

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATIONS  
FOR SENIOR JUSTICE AND JUDGE  
STATUS AND ASSIGNMENT OF  
SENIOR JUSTICES AND JUDGES  
PURSUANT TO SUPREME COURT  
RULE 10.

ADKT No. 362

IN THE MATTER OF THE INTERIM  
DELEGATION TO THE STATE COURT  
ADMINISTRATOR OF THE  
AUTHORITY OF THE SUPREME  
COURT TO ASSIGN SENIOR JUDGES  
PURSUANT TO SUPREME COURT  
RULE 10 AND TO ASSIGN DISTRICT  
JUDGES TO ASSIST IN OTHER  
JUDICIAL DISTRICTS.

ADKT No. 321

FILED

SEP 29 2003

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

ORDER AMENDING RULE 10  
OF THE SUPREME COURT RULES

WHEREAS, this court has considered the qualifications for senior justices and judges, the process for applying for senior status and the appointment of senior justices and judges pursuant to Supreme Court Rule 10; and

WHEREAS, pending the formal amendment of Supreme Court Rule 10, this court previously entered an order on January 19, 2001, in ADKT No. 321, making an interim delegation to the state court administrator of the authority to grant requests for the assignment of a senior judge pursuant to Supreme Court Rule 10; and

WHEREAS, it appears to this court that amendment of the Supreme Court Rules is warranted, accordingly,

IT IS HEREBY ORDERED that Rule 10 of the Supreme Court Rules shall be amended and shall read as set forth in Exhibit A.

IT IS HEREBY FURTHER ORDERED that these rule amendments shall become effective thirty (30) days from the date of this order. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada. Publication of this order shall be accomplished by the clerk disseminating copies of this order to all subscribers of the advance sheets of the Nevada Reports and all persons and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk of this court as to the accomplishment of the above-described publication of notice of entry and dissemination of this order shall be conclusive evidence of the adoption and publication of the foregoing rule amendment.

Dated this 29th day of September, 2003.

Agosti, C.J.  
Agosti

Shearing, J.  
Shearing

Rose, J.  
Rose

Leavitt, J.  
Leavitt

Becker, J.  
Becker

Maupin, J.  
Maupin

Gibbons, J.  
Gibbons

cc: All Senior Justices  
All Senior Judges  
Administrative Office of the Courts

**EXHIBIT A**  
**AMENDMENT TO RULE 10 OF**  
**THE SUPREME COURT RULES**

**Rule 10. Senior justices and judges; designation; service as settlement judge; assignment; duties and powers; compensation and expenses; oath; discipline and removal.**

**1. [Any former supreme court justice or district judge who has performed sufficient judicial service to qualify for retirement under the provisions of NRS 2.060, 3.090, or 286.290 et seq., and who was not removed or retired for cause or defeated for retention in office, may apply to become a senior justice or senior judge of the Nevada court system, as the case may be, by filing with the clerk of the supreme court the oath of office prescribed in subsection 7 of this rule.]**  
Eligibility for recall. The supreme court may recall a former supreme court justice or district judge to active service as a senior justice or senior judge of the Nevada court system, provided that:

(a) He or she has served as a supreme court justice or district judge, or any combination thereof, for at least four consecutive years; and

(b) He or she is eligible to retire or has retired under the provisions of the Nevada Revised Statutes; and

(c) He or she was not removed or retired for cause from that judicial office or defeated for retention in an election for that office.

**2. Application.** A former supreme court justice or district judge who meets the requirements of subsection 1 of this rule may apply to be commissioned as a senior justice or judge by filing with the clerk of the supreme court a written application on a form approved by the supreme

court. The approved application forms shall be available at the supreme court clerk's office.

**3. Investigation and approval.** The supreme court may refer an applicant to the administrative office of the courts or the commission on judicial selection for investigation into the background and qualifications of the applicant and for a recommendation as to whether the applicant should receive a commission as a senior justice or judge. If the supreme court determines that [such former justice or judge] the applicant remains physically and mentally capable of performing valuable judicial service on a continuing basis, and that [his] the applicant's recall to active service will promote the effective administration of justice, a commission, duly executed and authenticated by the chief justice and clerk, shall thereupon issue under the seal of the supreme court. [By accepting such commission, senior justices and judges become ineligible to practice law in any of the courts of this state unless and until they later relinquish in writing their status as such, and undertake to comply with all provisions of the Nevada Code of Judicial Conduct as applicable to part-time judges. Senior justices and judges are not ineligible to accept employment which contemplates giving advice on legal matters, but which does not contemplate appearances before the courts of this state either as a regular or as a substantial part of such employment.]

**4. Extra-judicial employment.** A senior justice or judge is ineligible to practice law in any of the courts of this state or to accept employment which contemplates giving advice on legal matters and shall not be a member of or associated with a firm or attorney that practices law. A senior justice or judge may, however, serve as a private mediator or arbitrator for

compensation. Notwithstanding Canon **[5C(3)] 4C(3)** of the Nevada Code of Judicial Conduct, a senior justice or judge may serve as an officer, director, manager, or employee of a business **[affected with a public interest]**, but full disclosure of such activity shall in all cases be made a matter of record, and the participation of such justice or judge may in all cases be precluded by any party through a timely objection made before consideration of any contested matter.

**[2.] 5. Eligibility for assignment.** A senior justice or judge, with his or her consent, is eligible for temporary assignment to any state court at or below the level of the court in which he or she was serving at the time of **[his]** retirement, provided that the justice or judge previously served at least two years in that office. If designated by the governor, at the request of the chief justice, a senior judge may also hear specific cases in the supreme court upon disqualification of a justice thereof. **[The chief justice may also assign a]** A senior justice or judge may also be assigned to act as a settlement judge in any state court. **[designated by the chief justice. A. No]** But no senior justice or judge may serve as a settlement judge unless that justice or judge completes a course in alternative dispute resolution offered by the National Judicial College, or a similar course of study approved by the chief justice.

**[B.]** The cost of any course taken by a senior justice or judge to qualify that justice or judge to serve as a settlement judge shall be paid from funds appropriated for judicial education. **[C.]** The chief justice may, in appropriate circumstances, waive the educational requirement for service as a settlement judge.

**[3. The assignment of a senior justice or judge shall be made by an order which]** 6. Order for temporary assignment. The state court administrator is authorized to grant a request for the assignment of a

senior justice or judge to serve in the district courts of this state. Upon receiving the approval of the chief justice, the state court administrator shall prepare an administrative order, which shall be initialed by the chief justice, and then signed and filed by the state court administrator. All other assignments of a senior justice or judge for temporary service shall be made pursuant to an order signed by the chief justice.

Any order assigning a senior justice or judge shall designate the court to which he or she is assigned and the duration of the assignment, and, in the case of a senior judge assigned to hear and determine a case in the supreme court, the governor shall issue a special commission, as in the case of other judges of the district court. Promptly after assignment of a senior justice or judge under this rule, the state court administrator or the clerk of the supreme court shall cause a [certified] copy of the order to be sent to the senior justice or judge and another [certified] copy to the court to which [he] the senior justice or judge is assigned. [Without specific assignment, senior justices and judges may perform routine ministerial acts, including the solemnization of marriages, and the administering of oaths, but shall not admit to bail any person accused of crime.]

**[4.] 7. Duties and powers.** Each senior justice or judge assigned as provided in this rule has all the judicial powers and duties, while serving under the assignment, of a regularly elected and qualified justice or judge of the court to which he or she is assigned. Without specific assignment, senior justices and judges may perform routine ministerial acts, including the solemnization of marriages, and the administering of oaths, but shall not admit to bail any person accused of crime.

**[5.] 8. Compensation.** A senior justice or judge assigned as provided in this rule shall receive as compensation for **[each day he is]** the time

actually engaged in the performance of duties under the assignment an amount **[equal to 5 percent of]** proportional to the gross monthly salary of a regularly elected and qualified judge of the court on which he or she qualified for retirement[, **or one-half of that daily compensation for service of one-half day or less**]. If a senior justice or judge notifies the chief justice in writing that **[he will keep himself]** the justice or judge will be available for assignments for not less than one-third of the total judicial days which a sitting justice or judge is expected to work yearly, and consents during such period to accept any assignment within the Nevada court system as to which he or she is not disqualified, **[he shall in any event]** the justice or judge shall, if approved by the chief justice, receive at least 20 percent of such gross salary monthly, chargeable against compensation for later assignments. The compensation shall be paid upon the certificate of the justice or judge that the services were performed for the number of days shown in the certificate.

**[6.]** A senior justice or judge assigned to a court located outside the county in which he or she regularly resides shall receive, in addition to daily compensation, traveling expenses and per diem as provided by law while attending court or transacting business under the assignment. The expenses shall be paid upon presentation of an itemized statement of the expenses, certified by the senior justice or judge to be correct.

**[7. To apply for]** 9. Oath. To accept a commission as a senior justice or judge, a former supreme court justice or district judge must take, subscribe and file with the clerk of the supreme court, the following oath or affirmation:

“I, ....., do solemnly swear (or affirm) that I will support, protect and defend the Constitution and Government of the United States,

and the Constitution and Government of the State of Nevada, against all enemies, whether domestic or foreign, and that I will bear true faith, allegiance and loyalty to the same, any ordinance, resolution or law of any State notwithstanding, and that I will well and faithfully perform all the duties of the office of a senior justice (or judge) of the Nevada court system on which I am about to enter; (if an oath) so help me God; (if an affirmation) under the pains and penalties of perjury.”

[8.] **10. Discipline and removal.** The supreme court may for cause revoke the commission of any senior justice or judge, either following notice and opportunity for hearing before the court, or after proceedings before the commission on judicial discipline.