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NEVADA'S EMPLOYEE INVENTIONS STATUTE: NOVEL, NONOBVIOUS, AND PATENTLY WRONG

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"My grandfather once told me that there were two kinds of people: those who do the work, and those who take the credit. He told me to try to be in the first group; there was much less competition."

—Indira Nehru Gandhi, Prime Minister of India (attributed).

"If you don't like your job, you don't strike. You just go in every day and do it really half-assed. That's the American way."

—Homer Simpson.

I. INTRODUCTION

In its Seventy-First Session, the Nevada Legislature enacted a new statute granting employers complete ownership of any work-related inventions created by their employees, regardless of whether the employer contributed any resources whatsoever to the inventive process. This stunning reversal of long-standing common law was little noticed by the public, and was debated only superficially in the state legislature before receiving its overwhelming vote of approval.

The new law reads:

Except as otherwise provided by express written agreement, an employer is the sole owner of any patentable invention or trade secret developed by his employee during the course of the employment that relates directly to work performed during the course of the employment.¹

This single sentence represents potentially a revolutionary change in Nevada's employment and property laws. As a result of this statute, Nevada has become the only state that allows ownership of patentable inventions to be transferred from one party to another in the complete absence of an assignment agreement, and without any form of actual notice to the transferor.

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¹ S. Bill No. 558, amending Chapter 600 of the Nevada Revised Statutes, NEV. REV. STAT. 600.500 (effective Oct. 1, 2001).