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# The Challenges of Cannabis Lawyering in Nevada

"It's been a pretty wild ride and the last seven months have been no exception. Generally there's a lot of things Nevada does really well, and at the top of that list are just a number of highly regulated industries," says Melissa Waite of Jolley Urga Woodbury Holthus & Rose.

By [Cheryl Miller \(/author/profile/Cheryl-Miller/\)](/author/profile/Cheryl-Miller/) | UPDATED Mar 13, 2018 at 05:27 PM

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Melissa Waite

Nevada's recreational marijuana market is less than a year old, but sales and tax revenues are soaring beyond early projections. Melissa Waite, a partner at Jolley Urga Woodbury Holthus & Rose in Las Vegas, is part of the flourishing green rush in the Silver State.

Before Nevada legalized medical marijuana sales in 2014, Jolley Urga was already serving clients from highly regulated industries, including gaming, liquor licensing and transportation. Adding cannabis clients, Waite said, "was a natural transition." Today the firm represents cultivators, producers, dispensaries and testing labs.

Waite recently spoke with The Recorder about what she's seeing in Nevada's booming market and developing regulations.

***The Recorder: What's the state of things in Nevada? All the headlines say marijuana sales and tax revenues are way above projections.***

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Waite: It's been a pretty wild ride and the last seven months have been no exception. Generally there's a lot of things Nevada does really well, and at the top of that list are just a number of highly regulated industries. So I think our leaders, our legislators, our regulatory agencies have really just been aggressive when they needed to be and cautious when they needed to be. They just have a good system in place with top operators and kind of balancing those business interests with the public health and safety interests.

As a result I think the initial early start period, which was the period from July 1 to the end of December, and now through this time in March has just been hugely successful without any major missteps or huge challenges that really detract from the momentum we've been gaining.

***How easy or difficult is it for you and your clients to work within Nevada's regulatory scheme?***

Nevada is tough on its operators and demands a high level of compliance. The flip side of that is the operators in this market are pretty top-notch. So the clients we work with really appreciate the regulatory scheme, and I think they're interested in being successful but only within the constraints of Nevada law.

For the most part, the regulatory interactions are positive and overall I think operators are pleased with the way it's gone.

***Have things subsided at all since the adult-use regulations went into effect?***

We haven't seen much of a lull at all. In 2017 we went from licensing those early-start retail operators and operating under temporary regulations to now [in late February] having our permanent regulations go through the final adoption process and take effect.

We're anticipating another application period to open in 2018, so I think existing licensees and new applicants are all anxiously positioning themselves for that next round of licensing, which includes things like raising capital and securing new locations and doing some of that initial land use evaluation.

***What is the biggest issue on your plate right now?***

I think the single greatest challenge is helping clients cope with the constant changes and uncertainty that's created by this changing legal landscape. Whether it's the federal enforcement or compliance with the new permanent regulations that were just recently adopted, I think one theme that has remained consistent: Something is always changing.

And that's a challenge for any business to cope with. A lot of our clients in other industries have a relatively settled scheme to operate under, and marijuana businesses don't have that luxury.

***How do you keep on top of all that change?***

I find myself constantly skimming whatever our local jurisdictions are doing here. There have been a tremendous number of groups appointed by the governor and committees assembled and our Nevada Department of Taxation, the authority that regulates this body, has had a number of meetings to solicit input. So we're just constantly listening to that input, to those changes and evaluating how things are evolving.

***Are lawyers from out of state coming to Nevada, attracted by the work? How difficult would that be?***

I think with some areas of law that's easier than others. As with any specialization I think there's something to be said about understanding the nuances of state law and particularly local law here. And that's certainly not something that can be accomplished overnight, just based on the sheer volume of state and local regulations that we have in Nevada.

There are many aspects of operation, at least initially, that center around local government decisions. Here in Southern Nevada, not quite to the same extent as California experiences, but we have five jurisdictions just within the city of Las Vegas that all operate with their own sets of regulations and their own requirements. At some point, knowing the value of when to seek advice from a local attorney, a local lobbyist or land use consultant could really make all the difference.

***What advice would you give attorneys interested in serving the Nevada cannabis industry?***

I've seen quite an increase in the number of CLE opportunities for this area of law. So my recommendation would certainly be to seek out the Nevada-specific options just to understand the background and the overlay under which Nevada operates and also how to recognize those pitfalls and when to recognize when you need some local advice on a specific issue that might come up.

For those considering this industry, at the core these marijuana establishments are just like other businesses. They need employment law advice. They need litigation counsel. They have disputes with other owners or third parties or they have an insurance issue. They need tax advice. They need contract advice. With all of those regulated industries there are some things that counsel would certainly be qualified to advise their clients on but there are those nuances that I would encourage attorneys considering this area of law to just really educate themselves on those specific pitfalls that could pop up.

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**Cheryl Miller**

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