

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Eightieth Session  
April 8, 2019**

The Senate Committee on Judiciary was called to order by Chair Nicole J. Cannizzaro at 8:12 a.m. on Monday, April 8, 2019, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Nicole J. Cannizzaro, Chair  
Senator Dallas Harris, Vice Chair  
Senator James Ohrenschall  
Senator Marilyn Dondero Loop  
Senator Melanie Scheible  
Senator Scott Hammond  
Senator Ira Hansen  
Senator Keith F. Pickard

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Committee Policy Analyst  
Nicolas Anthony, Committee Counsel  
Jeanne Mortimer, Committee Secretary

**OTHERS PRESENT:**

Ron Skibinski, Sheriff's Office, Douglas County  
Graham Galloway, Nevada Justice Association  
Joseph Guild, State Farm Insurance Company

CHAIR CANNIZZARO:

The meeting is called to order. Senate Bill (S.B.) 433 will be presented by Senator Harris.

**SENATE BILL 433**: Revises the provisions of the California-Nevada Compact for Jurisdiction on Interstate Waters. (BDR 14-439)

SENATOR DALLAS HARRIS (Senatorial District No. 11):

I am here to present S.B. 433 with the Douglas County Sheriff's Office. This bill was sponsored by the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency (TRPA) and the Marlette Lake Water System (MLWS). This Committee provides oversight on the TRPA through an Interim study or statutory committee since 1985. In the last Interim Session, the Committee held meetings to address a variety of activities and issues relating to the TRPA and MLWS. Specific issues addressed included: environmental improvement, forest restoration, near-shore ecosystems shoreline development and transportation.

Upon conclusion of the Interim, the Committee voted to form six recommendations as bill draft requests for the Eightieth Session, including S.B. 433. Of the many topics discussed during the Interim, the Committee received information regarding the California-Nevada Compact for Jurisdiction on Interstate Waters. According to testimony provided at the Interim Session, language in the compact is outdated regarding advancement in geographic location technology in that it assumes law enforcement is unable to determine the precise location of where a criminal act has been committed.

The Compact only provides concurrent jurisdiction on the water, and there are times when law enforcement officers need to conduct follow-up investigations and bookings and provide assistance on land. Based on the information, the Tahoe Oversight Committee voted unanimously to draft S.B. 433. Since this is a multistate compact, the State of California must approve the same language for this bill to become effective.

RON SKIBINKSI (Sheriff's Office, Douglas County):

We noticed a flaw in the Nevada-California Compact with regard to jurisdiction on the water. With the advancements in technology, we know exactly where we are and can determine where a crime occurred. We came forth asking to revise this and make Lake Tahoe and Topaz Lake a concurrent jurisdiction zone for Nevada and California law enforcement so we can work together and provide public safety on the waterways.

SENATOR HANSEN:

There has been discussion about trespasses on the lake. On the California side, there is a rule that halfway to the high watermark is public access, and on the Nevada side, it is a full six feet. Does S.B. 433 impact Nevada's ability to enforce that law? Does this bill clear up that misconception?

MR. SKIBINKSI:

The trespassing law is different from this bill. Laws must be similar. California law enforcement would not come to Nevada to enforce California law and vice versa. We have provided a proposed amendment ([Exhibit C](#)).

CHAIR CANNIZZARO:

The hearing on S.B. 433 is closed. The hearing on S.B. 435 is now open.

**SENATE BILL 435**: Enacts provisions relating to certain releases of liability.  
(BDR 2-1148)

GRAHAM GALLOWAY (Nevada Justice Association):

We support S.B. 435. This bill addresses the issue of insurance companies' press for quick and cheap settlement. We have provided a proposed amendment ([Exhibit D](#)). As an attorney, I regularly receive calls from claimants who have settled their case prematurely. The typical scenario is that the claimant is contacted by the adverse insurance company for a request to settle the case before the claimant knows the full extent of their injuries.

The first component of S.B. 435 allows an unrepresented individual to rescind any settlement within 60 days if the claimant returns all money received from the insurance company. This bill addresses a settler's remorse situation.

The second component of the bill prohibits an adverse insurance company from going to the hospital within 15 days of the event and soliciting a settlement at that point while a claimant is still in the hospital. This bill also prevents the insurance company from taking a written or recorded statement from the individual that could be later used against them within those 15 days of being hospitalized.

The third component of the bill is a proposed amendment. Prior to 2015 in a personal injury claim, the adverse insurance company is required to disclose the company policy limits if the claimant provided the company medical records and

authorization for medical records. In 2015, this law was repealed. This law is important for claimants who incur high amounts of medical bills. The company can refuse to disclose the policy limits to the claimant. When a claimant exceeds the company policy amount and has not been provided the limit, the claimant is put in a bad situation. We propose simple amendments for consumer protection.

SENATOR PICKARD:

With regard to the amendment in [Exhibit D](#), the first component makes sense. We should not rely on the adverse party to fully inform the claimant of his or her rights. With regard to the restoration of the policy limits portion, are the facts of the policy something the claimant is entitled to, or is it information that the insurance company can lawfully withhold from the claimant?

MR. GALLOWAY:

The insurance company policy limits should be provided to the claimant. This information is relevant for the claimant to understand what is happening. A common scenario is when a claimant needs additional medical treatment but does not have insurance. The claimant does not know whether the treatment should be taken, and the claimant incurs the expenses because they do not know if insurance is going to cover it. Yes, policy information should be disclosed to the claimant.

SENATOR HAMMOND:

Are you saying that the claimant would not seek medical treatment if the claimant was not going to be reimbursed?

MR. GALLOWAY:

It is a difficult situation for claimants. Some claimants do not receive medical treatment because the claimant cannot afford it. Other claimants receive medical treatment and are left with a costly medical bill. Should the claimant receive costly medical treatment that may not be reimbursed by the adverse insurance company? The claimant does not know if the insurance company will reimburse them.

SENATOR HAMMOND:

If the claimant is in a medically bad situation, the claimant should receive medical treatment. The role of the lawyer for the claimant is to make the claimant whole again. The lawyer goes after the adverse insurance company for

reimbursement. This bill is not necessary to affect the role of the lawyer correctly.

MR. GALLOWAY:

This bill will help facilitate the decision-making process for the claimant.

SENATOR HAMMOND:

What is the intent of section 3 in [Exhibit D](#)? What is the 15-day grace period attempting to accomplish? On the sixteenth day, would the insurance company be able to approach the claimant and have the settlement be binding for 60 days?

MR. GALLOWAY:

Yes, that is correct if the claimant is unrepresented. On the sixteenth day after leaving the hospital and agreeing to a settlement with the adverse insurance company, an unrepresented claimant has 60 days to rescind the settlement.

SENATOR HAMMOND:

When a claimant is not in the hospital, and the claimant makes an agreement 2 days after the event, would the claimant have 60 days to rescind the settlement?

MR. GALLOWAY:

That is correct.

SENATOR HAMMOND:

Is this a new concept of a claimant who is unrepresented or without assistance from legal counsel with regard to his or her ability to rescind a settlement agreement?

MR. GALLOWAY:

The language is new for Nevada but exists in Maryland and West Virginia.

JOSEPH GUILD (State Farm Insurance Company):

We oppose S.B. 435. State Farm is a mutual company; the insured is subject to the contract of insurance. The insured owns a part of the company. The insurance policy is a contract with two parties—the insured and the insurer. There are protections in Nevada against bad faith on behalf of the insurance companies. I did not hear in testimony that claimants were forced into

settlements with adverse insurance companies. Under Nevada law and the contract for insurance, the claimant has the ability to make settlement demands. The claimant can retain legal counsel at any time in the process. Senate Bill 435 will decrease the amount of time to settle claims. This legislation is unnecessary and will likely increase the cost of insurance.

SENATOR HARRIS:

Can you explain how the bill can simultaneously be necessary and yet raise the cost of settlements? It seems inherent in the claim that this bill is not necessary because there are already fair settlements out there and claimants are satisfied with the settlement process. However, simultaneously, this bill will raise the costs of settlements, which suggests that claimants will use this provision frequently. How can both be true?

MR. GUILD:

Having a complex process increases costs of conducting business. This is regarding the ability of a claimant being able to rescind a settlement within 60 days. For instance, if a claimant settles a claim and the claimant has minimal damage, the insurance adjuster offers an amount to the claimant, the claimant accepts and releases liability of the insurance company. What if on the fifty-ninth day, the claimant rescinds the offer? This creates delays and increases costs for the insurance company.

SENATOR HARRIS:

Why is it an issue for claimants on the fifty-ninth day to rescind their settlement delaying the process? If the claimant is already receiving a fair settlement, this should not be an issue. If the settlement is fair, then the delay only occurs when a claimant does not feel the settlement accurately covers the cost.

MR. GUILD:

There are policy limits and a contract that the insured has agreed to. Imposing this type of requirement would increase costs for everyone.

SENATOR HARRIS:

Is the argument that most claimants will settle a claim without an attorney? As I understand, this bill allows for only unrepresented claimants to rescind their settlement offer within the requisite time frame.

MR. GUILD:

I hope that kind of collusion would never happen.

SENATOR DONDERO LOOP:

This law makes it sound like anyone who questions what happens to them has an attorney that is being less than ethical. I am a nonlawyer, and some of the legalese is difficult to understand. As a consumer, a person may be in the position that on the fifty-ninth day he or she becomes aware of additional medical costs. I understand the conflict on both sides. People who do not understand insurance and contract language may struggle with fulfilling the contract. I do not think that the average consumer is trying to take the insurance company for all it has.

MR. GUILD:

As consumers, we would all be subject to this law. I sympathize with the situation that claimants may be in. When we are faced with these situations, a claimant may not think through the situation clearly. Sometimes there is bad faith.

SENATOR PICKARD:

Testimony suggests that an adjuster oftentimes advises the claimant before the claimant gets an attorney. The adjuster represents the insurance company, not the claimant. Are you suggesting that the adjuster fully informs the claimant of his or her rights and avenue of right?

MR. GUILD:

No, that is not the job of the adjuster to advise the claimant.

SENATOR PICKARD:

The adjuster has a role to minimize the claim to the insurance company. I would be surprised if an adjuster advised the claimant to recover the maximum amount. A claimant may not be fully informed until he or she retains an attorney. It would be safe to assume that most claimants do not keep the details of their insurance policy or even understand the policy. Would you agree that a claimant is entitled to the facts of the policy and policy limits of the adverse insurance company?

MR. GUILD:

I agree that a claimant should be entitled to the policy limits of the adverse insurance company. The first thing a claimant should do is speak to a lawyer about the conditions and policy.

SENATOR PICKARD:

With regard to opposition in [Exhibit D](#) regarding policy limits, this would preclude the attorney's ability to obtain facts that the claimant is entitled to?

MR. GUILD:

I do not have a copy of [Exhibit D](#). My client does not have a position on the proposed amendments in [Exhibit D](#).

SENATOR HANSEN:

Most lawyers do not accept all clients who seek their legal services. Do attorneys take on every client who seeks their services? What happens to an ordinary citizen who wants to get an attorney but cannot? Does this bill anticipate that not all claimants will be able to get lawyers? There are attorneys available, but most may not take on low-end personal injury claims.

MR. GUILD:

I am hopeful that all claimants can get attorneys to represent their best interests. There are resources for indigent claimants to find affordable attorneys.

SENATOR HANSEN:

What happens with low-end claims or indigent claimants and their ability to find affordable attorneys? Clearly, it is advantageous for any claimant to have legal counsel in a personal injury claim. In the absence of finding legal representation, that is when the 60-day clause is applicable.

MR. GALLOWAY:

It can be difficult for claimants who have low-end personal injury cases to retain an attorney because there might not be a profit for the attorney. Attorneys often take on a client pro bono or on a contingency plan; other attorneys will advise clients on how to proceed in the lawsuit and settle it themselves. This bill prevents claimants from being taken advantage of. [Senate Bill 435](#) protects the uninformed claimant who is not knowledgeable about insurance policies. This bill addresses claims against the adverse insurance company. Nevada does not have third-party, bad-faith statutes.



The amendment in [Exhibit D](#) revives language that was in place for 20 years. There is nothing radical about that. The language regarding hospital visits is new, and other states have similar provisions. The 60-day provision to allow a claimant to rescind a settlement agreement provides protection to the consumer. The majority of personal injury cases are modest, and we do not want claimants to be taken advantage of. Most settlements probably will not be rescinded.

SENATOR HAMMOND:

This bill might provide balance to the process. Consumers are most likely skeptical about personal injury lawyers and insurance companies. Our job as Legislators is to find balance. The bill is reasonable. I am not as accepting of the recent amendment in [Exhibit D](#). Overall, I like new ideas to strike balance for consumers. This bill attempts to level the playing field.

MR. GALLOWAY:

I want insurance company policy limits to be available to the claimant. If a lawyer found out how much insurance was available to the claimant, the lawyer would seek the top amount. A case has a value no matter how much insurance is out there that can be recovered. The insurance company will not be unfairly burdened by disclosing the policy limits. As soon as the attorney files a lawsuit on behalf of the claimant, the insurance company incurs cost by defending the lawsuit. The goal is to resolve the case as soon as possible. This bill facilitates a processing of cases efficiently and allows the attorney to adequately advise the claimant. Justice is better served with transparency and with the policy limits being disclosed.

SENATOR HAMMOND:

Your response answers my question.

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CHAIR CANNIZZARO:

The hearing on S.B. 435 is closed and we are adjourned at 9:12 a.m.

RESPECTFULLY SUBMITTED:

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Jeanne Mortimer,  
Committee Secretary

APPROVED BY:

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Senator Nicole J. Cannizzaro, Chair

DATE: \_\_\_\_\_

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	1		Attendance Roster
S.B. 433	C	4	Douglas County Sheriff's Office	Proposed Amendment
S.B. 435	D	1	Nevada Justice Association	Proposed Amendment