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Civil Procedure; Admissibility of Statements of a Decedent

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ponderance of the evidence.¹¹

Formerly, the party who recorded the notice also had to prove by a preponderance of the evidence that probable cause existed to support the belief that he or she would prevail in the underlying action and that the relief requested would affect the title or possession of the real property.¹² Chapter 749 now requires the party who caused notice to be recorded to establish to the satisfaction of the court that he or she is likely to prevail¹³ or that there is a fair chance of success on the merits¹⁴ and that he or she would suffer a greater hardship by the transfer of an interest in the property prior to the termination of the action than any hardship suffered by the non-recording party resulting from the notice of *lis pendens*.¹⁵ In addition it must be established that if the recording party prevails he or she will be entitled to relief affecting the title or possession of the real property.¹⁶

11. See generally 75 AM. JUR. *Trial* §825 (1974); Annot., 147 A.L.R. 380 (1943) (differing views on the degree of proof required to satisfy this standard).

12. See STATUTES OF NEVADA 1979, c. 507, §1, at 982.

13. See N.R.S. §14.015 3(a).

14. See *id.* §14.015 3(b).

15. See *id.*

16. See *id.*

Civil Procedure; admissibility of statements of a decedent

N.R.S. §48.— (new).

SB 357 (Committee on Judiciary); STATS 1981, Ch 220

Prior to 1979, Nevada law required corroborative evidence in order to admit into evidence conversations or transactions of a deceased person.¹ This statutory requirement was repealed in 1979.² To clarify existing law, Chapter 220 expressly indicates that the repeal of the statute relating to the admissibility of conversations or transactions of deceased persons was *not* intended to revive the common law dead man's statute.³ Moreover, with the enactment of Chapter 220, evidence will not be rendered inadmissible solely because it is evidence of transactions or conversations of a deceased person.⁴

1. See STATUTES OF NEVADA 1971, c. 402, §110.5, at 794 (amending N.R.S. §51).

2. See STATUTES OF NEVADA 1979, c. 134, §1, at 198 (repealing N.R.S. §48.064).

3. See STATUTES OF NEVADA 1981, c. 220, §2, at —. See generally, Lilly, AN INTRODUCTION TO THE LAW OF EVIDENCE §23 (1978); 81 AM. JUR. 2nd §§303-412 (1976) (dead man statutes).

4. See N.R.S. §48. —.