



# California Corporate & Securities Law

## Straining The Quality Of Mercy? Nevada's Exculpation Statute

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The legislatures of California, Delaware and Nevada have each enacted statutes eliminating or limiting the personal liability of corporate directors for monetary damages. Cal. Corp. Code § 204(a)(10), Del. Code Ann. tit. 8 § 102(b)(7), and NRS § 78.138(7). While it might be assumed that these statutes are generally similar, Nevada's statute differs in two key respects from those of California and Delaware.

First, exculpation under Nevada's statute is *automatic* and does not require that the elimination or limitation be set forth in the articles of incorporation. In contrast, there is no exculpation under the statutes of California and Delaware unless the articles or certificate of incorporation so provide.

Second, Nevada's statute applies to officers as well as directors. Neither California nor Delaware authorize eliminating or limiting the personal liability of officers.

For those who believe that the quality of mercy is too strained under Nevada's statute, the statute does allow corporations to provide for greater liability in the articles of incorporation.



Please contact [Keith Paul Bishop](#) at Allen Matkins for more information [kbishop@allenmatkins.com](mailto:kbishop@allenmatkins.com)

<http://www.calcorporatelaw.com/>