:**

NRS 116.760

I have read the foregoing Affidavit consisting of 10 pages (including all additional attached pages), and it is true and correct to the best of my knowledge and belief.

Complainant Name: John Doe

Complainant Signature: \_\_\_\_\_

Street Address: 1111 South Virginia St

City: Reno State: NV Zip Code: 89502

Phone: (775) 775-1111

Email: \_\_\_\_\_

State of Nevada County of Washoe

Subscribed and sworn before me on \_\_\_\_\_ by \_\_\_\_\_

(Name(s) of person(s) making statement)

(Notary Stamp)

Signature of Notarial Officer

Mail or hand-deliver the completed Affidavit package to:  
**NRED, OFFICE OF THE OMBUDSMAN**  
3300 W. SAHARA AVE., SUITE 325,  
LAS VEGAS, NEVADA 89102

**Email and fax submissions will not be accepted.**

Retain a copy of this packet for yourself before submission as copies from NRED cannot be provided.

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REAL ESTATE DIVISION

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[CI/Ombudsman@red.nv.gov](mailto:CI/Ombudsman@red.nv.gov) / <https://red.nv.gov>

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**RECOMMENDED CORRECTIVE ACTION** (Within the board's or NRED's authority):

Make available the books, records, and other requested papers of our Association for review by the Compliance section of the State of Nevada HOA Ombudsman Real Estate Division.  
This review should focus on a fair and equitable reserve funding plan for both new (occupancy in 2020) and old (occupancy in 2004) condominium building unit owners to make up for a 20 year condominium building common elements significant reserve funds shortfall.

**SUPPORTING LAW AND/OR GOVERNING DOCUMENTS:**

NRS 116.31175

I have read the foregoing Affidavit consisting of 10 pages (including all additional attached pages), and it is true and correct to the best of my knowledge and belief.

Complainant Name: John Doe

Complainant Signature: \_\_\_\_\_

Street Address: 1111 South Virginia St

City: Reno State: NV Zip Code: 89502

Phone: (775) 775-1111 Email: \_\_\_\_\_

State of Nevada County of Washoe

Subscribed and sworn before me on \_\_\_\_\_ by \_\_\_\_\_

(Name(s) of person(s) making statement)

(Notary Stamp)

Signature of Notarial Officer \_\_\_\_\_

Mail or hand-deliver the completed Affidavit package to:

**NRED, OFFICE OF THE OMBUDSMAN  
3300 W. SAHARA AVE., SUITE 325,  
LAS VEGAS, NEVADA 89102**

**Email and fax submissions will not be accepted.**

**Retain a copy of this packet for yourself before submission as copies from NRED cannot be provided.**

# GROUP ACTIVITY

**In the chat, discuss the following questions:**

- What allegation has the claimant made against the Board, according to the Intervention Affidavit?
- Which NRS statute is correct, NRS 116.760 or NRS 116.31175?





## **GROUP DISCUSSION**

- ▶ **Did this respective complainant follow all the first steps, as outlined in the presentation?**

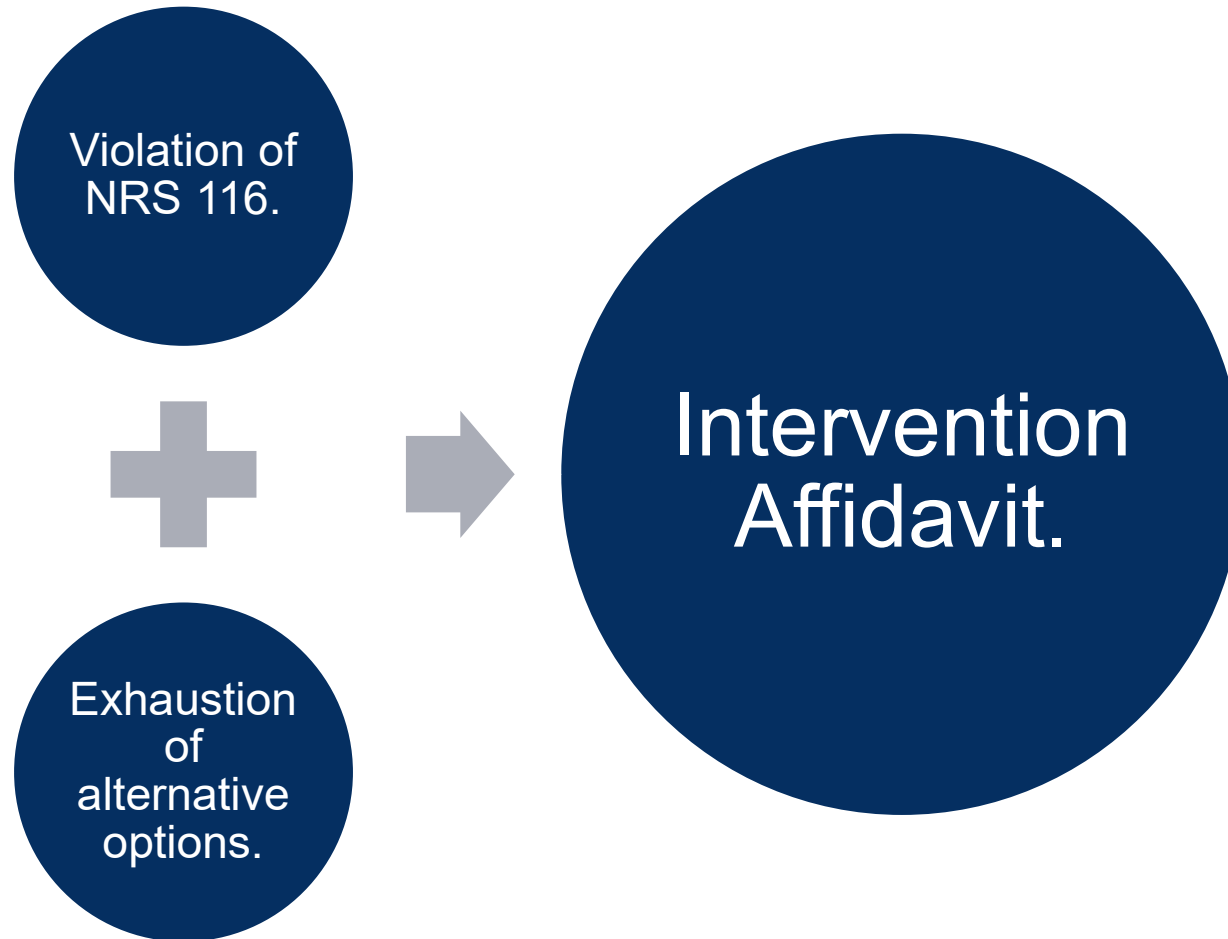


# FIRST STEPS CHECKLIST

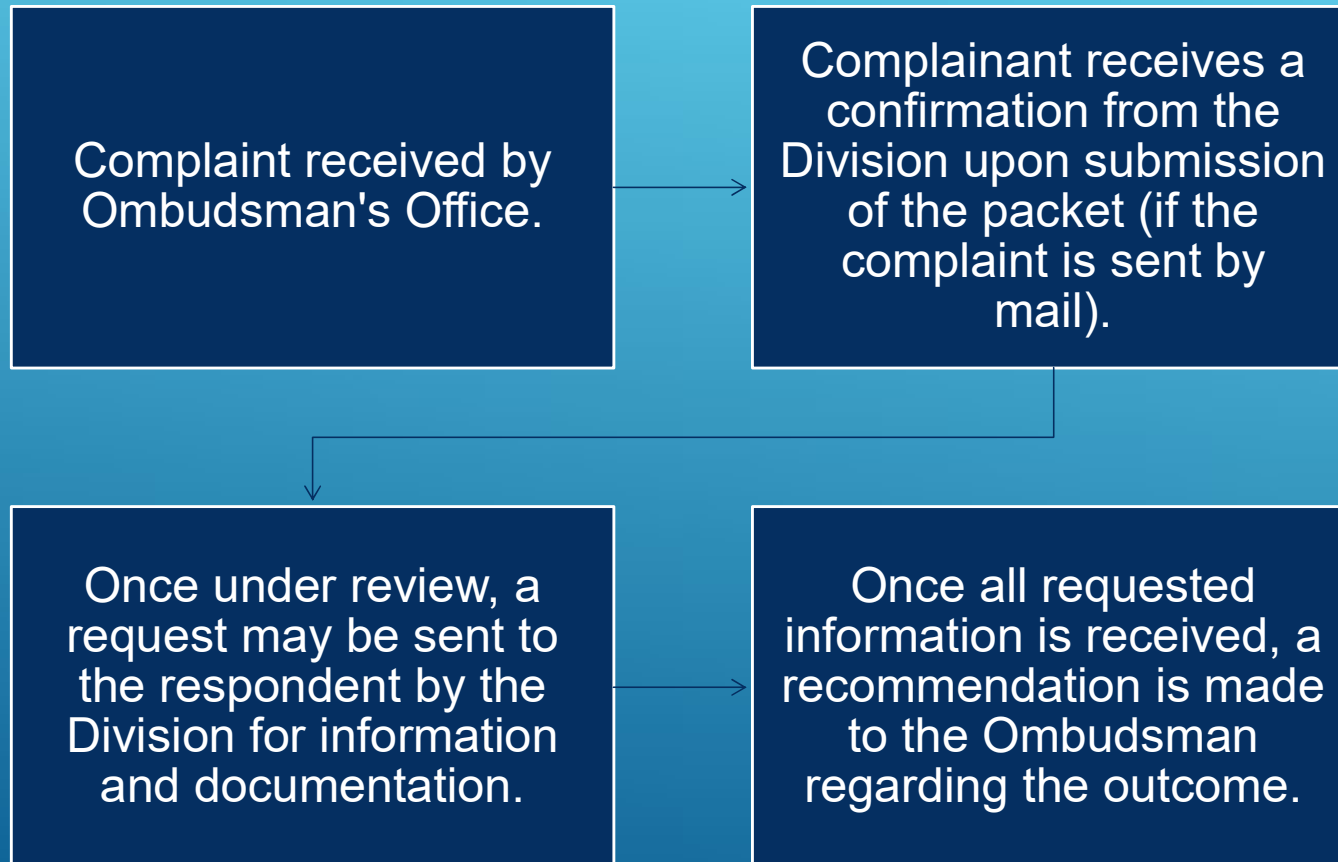
**Did you?**

- **Read your association's governing documents and follow the required conflict resolution procedures?**
- **Make reasonable efforts to resolve this issue directly with the respondent?**
- **Send your certified complaint to the respondent, in writing, return receipt requested?**
- **Give the respondent at least 10 business days to respond to my complaint?**





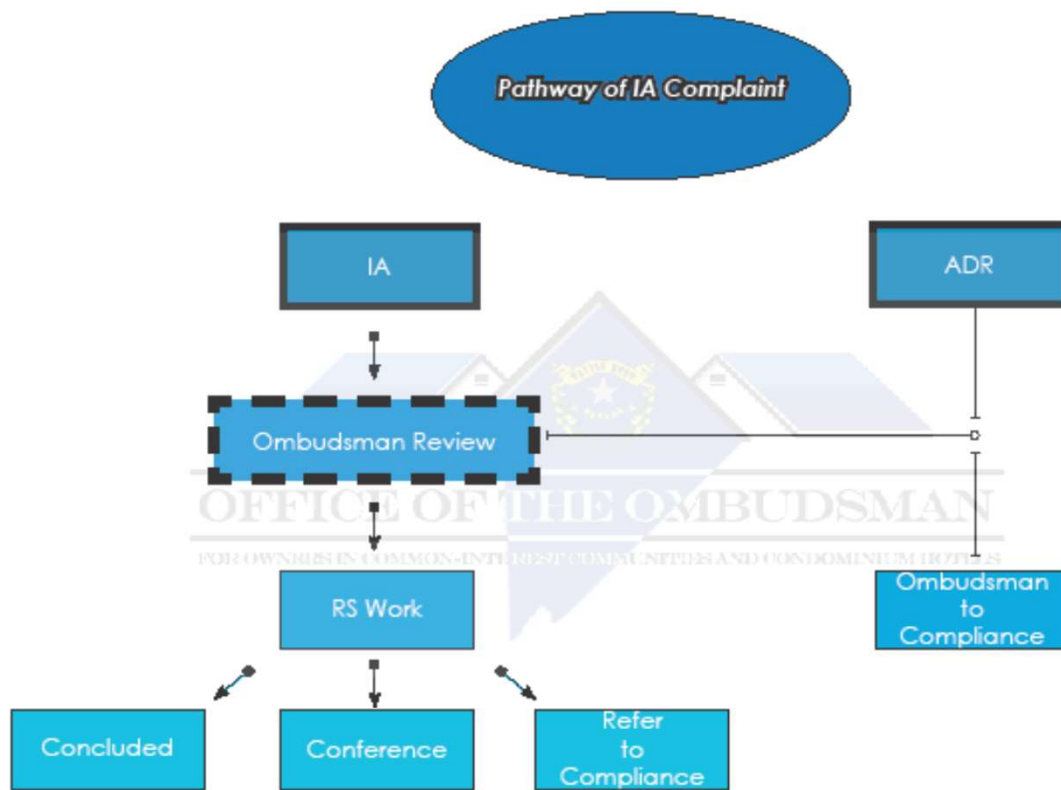
# INITIAL REVIEW



- ▶ **A conference request.**
- ▶ **ADR option.**
- ▶ **Referral of the complaint to the Compliance Chief.**
- ▶ **Closure of the complaint.**

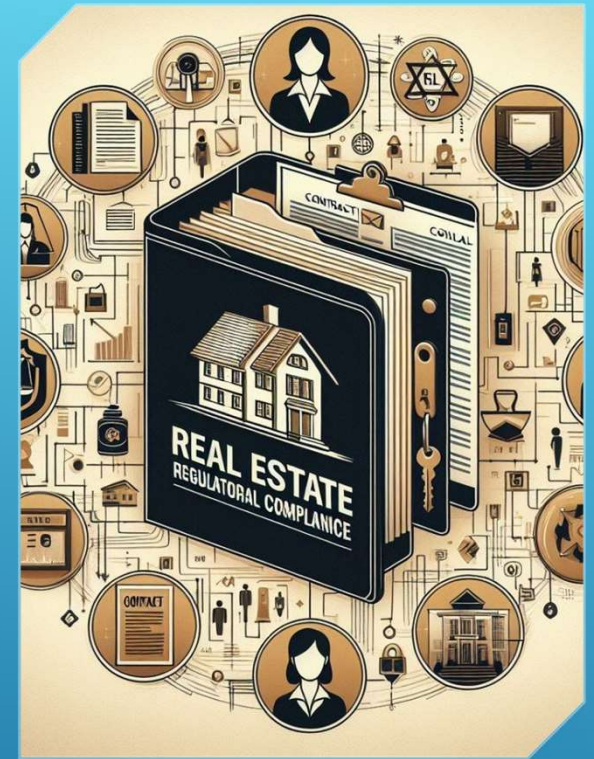


## **POSSIBLE COURSES OF ACTION**



- ▶ If a conference is conducted and successful, parties sign a non-binding agreement that they are expected to adhere to.
- ▶ If it is unsuccessful, parties:
  - ▶ Will be informed of the ADR process.

## RESOLUTION PATHWAY 2: CONFERENCE





## **PATHWAY 3:ADR OPTION**



## PATHWAY 4: COMPLIANCE REFERRAL

**If unfounded:**

The Division sends a closing letter to all parties.

**If referred:**

The file is sent to the Compliance Chief.

The Investigator may send a letter to the respondent.

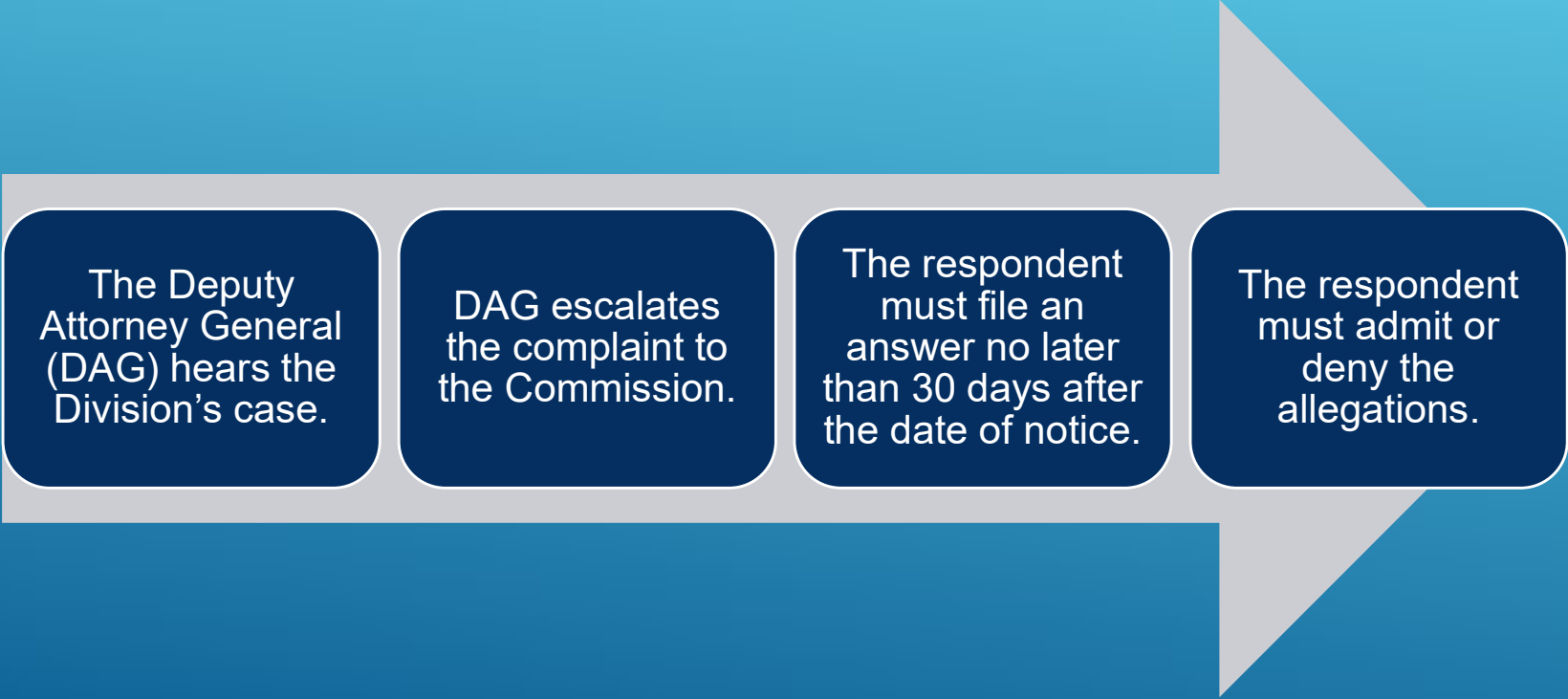
The Division will take an appropriate action in the investigation.

The complaint may be referred to the DAG for possible escalation to the Commission.

## **IN YOUR OWN WORDS**

**What are the possible outcomes after an Intervention Affidavit (Form 530) is filed? Please provide a summary.**

## THE COMMISSION PROCESS (NRS 116.770)



The Deputy Attorney General (DAG) hears the Division's case.

DAG escalates the complaint to the Commission.

The respondent must file an answer no later than 30 days after the date of notice.

The respondent must admit or deny the allegations.



## RULING

**If the Commission finds grounds for disciplinary action against an association based on NRS 116.785, they may:**

- ▶ Issue an order directing the respondent to cease and desist.
- ▶ Issue an order directing the respondent to take action to correct the issue.
- ▶ Impose an administrative fine of up to \$1,000 for each violation.
- ▶ And/or order the respondent to pay the cost of the hearing.

**If the Commission finds grounds for disciplinary action against the association's governing board, they may (NRS 116.785):**

- ▶ Order an audit of the association.
- ▶ Order board members removed from their office/position.
- ▶ Require the association to hire a licensed CAM.
- ▶ And/or appoint a receiver (defined in NRS 32.175) if:
  - ▶ **The board has been guilty of fraud/collusion/gross mismanagement.**
  - ▶ **Guilty of misfeasance/malfeasance/nonfeasance.**
  - ▶ **The assets of the association are in danger of waste through attachment, foreclose, litigation, or otherwise.**

## **RULING, CONTINUED**



# STATEMENT OF FACT (FORMS 514(A)&(B))

Statement of Fact (SOF) Forms are used when a complainant alleges that:

- A Community Manager (CAM) violated their Standards of Practice outlined in NRS 116A.630; or
- A Reserve Study Specialist (RSS) violated their Standards of Practice outlined in NAC 116A.425.

STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
REAL ESTATE DIVISION  
3300 W. Sahara Ave., Suite 125 • Las Vegas, Nevada 89102  
(702) 486-4480 • Toll Free: (877) 829-9987 • Fax: (702) 486-4530  
E-mail: [CRChubb@dnr.state.nv.us](mailto:CRChubb@dnr.state.nv.us) <http://real.nv.gov>

**COMPLAINT  
AGAINST A RESERVE STUDY SPECIALIST**

Please Print or Type  
Your Name: \_\_\_\_\_  
Home Phone: \_\_\_\_\_ Email: \_\_\_\_\_  
Address: \_\_\_\_\_  
(Street) (City) (State) (Zip)

Please complete the following information concerning your complaint. The Division's ability to investigate the matter will depend largely upon you providing a complete and detailed sworn statement. **ATTACH ALL PERTINENT COPIES OF PAPERS AND/OR DOCUMENTS TO THIS FORM. KEEP ORIGINALS FOR YOUR FILE.**

Name of Reserve Study Specialist complaint is against: \_\_\_\_\_  
Name of Reserve Study Company: \_\_\_\_\_  
Address of Reserve Study Company: \_\_\_\_\_  
Telephone No. of Reserve Study Company: \_\_\_\_\_  
Is any legal action pending? Yes ☐ No ☐ If so, what action? \_\_\_\_\_  
Has an Alternative Dispute Resolution (ADR) claim been filed? Yes ☐ No ☐ If so, what date: \_\_\_\_\_

**CONSIDER THE FOLLOWING CAREFULLY**

- The Division is not empowered to compel anyone to accede to demands of any kind. We cannot compel refunds of any kind. In this regard, we suggest that you seek private counsel to protect your interests, as we are not authorized to give legal advice.
- Do not delay any civil action you might be considering regarding this matter.
- Should the Division determine that a case warrants opening against the Reserve Study Specialist, an investigation will be initiated. Considerable time may be required to complete our investigation. It may be necessary for you to appear and testify should this matter proceed to a hearing before the Commission for Common-Interest Communities.

**To start the process, you must:**

1. Provide to the Division proof of written communication with the Reserve Study Specialist.
2. The written communication must include all allegations that you request the Division to consider for possible investigation. The written communication may be in the form of an e-mail, facsimile or letter.
3. Allow the Reserve Study Specialist a minimum of twelve (12) business days to respond before filing a complaint with the Division.
4. Provide copies of all documentation that supports the allegation(s) against the Reserve Study Specialist.

*I declare under penalty of perjury under law of the State of Nevada that the foregoing attached statement consisting of \_\_\_\_\_ pages is true and correct.*

STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
REAL ESTATE DIVISION  
3300 West Sahara Avenue, Suite 100, Las Vegas, NV 89102  
(702) 486-4480 • Toll Free: (877) 829-9987 • Fax: (702) 486-4530  
E-mail: [CRChubb@dnr.state.nv.us](mailto:CRChubb@dnr.state.nv.us) <http://real.nv.gov>

**STATEMENT OF FACT  
AGAINST A COMMUNITY MANAGER (#514a)**

Statements 1 through 4 cited below must be met prior to filing this Statement of Fact. Please verify that you have met the requirements by initialing in each box. As the aggrieved party, you:

- ☐ 1. Have sent the allegations of misconduct in writing to the Community Manager in an attempt to resolve the issue before filing a complaint with the Division and provided proof of the written communication in the form of an e-mail or letter. The written communication must include all allegations that you request the Division to consider for possible investigation.
- ☐ 2. Have waited at least 12 working days for the Community Manager to acknowledge and respond in writing to the alleged violation(s).
- ☐ 3. Have listed only one (1) alleged violation per page and have included applicable attachments (Exhibits) behind each such page. You must provide all supporting documentation with the complaint.
- ☐ 4. If you are a tenant, you must have had the complaint approved (written communication) by the unit's owner without the use of a Power of Attorney.

Please indicate whether you have spoken to a staff representative from the Ombudsman's Office to understand which specific provision of NRS or NAC 116 may have been violated. ☐ Yes ☐ No If yes, name: \_\_\_\_\_

**Please Print or Type**  
Your Name: \_\_\_\_\_  
Your complete physical address: \_\_\_\_\_  
Unit Address, if different: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Home Phone: \_\_\_\_\_ Business Phone: \_\_\_\_\_

Name of Community Manager the complaint is against: \_\_\_\_\_  
Name of Management Company: \_\_\_\_\_  
Address of Management Company: \_\_\_\_\_  
Management Company Telephone No.: \_\_\_\_\_  
Name of the Association: \_\_\_\_\_  
Legal action pending pertaining to the allegations filed? ☐ Yes ☐ No If so, what action? \_\_\_\_\_  
Alternative Dispute Resolution (ADR) claim filed? ☐ Yes ☐ No If so, what date & claim#: \_\_\_\_\_

STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
REAL ESTATE DIVISION  
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E-mail: [CICombudsman@real.nv.gov](mailto:CICombudsman@real.nv.gov) <http://www.reel.nv.gov>

**STATEMENT OF FACT**  
**AGAINST A COMMUNITY MANAGER (#514a)**

Statements 1 through 4 cited below must be met prior to filing this Statement of Fact. **Please verify that you have met the requirements by initialing in each box.** As the aggrieved party, you:

- ☐ 1. Have sent the allegations of misconduct in writing to the Community Manager in an attempt to resolve the issue **before** filing a complaint with the Division and provided proof of the written communication in the form of an e-mail or letter. The written communication must include all allegations that you request the Division to consider for possible investigation.
- ☐ 2. Have waited at least 12 working days for the Community Manager to acknowledge and respond in writing to the alleged violation(s).
- ☐ 3. Have listed only one (1) alleged violation per page and have included applicable attachments (Exhibits) behind each such page. You must provide all supporting documentation with the complaint.
- ☐ 4. If you are a tenant, you must have had the complaint approved (written communication) by the unit's owner without the use of a Power of Attorney.

Please indicate whether you have spoken to a staff representative from the Ombudsman's Office to understand which specific provision of NRS or NAC 116 may have been violated. ☐ Yes ☐ No If yes, name: \_\_\_\_\_

**Please Print or Type**

Your Name: \_\_\_\_\_  
Your complete physical address: \_\_\_\_\_  
Unit Address, if different: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Home Phone: \_\_\_\_\_ Business Phone: \_\_\_\_\_

Name of Community Manager the complaint is against: \_\_\_\_\_  
Name of Management Company: \_\_\_\_\_  
Address of Management Company: \_\_\_\_\_  
Management Company Telephone No. \_\_\_\_\_  
Name of the Association: \_\_\_\_\_  
Legal action pending pertaining to the allegations filed? ☐ Yes ☐ No If so, what action? \_\_\_\_\_  
Alternative Dispute Resolution (ADR) claim filed? ☐ Yes ☐ No If so, what date & claim#: \_\_\_\_\_

## Used when a CAM:

- Is not complying with their standards of practice, per NRS 116A.630.

# FORM 514A



STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
REAL ESTATE DIVISION  
3300 W. Sahara Ave., Suite 325 \* Las Vegas, Nevada 89102  
(702) 486-4480 \* Toll free: (877) 829-9907 \* Fax: (702) 486-4520  
E-mail: CICOmbudsman@red.nv.gov http://red.nv.gov

**COMPLAINT  
AGAINST A RESERVE STUDY SPECIALIST**

Please Print or Type

Your Name: \_\_\_\_\_  
Home Phone: \_\_\_\_\_ Email: \_\_\_\_\_  
Address: \_\_\_\_\_  
(Street) (City) (State) (Zip)

Please complete the following information concerning your complaint. The Division's ability to investigate the matter will depend largely upon you providing a complete and detailed sworn statement. **ATTACH ALL PERTINENT COPIES OF PAPERS AND/OR DOCUMENTS TO THIS FORM. KEEP ORIGINALS FOR YOUR FILE.**

Name of Reserve Study Specialist complaint is against: \_\_\_\_\_  
Name of Reserve Study Company: \_\_\_\_\_  
Address of Reserve Study Company: \_\_\_\_\_  
Telephone No. of Reserve Study Company: \_\_\_\_\_  
Is any legal action pending? Yes ☐ No ☐ If so, what action? \_\_\_\_\_  
Has an Alternative Dispute Resolution (ADR) claim been filed? Yes ☐ No ☐ If so, what date: \_\_\_\_\_

**CONSIDER THE FOLLOWING CAREFULLY**

- The Division is not empowered to compel anyone to accede to demands of any kind. We cannot compel refunds of any kind. In this regard, we suggest that you seek private counsel to protect your interests, as **we are not authorized to give legal advice.**
- Do not delay any civil action you might be considering regarding this matter.
- Should the Division determine that a case warrants opening against the Reserve Study Specialist, an investigation will be initiated. Considerable time may be required to complete our investigation. It may be necessary for you to appear and testify should this matter proceed to a hearing before the Commission for Common-Interest Communities.

**To start the process, you must:**

1. Provide to the Division proof of written communication with the Reserve Study Specialist.
2. The written communication must include all allegations that you request the Division to consider for possible investigation. The written communication may be in the form of an e-mail, facsimile or letter.
3. Allow the Reserve Study Specialist a minimum of twelve (12) business days to respond before filing a complaint with the Division.
4. Provide copies of all documentation that supports the allegation(s) against the Reserve Study Specialist.

*I declare under penalty of perjury under law of the State of Nevada that the foregoing attached statement consisting of \_\_\_\_\_ pages is true and correct.*

## Used when an RSS (NAC 116A.425):

- Fails to perform a reserve study within their professional competence.
- Fails to exercise due care and careful planning in the performance of a reserve study.
- Fails to provide mandatory disclosures.
- Fails to stay informed of new industry developments.
- Knowingly makes inaccurate or misleading representations or statements to the association.
- Misrepresents facts for personal benefit.
- Has had their certificate revoked in another state.

# FORM 514B



**Complainant must verify that:**

- ▶ **The allegations of misconduct were sent, in writing, to the CAM or RSS to resolve the issue before filing a complaint with the Division.**
- ▶ **Complainant must wait at least 12 business days for the CAM or RSS to acknowledge and respond in writing to the alleged violation(s).**
- ▶ **They have listed only one (1) alleged violation per page and have included applicable attachments (exhibits) behind each such page.**

**Note: If the complainant is a tenant, they must have the complaint authorized, in writing, by the unit's owner, indicating that a complaint may be filed on their behalf, without the use of a power of attorney.**

## **COMPLETING THE FORM**

- **If a complaint has merit (NRS 116A.400 & 420):**
  - ▶ A letter may be sent advising the CAM or RSS to correct the allegations.
  - ▶ The Administrator may impose an administrative fine.
  - ▶ The case may be referred to the Commission for further discipline.

## **OUTCOMES**





- If the Commission finds grounds for action against a CAM or RSS, they may:
  - ▶ Revoke or suspend the respondent's certificate for at least 1 year;
  - ▶ Impose a fine of up to \$5,000 for each violation;
  - ▶ Refuse to renew or reinstate a certificate;
  - ▶ Place the Community Manager on probation or require them to complete their education;
  - ▶ Require the manager or specialist to pay restitution;
  - ▶ Require the manager or specialist to cover the cost of the hearing.

## COMMON-INTEREST COMMUNITY COMMISSION



## **FINAL DECISIONS**

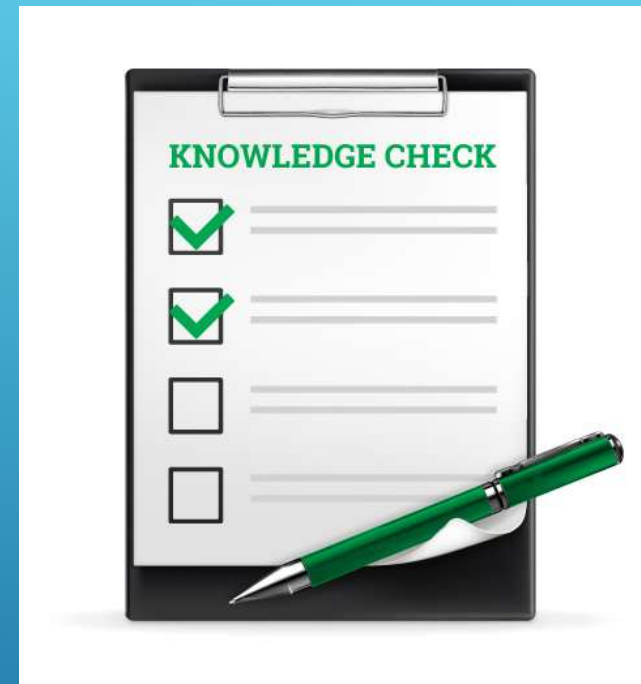
- ▶ **The Commission shall render a final decision on the merits of the complaint not later than 20 days after the date of the final hearing.**
- ▶ **The Commission shall notify all parties to the complaint of its decision, in writing, by certified mail, not later than 60 days after the date of the final hearing.**

NRS 116.780

# KNOWLEDGE CHECK

Which one of the following is true regarding form 514A?

- a.) The complaint has a statute of limitations of one year.
- b.) It is generally filed against the executive board.
- c.) It can only be submitted by unit owners.
- d.) It can only be filed against CAMs.



Before we move on to the Q&A session, I'd like to remind everyone that we are here to provide general information and guidance. We cannot give legal advice, interpret the law, or provide opinions on individual circumstances.

The purpose of this Q&A session is to help clarify the material covered in today's class. Please keep your questions focused on understanding and the application of the statutes, regulations, and CC&Rs relevant to your roles within your community.

For specific legal concerns or individual issues, please consult with a qualified attorney.







# THANK YOU



Andrei Tcacenco & Dre Anderson

Email: [cicombudsman@red.nv.gov](mailto:cicombudsman@red.nv.gov)

Phone: 702-486-4480