

SUPREME COURT OF NEVADA

Stuckey v. Apex Materials, LLC

142 Nev., Advance Opinion 17 (2026) · No. 87775 · Decided February 26, 2026

SUMMARY

The Nevada Supreme Court affirmed dismissal of a putative class action seeking unpaid prevailing-wage and overtime amounts under NRS 338.020. The court held that Nevada's prevailing-wage statutes do not create a private right of action outside the administrative process administered by the Labor Commissioner and contracting public body. It also rejected attempts to pursue the claims under general wage statutes or as third-party beneficiary claims, and upheld denial of leave to amend as futile.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Pickering, J.; Herndon, C.J.; Parraguirre, J.; Bell, J.; Stiglich, J.; Cadish, J.
JURISDICTION	Supreme Court of Nevada
DECIDED	February 26, 2026
DOCKET	87775
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order granting respondents' NRCP 12(b)(5) motion to dismiss a putative class action seeking unpaid prevailing wages and overtime compensation on public works projects, and denying leave to file a further amended complaint.
STANDARD OF REVIEW	Orders granting a motion to dismiss and questions of statutory interpretation are reviewed de novo; factual allegations are accepted as true and reasonable inferences are drawn in the plaintiff's favor under NRCP 12(b)(5). Denial of leave to amend is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published en banc opinion; precedential
PARTIES	Lance D. Stuckey, Sr., Salvatore Torres, all others similarly situated v. Apex Materials, LLC, Elkhorn Environmental, LLC, Werdco BC Inc., Werdco LLC, Harber Company, Inc., TAB Contractors, Inc., William Charles Construction Company, Boyd Martin Construction LLC,

TOPICS

wage and hour construction law administrative law exhaustion of remedies statutory interpretation

PRACTICE AREAS

employment law wage and hour construction law administrative law statutory interpretation

QUESTIONS PRESENTED

1. Whether NRS Chapter 338 creates a private right of action allowing employees to sue employers directly for unpaid prevailing wages and overtime under NRS 338.020.
2. Whether employees may circumvent NRS Chapter 338's administrative process by asserting the same prevailing-wage and overtime claims under NRS Chapter 608.
3. Whether employees may enforce prevailing-wage obligations through third-party-beneficiary claims based on public works contracts.
4. Whether the district court abused its discretion by denying leave to file a second amended complaint as futile.

HOLDINGS

1. NRS Chapter 338 does not create a private right of action permitting workers to sue employers directly for violations of the prevailing-wage and overtime requirements in NRS 338.020. Workers must pursue those claims through the administrative process established by NRS Chapter 338 before seeking judicial review or other relief.
2. Workers may not use NRS Chapter 608 to recover prevailing-wage or overtime amounts that depend on proving an administratively undetermined violation of NRS 338.020.
3. Workers may not assert third-party-beneficiary claims to enforce public-works contract provisions that merely incorporate the prevailing-wage requirements of NRS Chapter 338, because doing so would circumvent the statute's administrative prerequisites.
4. The district court did not abuse its discretion by denying leave to file a second amended complaint because the proposed amendment left the claims materially unchanged and would have been futile.

KEY QUOTATIONS

“We hold that NRS Chapter 338 does not afford a private right of action to employees outside the administrative process it creates.” (1)

“NRS Chapter 338 does not provide workers a private right of action against employers who violate NRS 338.020’s prevailing-wage and overtime pay requirements.” (16)

FACTUAL BACKGROUND

The appellants alleged that they and other workers performed work on public works projects for respondent subcontractors and contractors. They alleged that they worked more than eight hours per day or forty hours per week and were not paid one and one-half times the prevailing wage required by NRS 338.020(3). The complaint did not identify the public works projects or allege that the workers had sought a prevailing-wage determination or recovery through the Labor Commissioner or contracting public body.

PROCEDURAL HISTORY

Stuckey and Torres filed a putative class action in Nevada's Eighth Judicial District Court against subcontractors and general contractors, asserting claims under NRS Chapter 338, NRS Chapter 608, and third-party-beneficiary theories. The district court dismissed the first amended complaint for failure to allege exhaustion of the administrative remedies under NRS Chapter 338 and denied leave to amend as futile. The Nevada Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Neville v. Eighth Judicial District Court, 133 Nev. 777, 406 P.3d 499 (2017)
- Baldonado v. Wynn Las Vegas, 124 Nev. 951, 194 P.3d 96 (2008)
- Alexander v. Sandoval, 532 U.S. 275 (2001)
- State, Department of Business & Industry v. Granite Construction Co., 118 Nev. 83, 40 P.3d 423 (2002)
- Bombardier Transportation (Holdings), USA, Inc. v. Nevada Labor Commissioner, 135 Nev. 15, 433 P.3d 248 (2019)
- City Plan Development, Inc. v. Office of the Labor Commissioner, 121 Nev. 419, 117 P.3d 182 (2005)
- Peltier v. Almar Management, Inc., 229 F. Supp. 3d 1160 (D. Haw. 2017)
- Grochowski v. Phoenix Construction, 318 F.3d 80 (2d Cir. 2003)
- Hartford Fire Insurance Co. v. Trustees of the Construction Industry, 125 Nev. 149, 208 P.3d 884 (2009)
- United States ex rel. Krol v. Arch Insurance Co., 46 F. Supp. 3d 347 (S.D.N.Y. 2014)
- International Brotherhood of Electrical Workers Local 113 v. T & A Services, 8 F.4th 950 (10th Cir. 2021)
- United States v. Research Association v. Coutu, 450 U.S. 754 (1981)
- Saticoy Bay LLC Series 3580 Lost Hills v. Foreclosure Recovery Services, LLC, 140 Nev., Adv. Op. 75, 559 P.3d 856 (2024)
- In re Resort at Summerlin Litigation, 122 Nev. 177, 127 P.3d 1076 (2006)
- State, Department of Health & Human Services v. Samantha Inc., 133 Nev. 809, 407 P.3d 327 (2017)
- Austin Bridge Co. v. Teague, 152 S.W.2d 1091 (Tex. 1941)
- Astra USA, Inc. v. Santa Clara County, 563 U.S. 110 (2011)
- Donis v. American Waste Services, LLC, 125 N.E.3d 759 (Mass. App. Ct. 2019), aff'd in part, rev'd in part on other grounds, 485 Mass. 257 (2020)

- Johnson v. Prospect Waterproofing Co., 813 F. Supp. 2d 4 (D.C. Cir. 2001)
- Allum v. Valley Bank of Nevada, 109 Nev. 280, 849 P.2d 297 (1993)
- Nutton v. Sunset Station, Inc., 131 Nev. 279, 357 P.3d 966 (Ct. App. 2015)
- Soebbing v. Carpet Barn, Inc., 109 Nev. 78, 847 P.2d 731 (1993)
- Moon v. McDonald, Carano & Wilson LLP, 129 Nev. 547, 306 P.3d 406 (2013)
- Young v. Nevada Gaming Control Board, 136 Nev. 584, 473 P.3d 1034 (2020)
- Buzz Stew, LLC v. City of North Las Vegas, 124 Nev. 224, 181 P.3d 670 (2008)
- Kantor v. Kantor, 116 Nev. 886, 8 P.3d 825 (2000)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/supreme-court-of-nevada-supreme-court-of-nevada/2026/stuckey-v-apex-materials-llc-0y4xcol6>