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OPINION NO. 2026-02

ATTORNEYS; CITY ATTORNEYS; CIVIL PRACTICE; COUNTIES; COURTS; CRIMINAL PROCEDURE; DISTRICT ATTORNEYS; LEGAL NOTICES; LEGAL SERVICES; MINERAL COUNTY; NEWSPAPERS; PRINTING; PROCESS, SERVICE OF: NRS 238.030 requires legal notices to be published in certain qualifying newspapers of general circulation which are “printed in whole or in part in the county” where notice is required. When there is no qualifying newspaper printed in the county, compliance is impossible. In such a situation, NRS 238.030 may be fulfilled by substantial compliance with the other provisions of the statute to avoid the harsh result of removing the ability to publish legal notices or invalidating all legal notices.

Kenneth H. Tedford III, Esq.
District Attorney
Mineral County
Courthouse Annex
166 E. Street
Hawthorne, NV 89415

Dear District Attorney Tedford,

Pursuant to NRS 228.150, you have requested an opinion from this office regarding the publication of legal notices pursuant to NRS 238. Specifically, you request an opinion as to how Mineral County can comply with NRS 238.030, which requires publication of legal notices in a qualified newspaper of general circulation “printed in whole or in part in the county,”

because Mineral County no longer has a qualifying newspaper which is printed in the County.¹

QUESTION

Under Nevada law, can a county government comply with NRS 238.030's publication requirements governing legal notices if the county does not have a qualifying newspaper which is printed in whole or in part in the county? If the county cannot comply with the strict requirements of the statute, what steps can the county take to properly provide notice in the absence of a qualifying newspaper printed within the county?

SHORT ANSWER

NRS 238.030 strictly requires that legal notices "shall be published only in a . . . newspaper of general circulation and printed in whole or in part in the county in which the notice or advertisement is required to be published . . ." While NRS 238.030 also permits additional publication "on the Internet website" of a qualifying newspaper, there is no substitute method for providing legal notice required under NRS 238.030 when a qualifying newspaper is not printed in the county. Based on the plain language of the statute, a county cannot comply with NRS 238.030's notice requirements if there is no qualifying newspaper printed in the county.

NRS 238.030's printing requirement should not be read to reach the absurd result of halting all ability to provide legal notice. Where compliance with the printing requirement is impossible, the county may be able to fulfill the notice requirements through substantial compliance. Speaking generally, compliance should be aimed at providing notice to those potentially impacted in a similarly public manner and for a similar length of time as the statutory publication requirement. This substitute notice could include, without limitation, publication in printed newspapers and their Internet sites which otherwise meet the requirements of NRS 238.030, publication for a greater frequency or time period than that which is strictly required by the specific statute, public notices in public buildings or places of gathering, and/or targeted efforts at providing notice to potentially impacted individuals in appropriate situations.

¹ The Attorney General's Office has not independently investigated if there are any qualifying newspapers which are printed in whole or in part in Mineral County and relies on the representation provided in your request letter.

ANALYSIS

I. NRS 238.030 Requires Legal Notices to be Published in a Qualified Newspaper That is Printed in the County.

NRS 238.030 governs the requirements of publishing legal notices in Nevada. Generally, “any and all legal notices or advertisements shall be published only in a daily, a triweekly, a semiweekly, a weekly, or a semimonthly newspaper of general circulation and printed in whole or in part in the county in which the notice or advertisement is required to be published[.]” *Id.* at (1). “Any legal notice or advertisement may be additionally published on the Internet website of” such a newspaper. *Id.* at (2). A substantial portion of NRS 238.030 is aimed at the length of time a qualifying newspaper must be in circulation prior to legal notices printed in those newspapers. *See, e.g.*, §§ (1)(b); (3)–(6). If an otherwise qualifying newspaper has not been in general circulation for the prescribed period of time, compliance with the statute’s notice requirements is permitted by publication in the newspaper and on the newspaper’s Internet website. *Id.* at (5). Legal notices which fail to comply with the statute’s notice requirements “shall be absolutely void.” NRS 238.080. However, substantial compliance with the statute may be sufficient. *See Las Vegas Convention & Visitors Auth. v. Miller*, 124 Nev. 669, 686, 191 P.3d 1138, 1149 (2008); 1982 Nev. Op. Att’y Gen. 13, at *2 (1982) (opining that although NRS 238.080 declares notices in violation of statutory requirements “absolutely void,” the “harsh result” of invalidating numerous legal notices over mere technical non-compliance is not in harmony with statute’s purposes).

Based on the information known to this office, as represented by your letter requesting an opinion, Mineral County does not have a newspaper which is printed in whole or in part within the County.² As such, Mineral County is not able to meet the statutory requirements of NRS 238.030.

² It is important to note that the requirement of printing within the county of the legal notice provision appears to be a minimal one. For example, even some typesetting, work on headlines and pictures, and preparations of page layouts within the county is sufficient to meet the requirement. *Butler v. Lahontan Val. News*, 91 Nev. 421, 537 P.2d 320 (1975). However, this office is not aware of any specific activities of a newspaper within Mineral County.

II. If No Qualifying Newspaper Is Printed in The County, What Steps Can the County Take to Comply With Statutory Notice Requirements?

A. Strict Compliance With The In-County Printing Requirement is Not Required Where Such Compliance is Impossible.

Where strict statutory compliance is not possible, substantial compliance may suffice. *See Butler*, 91 Nev. at 422–23, 537 P.2d at 321 (“From the testimony, we think the trial court could properly determine that the processes performed in Fallon, in their totality, constituted a substantial and integral part of the ‘printing’ [requirement of NRS 238.030].”); *see also* 1982 Nev. Op. Att’y Gen. 13, at *2 (1982) (opining that minor changes in newspapers’ publication did not fail to meet statutory requirements where purpose of statute was effectuated).

“The substantial-compliance standard recognizes performance as adequate where the reasonable purpose of a statute has been met, even absent technical compliance with the statutory language.” *BMO Harris Bank, N.A. v. Whittemore*, 139 Nev. 274, 277, 535 P.3d 241, 245 (2023). Statutory language, policy, equity, and potential absurd results are factors in determining if strict or substantial compliance is required. *Id.* (citing *Leyva v. Nat'l Default Servicing Corp.*, 127 Nev. 470, 476, 255 P.3d 1275, 1278 (2011) (additional citations omitted)). “The inquiry is whether the purpose of the statute can be served by substantial compliance rather than technical compliance with the statute.” *Id.* In sum, substantial compliance is sufficient “when requiring strict compliance would lead to an absurd result.” *Id.*

It is the opinion of this office that the “in whole or in part” printing requirement of NRS 238.030 may be satisfied by substantial compliance with the other requirements of the statute if no qualifying newspaper is printed in the county. Historical determinations of courts and this office reflect substantial compliance is sufficient if it serves the statute’s purpose of providing notice of legal proceedings. *Butler*, 91 Nev. at 422–23, 537 P.2d at 321; 1982 Nev. Op. Att’y Gen. 13. Indeed, to conclude otherwise would reach the absurd result that no notices may be published with legal effect in any county where no qualifying newspaper exists. *See Butler*, 91 Nev. at 422, 537 P.2d at 321 (“Appellants’ interpretation of the work printed would in the context of this statute be both unreasonable and unrelated to the objective of statutes such as NRS Chapter 238, that being, to require public notices to be published so as fairly to express them to the particular community intended to be reached.”).

Moreover, the Nevada Legislature provided exceptions to other strict requirements of the statute to provide flexibility in effectuating notice, rather than a sole focus on strict or technical compliance. As noted in your letter, NRS 238.030(5) is more permissive in finding sufficient notice where no newspaper has been in publication for the prescribed period. Similarly, § (6) also provides exemptions for prior-publication requirements to allow notice where it may otherwise be non-compliant. Further, § (4) provides that newspapers will not lose publication status for certain events which suspend publication. If the Legislature did not intend for all legal notices to fail because of temporary shutdowns or the lack of a newspaper in circulation for a long enough period of time prior to publication of notices then it would follow that the statute's purpose would be thwarted by requiring the absurd result of all legal notices losing effect because newspaper printing within the county ceased. Thus, in a county where no otherwise qualifying newspaper of general circulation is printed in the county, legal notices may still be effective if published with substantial compliance of other provisions of the statute.

B. Steps a County May Take to Demonstrate Substantial Compliance With NRS 238.030.

NRS 238 applies to many legal notice requirements in Nevada law. This Opinion does not seek to address each specific provision of the NRS under which notice pursuant to NRS 238 is required. However, the following general guidance is provided to further the statute's general purpose of providing notice to those whose legal rights may be impacted.

First, Mineral County should provide legal publications in newspapers which meet the other requirements of NRS 238.030, even when those newspapers are not printed within the County. Notice of legal proceedings within the County is the core of NRS 238.030's purpose, and it will be furthered by publishing legal notices in newspapers of general circulation within the County despite the lack of the newspaper printing there. Second, Mineral County should also seek to publish legal notices on those same newspapers' Internet websites. The Nevada Legislature has encouraged the use of Internet postings to supplement legal notices in newspapers. *See* NRS 238.030(2), (5); NRS 238.050.³ Third, Mineral County should consider exceeding minimum

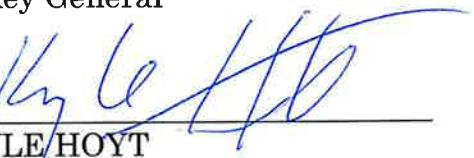
³ Internet-only publication will not meet substantial notice requirements. During the 2023 General Session, the Legislature rejected a proposed change to NRS 238 to permit legal notice by Internet websites without counterparts in physical print. However, the Legislature accepted

requirements of the relevant statutory provisions. For example, legal notices could be published in multiple newspapers of general circulation, not just one. This would further substantial compliance in effectuating notice. Additionally, publication in excess of the minimum time or frequency of notice publication requirements of a specific statute could be considered. Fourth, Mineral County should consider attempting to make actual notice to potentially impacted persons if the situation is appropriate. Last, Mineral County should attempt other publication where possible in public places such as government buildings and on Mineral County's website.⁴

CONCLUSION

NRS 238.030 requires that legal notices be printed in a qualifying newspaper of general circulation that is printed within the county where notice is to be given. Where, as here, a county is unable to comply with the printing requirement because no qualifying newspaper of general circulation is printed within the county, notice may be satisfied by substantial compliance with NRS 238.030's other requirements to effectuate the statute's purpose of providing adequate notice. Consideration should be given to exceed the statute's other requirements to effectuate the statute's purpose of providing notice to those potentially impacted.

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By: 
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amendments to permit Internet postings as supplemental to physically printed notices in newspapers. S.B. 22, 82nd Gen. Sess. (Nev. 2023).

⁴ These suggestions are non-exhaustive and are not intended to suggest that each step must be taken. Rather, the County should determine from this general guidance what would best fulfill substantial compliance for each particular notice that is required.