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IN THE SUPREME COURT OF THE STATE OF NEVADA

FILED

IN THE MATTER OF THE DEVELOPMENT) ADKT 126
OF ALTERNATIVES TO TRADITIONAL)
LITIGATION FOR RESOLVING LEGAL)
DISPUTES,)

OCT 16 1997

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

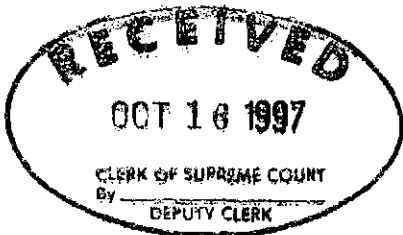
REPORT OF THE GENERAL IMPLEMENTATION
SUBCOMMITTEE RE: ADR

Attached hereto for the Court's consideration is the formal report of the General Implementation Subcommittee with regard to revisions to the Alternative Dispute Resolution Program.

For the Court's consideration and convenience, the attached submission includes all existing Court-Annexed Arbitration Rules followed by a notation which identifies the status of each. With regard to those rules wherein no revisions are recommended, a notation "No Changes" appears. Regarding rules wherein the Committee is recommending revisions, the Committee has identified the "Old Rule", the (Old Rule) "With Changes", and the "Revised" rule.

DATED this 13th day of October, 1997.

THORNDAL, ARMSTRONG, DELK,
BALKENBUSH & EISINGER



BY *[Signature]*
JAMES G. ARMSTRONG, ESQ.
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cc: Hon. Miriam Shearing, Chief Justice
Hon. Cliff Young, Justice
Hon. W. William Maupin, Justice
Hon. Myron E. Leavitt, Chief Judge
Hon. Mills Lane, Chief Judge
Hon. Sally L. Loehrer, Judge
Hon. David R. Gamble, Judge
Hon. Steven B. McMorris, Justice of the Peace
Wesley M. Ayres
John P. Wanderer
Harold G. Albright
Leslie Davis
Margo Piscevich
Beverly J. Salhanick
Richard Segerblom
Thomas W. Biggar
David I. Nielsen
Robert R. Jensen
I. R. Ashleman

Suggested Changes - Rule Subcommittee 9/15/97

A. NEVADA ARBITRATION RULES

Rule 1. The court annexed arbitration program. The Court Annexed Arbitration Program (the program) is a mandatory, non-binding arbitration program, as hereinafter described, for certain civil cases commenced in judicial districts having a population of at least 100,000. Judicial districts having a lesser population may adopt local rules implementing all or part of the program.

No Changes

Rule 2. Intent of program and application of rules.

(A) The purpose of the program is to provide a simplified procedure for obtaining a prompt and equitable resolution of certain civil matters.

(B) These rules shall apply to all arbitration proceedings commenced in the program.

(C) These arbitration rules are not intended, nor should they be construed, to address every issue which may arise during the arbitration process. The intent of these rules is to give considerable discretion to the arbitrator, the discovery commissioner and the district judge. Arbitration hearings are intended to be informal, expeditious and consistent with the purposes and intent of these rules.

Old Rule

Rule 2. Intent of program and application of rules.

(A) The purpose of the program is to provide a simplified procedure for obtaining a prompt and equitable resolution of certain civil matters.

(B) These rules shall apply to all arbitration proceedings commenced in the program.

(C) Each district court may appoint an arbitration commissioner to serve at the pleasure of the court. In multi-judge districts, appointment shall be by the concurrence of a majority of all the judges of such district. The arbitration commissioner may be a discovery commissioner, other special master, or any qualified and licensed Nevada attorney appointed by the court. The arbitration commissioner shall have the responsibilities and powers conferred by these rules.

[(C)] (D) These arbitration rules are not intended, nor should they be construed, to address every issue which may arise during the arbitration process. The intent of these rules is to give considerable discretion to the arbitrator, the [discovery] arbitration commissioner and the district judge. Arbitration hearings are intended to be informal, expeditious and consistent with the purposes and intent of these rules.

(E) These rules may be known and cited as the Nevada Arbitration Rules or abbreviated N.A.R.

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(E) These rules may be known and cited as the Nevada Arbitration Rules or abbreviated N.A.R.

Rule 3. Matters subject to arbitration.

(A) All civil cases commenced in the district courts that have a probable jury award value not in excess of forty thousand dollars (\$40,000), exclusive of interest and costs, and regardless of comparative liability, are subject to the program, except class actions, appeals from courts of limited jurisdiction, probate actions, divorce and other domestic relations actions, actions seeking judicial review of administrative decisions, actions concerning title to real estate, actions for declaratory relief, actions governed by the provisions of NRS 41A.003 to 41A.069, inclusive, actions presenting significant issues of public policy, actions in which the parties have agreed in writing to submit the controversy to arbitration or other alternate dispute resolution method prior to the accrual of the cause of action and actions seeking equitable or extraordinary relief.

(1) While a case is in the program, the parties may, with the approval of the district judge to whom the case is assigned, stipulate, or the court may order, that a settlement conference, mediation proceeding, or other appropriate settlement technique be conducted by another district judge, a senior judge, or a special master. The settlement procedure conducted pursuant to this subdivision will extend by no more than thirty (30) days the timetable set forth in these rules for resolving cases in the program.

(B) Any civil case, regardless of the monetary value, the amount in controversy, or the relief sought, may be submitted to the program upon the agreement of all parties and the approval of the district judge to whom the case is assigned.

(C) Parties to cases submitted or ordered to the program may agree at any time to be bound by any arbitration ruling or award.

(1) If the parties agree to be bound by the decision of the arbitrator, the procedures set forth in these rules governing trials de novo will not apply to the case. The parties may, however, either confirm, vacate or modify the decision of the arbitrator in the manner authorized by NRS 38.135, 38.145 and 38.155.

(D) The district judge to whom a case is assigned may remove from the program any action where good cause for removal is found. The court's decision in this regard is non-reviewable.

Old Rule

Rule 3. Matters subject to arbitration.

(A) All civil cases commenced in the district courts that have a probable jury award value not in excess of forty thousand dollars (\$40,000) *per plaintiff*, exclusive of interest and costs, and regardless of comparative liability, are subject to the program, except class actions, appeals from courts of limited jurisdiction, probate actions, divorce and other domestic relations actions, actions seeking judicial review of administrative decisions, actions concerning title to real estate, actions for declaratory relief, actions governed by the provisions of NRS 41A.003 to 41A.069, inclusive, actions presenting significant issues of public policy, actions in which the parties have agreed in writing to submit the controversy to arbitration or other alternate dispute resolution method prior to the accrual of the cause of action and actions seeking equitable or extraordinary relief.

(B) Any civil case, regardless of the monetary value, the amount in controversy, or the relief sought, may be submitted to the program upon the agreement of all parties and the approval of the district judge to whom the case is assigned.

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][(1)] If the parties agree to be bound by the decision of the arbitrator, the procedures set forth in these rules governing trials *de novo* will not apply to the case. The parties may, however, either confirm, vacate or modify the decision of the arbitrator in the manner authorized by NRS 38.135, 38.145 and 38.155.

[(D) The district judge to whom a case is assigned may remove from the program any action where good cause for removal is found. The court's decision in this regard is non-reviewable.]

(E) In cases where any party's claim qualifies for exemption, any other party's claim, though suitable for arbitration, may be included with the exempt claims in the district court action for the convenience of the litigants, if the party with the claim qualified for arbitration so requests.

With Changes

Rule 3. Matters subject to arbitration.

(A) All civil cases commenced in the district courts that have a probable jury award value not in excess of forty thousand dollars (\$40,000) per plaintiff, exclusive of interest and costs, and regardless of comparative liability, are subject to the program, except class actions, appeals from courts of limited jurisdiction, probate actions, divorce and other domestic relations actions, actions seeking judicial review of administrative decisions, actions concerning title to real estate, actions for declaratory relief, actions governed by the provisions of NRS 41A.003 to 41A.069, inclusive, actions presenting significant issues of public policy, actions in which the parties have agreed in writing to submit the controversy to arbitration or other alternate dispute resolution method prior to the accrual of the cause of action and actions seeking equitable or extraordinary relief.

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(E) In cases where any party's claim qualifies for exemption, any other party's claim, though suitable for arbitration, may be included with the exempt claims in the district court action for the convenience of the litigants, if the party with the claim qualified for arbitration so requests.

Revised

Rule 4. Relationship to district court jurisdiction and rules: Form of documents.

(A) Cases filed in the district court shall remain under the jurisdiction of that court for all phases of the proceedings, including arbitration.

(B) The district court having jurisdiction over a case has the authority to act on or interpret these rules.

(C) Before a case is submitted or ordered to the program, and after a request for trial de novo is filed, and except as hereinafter stated, all applicable rules of the district court and of civil procedure apply. After a case is submitted or ordered to the program, and before a request for trial de novo is filed, or until the case is removed from the program, these rules apply. Except as stated elsewhere herein, once a case is accepted or remanded into the program, the requirements of NRCP 16.1 do not apply.

(D) The calculation of time and the requirements of service of pleadings and documents under these rules are the same as under the Nevada Rules of Civil Procedure.

(E) During the pendency of arbitration proceedings conducted pursuant to these rules, no motion may be filed in the district court by any party, except motions that are dispositive of the action or motions made pursuant to Rule 3(A)(1), requesting a settlement conference, mediation proceeding or other appropriate settlement technique.

(F) All documents required to be utilized or filed under these rules shall be in a form designated by the supreme court.

(G) Once a case is submitted or ordered to the program all parties subsequently joined in the action shall be parties to the arbitration unless dismissed by the district judge to whom the case is assigned.

(H) Except as otherwise provided in these rules, all disputed issues arising under these rules must be resolved in the manner set forth in Rule 8(B).

**Rule 4. Relationship to district court jurisdiction and rules:
[Form of documents.]**

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(B) The district court having jurisdiction over a case has the authority to act on or interpret these rules.

(C) Before a case is submitted or ordered to the program, and after a request for trial de novo is filed, and except as hereinafter stated, all applicable rules of the district court and the Nevada Rules of [c]Civil [p]Procedure apply. After a case is submitted or ordered to the program, and before a request for trial de novo is filed, or until the case is removed from the program, these rules apply. Except as stated elsewhere herein, once a case is accepted or remanded into the program, the requirements of NRCP 16.1 do not apply.

(D) The calculation of time and the requirements of service of pleadings and documents under these rules are the same as under the Nevada Rules of Civil Procedure. *The arbitration commissioner or the commissioner's designee shall serve all rulings of the commissioner on any matter as defined in NRCP 5(b); additionally, in the Eighth Judicial District service may also be made by the commissioner's designee placing the ruling or other communication in the attorney's folder in the clerk's office. Whenever a party is required or permitted to do an act within a prescribed period after service of a ruling by mail or by placement in the attorney's folder, three (3) days shall be added to the prescribed period.*

(E) During the pendency of arbitration proceedings conducted pursuant to these rules, no motion may be filed in the district court by any party, except motions that are dispositive of the action[,] or any portion thereof, motions to amend, consolidate, withdraw, intervene or motions made pursuant to Rule 3(A)(1), requesting a settlement conference, mediation proceeding or other appropriate settlement technique. Any of the foregoing motions must be filed no later than forty-five (45) days prior to the arbitration hearing, or said motion may be foreclosed by the judge and/or sanctions may be imposed. A copy of all motions and orders resulting therefrom shall be served upon the arbitrator.

[(F) All documents required to be utilized or filed under these rules shall be in a form designated by the supreme court.]

[(G)] (F) Once a case is submitted or ordered to the program all parties subsequently joined in the action shall be parties to the arbitration unless dismissed by the district judge to whom the case is assigned.

[(H)] (G) Except as otherwise provided in these rules, all disputed issues arising under these rules must be resolved in the manner set forth in Rule 8(B).

With Changes

Rule 4. Relationship to district court jurisdiction and rules:

(A) Cases filed in the district court shall remain under the jurisdiction of that court for all phases of the proceedings, including arbitration.

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(F) Once a case is submitted or ordered to the program all parties subsequently joined in the action shall be parties to the arbitration unless dismissed by the district judge to whom the case is assigned.

(G) Except as otherwise provided in these rules, all disputed issues arising under these rules must be resolved in the manner set forth in Rule 8(B).

Revised

Rule 5. Exemptions from arbitration.

(A) A party claiming an exemption from the program pursuant to Rule 3(A) on grounds other than the amount in controversy or the presentation of significant issues of public policy will not be required to file a request for exemption if the initial pleading specifically designates the category of claimed exemption in the caption. Otherwise, if a party believes that a case should not be in the program, that party must file with the discovery commissioner a request to exempt the case from the program and serve the request on any party who has appeared in the action. The request for exemption must be filed within twenty (20) days after the filing of an answer by the first answering defendant, and the party requesting the exemption must certify that his or her case is included in one of the categories of exempt cases listed in Rule 3. The request for exemption must also include a summary of facts which supports the party's contentions.

(B) Any opposition to a request for exemption from arbitration must be filed with the discovery commissioner and served upon all appearing parties within five (5) days of service of the request for exemption.

(C) Where requests for exemptions from arbitration are filed, the discovery commissioner shall review the contentions, facts and evidence available and determine whether an exemption is warranted. The discovery commissioner may require that a party submit additional facts supporting the party's contentions. Any objection(s) to the commissioner's decision must be filed with the commissioner who shall then notify the district judge to whom the case is assigned. Objections must be filed within ten (10) days of the date the commissioner's decision is served, with service to all parties. The commissioner or the commissioner's designee shall serve all rulings of the commissioner on any matter by delivery as defined in NRCP 5(b), or by mail. Whenever a party is required or permitted to do an act within a prescribed period after service of a ruling by mail, three (3) days shall be added to the prescribed period.

(D) The district judge to whom a case is assigned shall make all final determinations regarding the arbitrability of a case when that issue is disputed by any party, and may hold a hearing on the issue of arbitrability, if necessary. The district judge's determination of such an issue is not reviewable.

(E) The district judge to whom a case is assigned may impose any sanction authorized by NRCP 11 against any party who without good cause or justification attempts to remove a case from the program.

(F) Any party to any action has standing to seek alternate dispute resolution under these rules.

Old Rule

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(B) Any opposition to a request for exemption from arbitration must be filed with the [discovery] arbitration commissioner and served upon all appearing parties within five (5) days of service of the request for exemption.

(C) *The parties may file a joint request for exemption.*

[(C)](D) Where requests for exemptions from arbitration are filed, the [discovery] arbitration commissioner shall review the contentions, facts and evidence available and determine whether an exemption is warranted. The [discovery] arbitration commissioner may require that a party submit additional facts supporting the party's contentions. Any objection(s) to the commissioner's decision must be filed with the commissioner who shall then notify the district judge to whom the case is assigned. Objections must be filed within [ten (10)] five (5) days of the date the commissioner's decision is served, with service to all parties. [The commissioner or the commissioner's designee shall serve all rulings of the commissioner on any matter by delivery as defined in NRCP 5(b), or by mail. Whenever a party is required or permitted to do an act within a prescribed period after service of a ruling by mail, three (3) days shall be added to the prescribed period.]

[(D)](E) The district judge to whom a case is assigned shall make all final determinations regarding the arbitrability of a case [when that issue is disputed by any party,] and may hold a hearing on the issue of arbitrability, if necessary. The district judge's determination of such an issue is not reviewable.

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[(F)](G) Any party to any action has standing to seek alternate dispute resolution under these rules.

With Changes

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(C) The parties may file a joint request for exemption.

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(F) The district judge to whom a case is assigned may impose any sanction authorized by NRCP 11 against any party who without good cause or justification attempts to remove a case from the program.

(G) Any party to any action has standing to seek alternate dispute resolution under these rules.

6. Assignment to arbitrator.

(A) Parties may stipulate to use a private arbitrator or arbitrators who are not on the panel of arbitrators assigned to the program, or who are on the panel but who have agreed to serve on a private basis. Such stipulations must be made and filed with the discovery commissioner within twenty (20) days after the filing of an answer by the first answering defendant and may require the use of any ADR procedure to resolve the dispute. The stipulation must include an affidavit that is signed and verified by the arbitrator expressing his or her willingness to comply with the timetables set forth in these rules.

(B) Any and all fees or expenses related to the use of a private arbitrator, or the use of any other ADR procedure, shall be borne by the parties.

(C) Unless a stipulation is filed with the discovery commissioner for a private arbitrator or the use of any other ADR procedure as provided above, or a request for exemption is filed, the discovery commissioner will serve all appearing parties with identical lists of five (5) arbitrators selected at random from the panel of arbitrators assigned to the program.

(1) Thereafter, each party shall, within ten (10) days, file with the discovery commissioner the list with no more than two (2) names stricken.

(2) If both parties respond, the discovery commissioner shall appoint an arbitrator from among those names not stricken.

(3) If only one party responds within the ten (10) day period, the discovery commissioner shall appoint an arbitrator from among those names not stricken.

(4) If neither party responds within the ten (10) day period, the discovery commissioner will appoint one of the five (5) arbitrators.

(D) If a request for exemption is filed and denied, the discovery commissioner shall, within five (5) days after the time has expired for filing an objection to the commissioner's denial of the request, or within five (5) days after the district judge's decision on such an objection, serve the parties with identical lists of five (5) arbitrators as provided in subsection (C) of this rule.

(E) If there are more than two (2) adverse parties, two (2) additional arbitrators per each additional party shall be added to the list with the above method of selection to apply. For purposes of this rule, if several parties are represented by one attorney, they shall be considered as one party.

(F) Where an arbitrator is assigned to a case and additional parties subsequently appear in the action, the additional parties may object to the arbitrator assigned to the case within ten (10) days of the date of the party's appearance in the action. Objections must be in writing, state specific grounds, be served on all other appearing parties and filed with the discovery commissioner, who will review the objections and render a decision. This decision may be appealed to the district judge to whom the case is assigned. The notice of appeal shall be filed with the discovery commissioner within ten (10) days of the date of service of the commissioner's decision. The commissioner shall then notify the district judge of the appeal.

(G) If the selection process outlined above fails for any reason, including a recusal by the arbitrator selected from a case, the discovery commissioner shall repeat the process set forth in subdivision (C) of this rule to select an alternate arbitrator.

6. Assignment to arbitrator.

(A) Parties may stipulate to use a private arbitrator or arbitrators who are not on the panel of arbitrators assigned to the program, or who are on the panel but who have agreed to serve on a private basis. Such stipulations must be made and filed with the [discovery] arbitration commissioner [within twenty (20) days after the filing of an answer by the first answering defendant] no later than the date set for the return of the arbitration selection list and may require the use of any [ADR] alternate dispute resolution procedure to resolve the dispute. The stipulation must include an affidavit that is signed and verified by the arbitrator expressing his or her willingness to comply with the timetables set forth in these rules. Failure to file a timely stipulation shall not preclude the use of a private arbitrator, but may subject the dilatory parties to sanctions by the arbitration commissioner.

(B) Any and all fees or expenses related to the use of a private arbitrator, or the use of any other [ADR] alternate dispute resolution procedure, shall be borne by the parties.

(C) Unless a [stipulation is filed with the discovery commissioner for a private arbitrator or the use of any other ADR procedure as provided above, or a] request for exemption is filed, the [discovery] arbitration commissioner will serve [all] the two adverse appearing parties with identical lists of five (5) arbitrators selected at random from the panel of arbitrators assigned to the program.

(1) Thereafter, [each party] the parties shall, within ten (10) days, file with the [discovery] arbitration commissioner either a private arbitrator stipulation and affidavit or each party shall file the selection list with no more than two (2) names stricken.

(2) If both parties respond, the [discovery] arbitration commissioner shall appoint an arbitrator from among those names not stricken.

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(5) If there are more than two (2) adverse parties, two (2) additional arbitrators per each additional party shall be added to the list with the above method of selection and service to apply. For purposes of this rule, if several parties are represented by one attorney, they shall be considered as one party.

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[(G)](F) If the selection process outlined above fails for any reason, including a recusal by the arbitrator [selected from a case], the [discovery] arbitration commissioner shall repeat the process set forth in subdivision (C) of this rule to select an alternate arbitrator.

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(2) If both parties respond, the arbitration commissioner shall appoint an arbitrator from among those names not stricken.

(3) If only one party responds within the ten (10) day period, the arbitration commissioner shall appoint an arbitrator from among those names not stricken.

(4) If neither party responds within the ten (10) day period, the arbitration commissioner will appoint one of the five (5) arbitrators.

(5) If there are more than two (2) adverse parties, two (2) additional arbitrators per each additional party shall be added to the list with the above method of selection and service to apply. For purposes of this rule, if several parties are represented by one attorney, they shall be considered as one party.

(D) If a request for exemption is filed and denied, the arbitration commissioner shall, within five (5) days after the time has expired for filing an objection to the commissioner's denial of the request, or within five (5) days after the district judge's decision on such an objection, serve the parties with identical lists of five (5) arbitrators as provided in subsection (C) of this rule.

(E) Where an arbitrator is assigned to a case and additional parties subsequently appear in the action, the additional parties may object to the arbitrator assigned to the case within ten (10) days of the date of the party's appearance in the action. Objections must be in writing, state specific grounds, be served on all other appearing parties and filed with the arbitration commissioner, who will review the objections and render a decision. This decision may be appealed to the district judge to whom the case is assigned. The notice of appeal shall be filed with the arbitration commissioner within ten (10) days of the date of service of the commissioner's decision. The commissioner shall then notify the district judge of the appeal.

(F) If the selection process outlined above fails for any reason, including a recusal by the arbitrator, the arbitration commissioner shall repeat the process set forth in subdivision (C) of this rule to select an alternate arbitrator.

Rule 7. Qualifications of arbitrators.

(A) The State Bar of Nevada shall create and maintain a panel of arbitrators designated by areas of expertise consisting of attorneys licensed to practice in the State of Nevada and a separate panel of arbitrators qualified to engage in professions other than law.

(B) Arbitrators shall have substantial experience in their areas of expertise and shall have engaged in their areas of expertise for a period of at least three (3) years.

(1) No person serving on a panel of arbitrators established pursuant to this rule may use his or her status as an arbitrator for any advertising purpose whatsoever.

(C) Arbitrators shall be required to complete an orientation and training program following their selection to the panel, and shall also attend such other additional training sessions or classes as the State Bar may require. The orientation and training program must specifically include training in techniques to obtain settlement of a case at the earliest opportunity.

(D) Arbitrators shall be sworn or affirmed by the Chief Justice or the Chief Justice's designee to uphold these rules of the program, and the laws of the State of Nevada.

(E) An arbitrator who would be disqualified for any reason that would disqualify a judge under the Nevada Code of Judicial Conduct shall immediately resign or be withdrawn as an arbitrator.

(F) Any issue concerning the disqualification of a person to serve on the panel of arbitrators shall be referred to the State Bar of Nevada for a final determination.

Rule 7. Qualifications of arbitrators.

(A) [The State Bar of Nevada] Each arbitration commissioner shall create and maintain a panel of arbitrators [designated by areas of expertise] consisting of attorneys licensed to practice [in the State of Nevada] law for a minimum of eight (8) years and a separate panel of arbitrators qualified to engage in professions other than law.

(B) Arbitrators shall have substantial experience in their areas of expertise and non-lawyer arbitrators shall have engaged in their areas of expertise for a period of at least [three (3)] eight (8) years.

[(1) No person serving on a panel of arbitrators established pursuant to this rule may use his or her status as an arbitrator for any advertising purpose whatsoever.]

(C) Arbitrators shall be required to complete an orientation and training program [following] in conjunction with their selection to the panel, and shall also attend such other additional training sessions or classes as the State Bar may require. [The orientation and training program must specifically include training in techniques to obtain settlement of a case at the earliest opportunity.]

(D) Arbitrators shall be sworn or affirmed by the Chief Justice or the Chief Justice's designee to uphold these rules [of the program,] and the laws of the State of Nevada.

(E) An arbitrator who would be disqualified for any reason that would disqualify a judge under the Nevada Code of Judicial Conduct shall immediately [resign] recuse himself/herself or be withdrawn as an arbitrator.

(F) Any issue concerning the participation or disqualification of a person [to serve] on the panel of arbitrators shall be referred to the [State Bar of Nevada] arbitration commissioner for a final determination.

(G) No person serving on the panel of arbitrators established pursuant to this rule may use his or her status as an arbitrator for any advertising purpose whatsoever.

Rule 7. Qualifications of arbitrators.

(A) Each arbitration commissioner shall create and maintain a panel of arbitrators consisting of attorneys licensed to practice law for a minimum of eight (8) years and a separate panel of arbitrators qualified to engage in professions other than law.

(B) Arbitrators shall have substantial experience in their areas of expertise and non-lawyer arbitrators shall have engaged in their areas of expertise for a period of at least eight (8) years.

(C) Arbitrators shall be required to complete an orientation and training program in conjunction with their selection to the panel, and shall also attend such other additional training sessions or classes as the State Bar may require.

(D) Arbitrators shall be sworn or affirmed by the Chief Justice or the Chief Justice's designee to uphold these rules and the laws of the State of Nevada.

(E) An arbitrator who would be disqualified for any reason that would disqualify a judge under the Nevada Code of Judicial Conduct shall immediately recuse himself/herself or be withdrawn as an arbitrator.

(F) Any issue concerning the participation or disqualification of a person on the panel of arbitrators shall be referred to the arbitration commissioner for a final determination.

(G) No person serving on the panel of arbitrators established pursuant to this rule may use his or her status as an arbitrator for any advertising purpose whatsoever.

Revised

Rule 8. Authority of arbitrators.

(A) Arbitrators hear cases admitted to the program and shall render awards in accordance with these rules. The powers of the arbitrators shall include, but not be limited to the powers:

(1) To administer oaths or affirmations to witnesses;

(2) To relax all applicable rules of evidence and procedure to effectuate a speedy and economical resolution of the case without sacrificing a party's right to a full and fair hearing on the merits;

(3) To authorize the parties to obtain from the clerk of the district court subpoenas to secure the attendance of witnesses or the production of evidence at arbitration proceedings conducted pursuant to these rules.

(B) Any challenge to the authority or action of an arbitrator shall be filed with the discovery commissioner and served upon the other parties within ten (10) days of the date of the challenged decision or action. Any opposition to the challenge must be filed with the discovery commissioner and served upon the other parties within five (5) days of service of the challenge. The discovery commissioner shall rule on the issue in due course. Judicial review of the ruling of the discovery commissioner may be obtained by filing a petition for such review with the discovery commissioner within ten (10) days of the date of service of the discovery commissioner's ruling. The discovery commissioner shall then notify the district judge to whom the case is assigned of the petition and may enter an appropriate stay pending review by the district judge. The district judge to whom the case is assigned shall have the non-reviewable power to uphold, overturn or modify the ruling of the discovery commissioner, including the power to stay any proceeding.

Rule 8. Authority of arbitrators.

(A) Arbitrators hear cases admitted to the program and shall render awards in accordance with these rules. The powers of the arbitrators shall include, but not be limited to the powers:

(1) To administer oaths or affirmations to witnesses;
(2) To relax all applicable rules of evidence and procedure to effectuate a speedy and economical resolution of the case without sacrificing a party's right to a full and fair hearing on the merits[;].

[(3) To authorize the parties to obtain from the clerk of the district court subpoenas to secure the attendance of witnesses or the production of evidence at arbitration proceedings conducted pursuant to these rules.]

(B) Any challenge to the authority or action of an arbitrator shall be filed with the [discovery] arbitration commissioner and served upon the other parties and the arbitrator within ten (10) days of the date of the challenged decision or action. Any opposition to the challenge must be filed with the [discovery] arbitration commissioner and served upon the other parties within five (5) days of service of the challenge. The [discovery] arbitration commissioner shall rule on the issue in due course. Judicial review of the ruling of the [discovery] arbitration commissioner may be obtained by filing a petition for such review with the [discovery] arbitration commissioner within ten (10) days of the date of service of the [discovery] arbitration commissioner's ruling. The [discovery] arbitration commissioner shall then notify the district judge to whom the case is assigned of the petition and may enter an appropriate stay pending review by the district judge. The district judge to whom the case is assigned shall have the non-reviewable power to uphold, overturn or modify the ruling of the [discovery] arbitration commissioner, including the power to stay any proceeding.

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(B) Any challenge to the authority or action of an arbitrator shall be filed with the arbitration commissioner and served upon the other parties and the arbitrator within ten (10) days of the date of the challenged decision or action. Any opposition to the challenge must be filed with the arbitration commissioner and served upon the other parties within five (5) days of service of the challenge. The arbitration commissioner shall rule on the issue in due course. Judicial review of the ruling of the arbitration commissioner may be obtained by filing a petition for such review with the arbitration commissioner within ten (10) days of the date of service of the arbitration commissioner's ruling. The arbitration commissioner shall then notify the district judge to whom the case is assigned of the petition and may enter an appropriate stay pending review by the district judge. The district judge to whom the case is assigned shall have the non-reviewable power to uphold, overturn or modify the ruling of the arbitration commissioner, including the power to stay any proceeding.

Rule 9. Stipulations and other documents. During the course of arbitration proceedings commenced under these rules, no document other than the motions permitted by Rule 4 may be filed with the district court. All stipulations, motions and other documents relevant to the arbitration proceeding must be lodged with the arbitrator.

No Changes

Rule 10. Restrictions on communications.

(A) Neither counsel nor parties may communicate directly with the arbitrator regarding the merits of the case, except in the presence of, or with reasonable notice to, all of the other parties.

(B) Unless otherwise agreed in writing by all the parties, no offer or demand of settlement made by any party shall be disclosed to the arbitrator prior to the filing of the award.

Rule 11. Discovery.

(A) Within thirty (30) days after the appointment of the arbitrator, the parties must meet in the presence of the arbitrator to confer, exchange documents, identify witnesses known to the parties which would otherwise be required pursuant to NRCP 16.1, and to formulate a discovery plan, if necessary. The extent to which discovery is allowed, if at all, is in the discretion of the arbitrator, who must make every effort to insure that the discovery, if any, is neither costly nor burdensome. Types of discovery shall be those permitted by the Nevada Rules of Civil Procedure, but may be modified in the discretion of the arbitrator to save time and expense.

(B) It is the obligation of the plaintiff to notify the arbitrator prior to the conference, if other parties have appeared in the action subsequent to the appointment of the arbitrator.

Old Rule

Rule 11. Discovery.

(A) Within thirty (30) days after the appointment of the arbitrator, the parties must meet [in the presence of] with the arbitrator to confer, exchange documents, identify witnesses known to the parties which would otherwise be required pursuant to NRCP 16.1, and to formulate a discovery plan, if necessary. *The conference may be held by telephone at the discretion of the arbitrator.* The extent to which discovery is allowed, if at all, is in the discretion of the arbitrator, who must make every effort to insure that the discovery, if any, is neither costly nor burdensome. Types of discovery shall be those permitted by the Nevada Rules of Civil Procedure, but may be modified in the discretion of the arbitrator to save time and expense.

(B) It is the obligation of the plaintiff to notify the arbitrator prior to the conference, if other parties have appeared in the action subsequent to the appointment of the arbitrator.

With Changes

Rule 11. Discovery.

(A) Within thirty (30) days after the appointment of the arbitrator, the parties must meet with the arbitrator to confer, exchange documents, identify witnesses known to the parties which would otherwise be required pursuant to NRCP 16.1, and to formulate a discovery plan, if necessary. The conference may be held by telephone at the discretion of the arbitrator. The extent to which discovery is allowed, if at all, is in the discretion of the arbitrator, who must make every effort to insure that the discovery, if any, is neither costly nor burdensome. Types of discovery shall be those permitted by the Nevada Rules of Civil Procedure, but may be modified in the discretion of the arbitrator to save time and expense.

(B) It is the obligation of the plaintiff to notify the arbitrator prior to the conference, if other parties have appeared in the action subsequent to the appointment of the arbitrator.

Rule 12. Scheduling of hearings; pre-hearing conferences.

(A) Except as otherwise provided by this rule, all arbitrations shall take place and all awards must be filed no later than six (6) months from the date of the arbitrator's appointment. Arbitrators shall set the time and date of the hearing within this period.

(B) The arbitration hearing date may be advanced or continued by the arbitrator for good cause upon written request from either party. The arbitrator may not grant a request for a continuance of the hearing beyond a period of nine (9) months from the date of the arbitrator's appointment without written permission from the district judge to whom the case is assigned. Any such request for permission for an extension beyond the nine (9) month period must be made in writing to the district judge by the arbitrator. The district judge may permit such an extension upon a showing of unusual circumstances. All arbitration hearings must take place within one year of the date that the district court appoints the arbitrator.

(C) Consolidated actions shall be heard on the date assigned to the latest case involved.

(D) Arbitrators or the discovery commissioner may, at their discretion, conduct pre-arbitration hearings or conferences. However, the pre-hearing conference required by Rule 11 must be conducted within thirty (30) days from the date a case is assigned to an arbitrator.

(E) The arbitrator shall give immediate written notification to the discovery commissioner of any change of the arbitration date, any settlement or any change of counsel.

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(1) Arbitration hearings which take place in violation of this Rule may subject the parties, their counsel, and/or the arbitrator to sanctions which can include:

- (a) loss or reduction of the arbitrator's fee;
- (b) temporary suspension of the arbitrator from the panel;
- (c) monetary sanction assessed against the parties or counsel.

(2) Additionally, if the arbitration hearing does not take place within one (1) year of the appointment of the arbitrator, the case may be subject to dismissal or entry of default.

(C) Consolidated actions shall be heard on the date assigned to the latest case involved[.], to be heard by the earliest appointed arbitrator.

(D) Arbitrators or the [discovery] arbitration commissioner may, at their discretion, conduct pre-arbitration hearings or conferences. However, the pre-hearing conference required by Rule 11 must be conducted within thirty (30) days from the date a case is assigned to an arbitrator.

(E) The arbitrator shall give immediate written notification to the [discovery] arbitration commissioner of [any change of] the arbitration date and any change thereof, any settlement or any change of counsel.

With Changes

Rule 12. Scheduling of hearings; pre-hearing conferences.

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(D) Arbitrators or the arbitration commissioner may, at their discretion, conduct pre-arbitration hearings or conferences. However, the pre-hearing conference required by Rule 11 must be conducted within thirty (30) days from the date a case is assigned to an arbitrator.

(E) The arbitrator shall give immediate written notification to the arbitration commissioner of the arbitration date and any change thereof, any settlement or any change of counsel.

Revised

Rule 13. Pre-hearing statement.

(A) At least ten (10) days prior to the date of the arbitration hearing, each party shall furnish the arbitrator and serve upon all other parties a statement containing a final list of witnesses whom the party intends to call at the arbitration hearing, and a list of exhibits and documentary evidence anticipated to be introduced. The statement shall contain a brief description of the matters about which each witness will be called to testify. Each party shall, simultaneously with the submission of the final list of witnesses described above, make all exhibits and documentary evidence available for inspection and copying by other parties.

(B) A party failing to comply with this rule, or failing to comply with any discovery order, may not present at the arbitration hearing a witness or exhibit not previously furnished pursuant to this rule, except with the permission of the arbitrator upon a showing of unforeseen and unusual circumstance.

(C) Each party shall furnish to the arbitrator at least ten (10) days prior to the arbitration hearing copies of any pleadings and other documents contained in the court file which that party deems relevant.

Rule 14. Conduct of the hearing.

(A) The arbitrator shall have complete discretion over the conduct of the hearing.

(B) Any party may, at its own expense, cause the arbitration hearing to be reported.

No Changes

Rule 15. Arbitration in the absence of a party. An arbitration may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain a continuance. The arbitrator shall require that the party present submit such evidence as he or she may require for the making of an award, and may offer the absent party an opportunity to appear at a subsequent hearing, if such a hearing is deemed appropriate by the arbitrator.

No Changes

Rule 16. Form and content of award.

(A) Awards by the arbitrator shall be in writing, signed and on forms prescribed by the supreme court.

(B) The arbitrator shall determine all issues raised by the pleadings in cases that are subject to arbitration under the program, including issues of comparative negligence, if any, damages, if any, and costs. The maximum award that can be rendered by the arbitrator is \$40,000, exclusive of attorney's fees, interest and costs.

(C) Findings of fact and conclusions of law, or a written opinion stating the reasons for the arbitrator's decision, may be prepared at the discretion of the arbitrator.

(D) The offer of judgment provisions of NRCP 68 and NRS Chapter 17 apply to matters in the program.

(E) Attorney's fees awarded by the arbitrator may not exceed \$3,000, unless the compensation of an attorney is governed by an agreement between the parties allowing a greater award.

(F) After an award is made the arbitrator shall return all exhibits to the parties who offered them during the hearing.

Rule 16. Form and content of award.

(A) Awards [by the arbitrator] shall be in writing[,] and signed by the arbitrator [and on forms prescribed by the supreme court].

(B) The arbitrator shall determine all issues raised by the pleadings in cases that are subject to arbitration under the program, including issues of comparative negligence, if any, damages, if any, and costs. The maximum award that can be rendered by the arbitrator is \$40,000, exclusive of attorney['s] fees, interest and costs.

(C) Findings of fact and conclusions of law, or a written opinion stating the reasons for the arbitrator's decision, may be prepared at the discretion of the arbitrator.

(D) The offer of judgment provisions of NRCP 68 and NRS Chapter 17 apply to matters in the program.

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- (D) The offer of judgment provisions of NRCP 68 and NRS Chapter 17 apply to matters in the program.
- (E) Attorney fees awarded by the arbitrator may not exceed \$3,000, unless the compensation of an attorney is governed by an agreement between the parties allowing a greater award.
- (F) After an award is made the arbitrator shall return all exhibits to the parties who offered them during the hearing.

Rule 17. Filing of award.

(A) Within seven (7) days after the conclusion of the arbitration hearing, or thirty (30) days after the receipt of the final authorized memoranda of counsel, the arbitrator shall file the award with the discovery commissioner, and also serve copies of the award on the attorneys of record. Application must be made by the arbitrator to the discovery commissioner for an extension of these time periods.

(B) Applications for relief under NRCP 68, NRS Chapter 17 or NRS 18.010, must be filed with the arbitrator and discovery commissioner and served on the other parties within ten (10) days after service of the award on the applicant. Responses to such applications must be filed with the arbitrator and discovery commissioner and served on the other parties within five (5) days after service of the application on the responding party. Rulings on applications under this subsection must be filed with the discovery commissioner by the arbitrator and served on all parties within seven (7) days after the deadline for responses to such applications. Service of applications for relief under this subsection toll the time periods specified in Rules 18 and 19 until the application is ruled upon by the arbitrator.

(C) The arbitrator may, within the period specified in subsection (A) of this rule, file with the discovery commissioner an amended award to correct an obvious error in the award. Subsequent to this time, permission must be obtained from the discovery commissioner. Copies of all amended awards shall be served on the attorneys of record by the discovery commissioner.

(D) This rule does not authorize the use of an amended award to change the arbitrator's decision on the merits.

Rule 17. Filing of award.

(A) Within seven (7) days after the conclusion of the arbitration hearing, or thirty (30) days after the receipt of the final authorized memoranda of counsel, the arbitrator shall file the award with the [discovery] arbitration commissioner, and also serve copies of the award on the attorneys of record. Application must be made by the arbitrator to the [discovery] arbitration commissioner for an extension of these time periods.

(B) Applications for attorney fees, costs and/or interest pursuant to any statute or rule [relief under NRCP 68, NRS Chapter 17 or NRS 18.010,] must be filed with the arbitrator [and discovery commissioner] and served on the other parties within [ten (10)] five (5) days after service of the award on the applicant[.]; failure to make timely application shall act as a jurisdictional waiver of any right to fees, costs or interest. Responses to such applications must be filed with the arbitrator [and discovery commissioner] and served on the other parties within five (5) days after service of the application on the responding party. Rulings on applications under this subsection must be filed with the [discovery] arbitration commissioner by the arbitrator and served on all parties within [seven (7)] five (5) days after the deadline for responses to such applications. [Service of applications for relief under this subsection toll the time periods specified in Rules 18 and 19 until the application is ruled upon by the arbitrator.]

(1) Applications for relief under this subsection do not toll the time periods specified in Rules 18 or 19.

(2) Decisions on applications for relief under this rule do not constitute amended awards and shall not be designated as such by the arbitrator.

(3) Any grant of fees, costs, and/or interest shall be included in any judgment on the arbitration award submitted by a prevailing party.

(C) [The arbitrator may, within the period specified in subsection (A) of this rule, file with the discovery commissioner an amended award to correct an obvious error in the award. Subsequent to this time, permission must be obtained from the discovery commissioner. Copies of all amended awards shall be served on the attorneys of record by the discovery commissioner.] No amended award shall be filed by the arbitrator, but for good cause the arbitrator may file with the arbitration commissioner and serve on the parties a request to amend the award, as long as such request is filed within twenty (20) days from the date of service of the original award.

(1) If the arbitration commissioner decides an amended award is warranted, the commissioner will issue, file and serve such amended award.

(2) Upon the issuance of an amended arbitration award, the time for requesting a trial de novo pursuant to Rule 18 or notifying a prevailing party to enter judgment pursuant to Rule 19 will begin anew upon service of the parties.

(D) This rule does not authorize the use of an amended award to change the arbitrator's decision on the merits.

(E) Failure of the arbitrator to timely file the award or timely rule on an application for fees, costs and/or interest may subject the arbitrator to a forfeiture (waiver) of part or all of the arbitrator's fees. Repeated failures shall lead to removal from the panel.

With Changes

Rule 17. Filing of award.

(A) Within seven (7) days after the conclusion of the arbitration hearing, or thirty (30) days after the receipt of the final authorized memoranda of counsel, the arbitrator shall file the award with the arbitration commissioner, and also serve copies of the award on the attorneys of record. Application must be made by the arbitrator to the arbitration commissioner for an extension of these time periods.

(B) Applications for attorney fees, costs and/or interest pursuant to any statute or rule must be filed with the arbitrator and served on the other parties within five (5) days after service of the award on the applicant; failure to make timely application shall act as a jurisdictional waiver of any right to fees, costs or interest. Responses to such applications must be filed with the arbitrator and served on the other parties within five (5) days after service of the application on the responding party. Rulings on applications under this subsection must be filed with the arbitration commissioner by the arbitrator and served on all parties within five (5) days after the deadline for responses to such applications.

(1) Applications for relief under this subsection do not toll the time periods specified in Rules 18 or 19.

(2) Decisions on applications for relief under this rule do not constitute amended awards and shall not be designated as such by the arbitrator.

(3) Any grant of fees, costs, and/or interest shall be included in any judgment on the arbitration award submitted by a prevailing party.

(C) No amended award shall be filed by the arbitrator, but for good cause the arbitrator may file with the arbitration commissioner and serve on the parties a request to amend the award, as long as such request is filed within twenty (20) days from the date of service of the original award.

(1) If the arbitration commissioner decides an amended award is warranted, the commissioner will issue, file and serve such amended award.

(2) Upon the issuance of an amended arbitration award, the time for requesting a trial de novo pursuant to Rule 18 or notifying a prevailing party to enter judgment pursuant to Rule 19 will begin anew upon service of the parties.

(D) This rule does not authorize the use of an amended award to change the arbitrator's decision on the merits.

(E) Failure of the arbitrator to timely file the award or timely rule on an application for fees, costs and/or interest may subject the arbitrator to a forfeiture (waiver) of part or all of the arbitrator's fees. Repeated failures shall lead to removal from the panel.

Rule 18. Request for trial de novo.

(A) Within thirty (30) days after the award is served upon the parties, any party may file with the clerk of the court and serve on the other parties and the discovery commissioner a written request for trial de novo of the action.

(B) After the filing and service of the written request for trial de novo, the case shall be set for trial pursuant to applicable court rules.

Rule 18. Request for trial de novo.

(A) Within thirty (30) days after the arbitration award is served upon the parties, any party may file with the clerk of the court and serve on the other parties and the [discovery] arbitration commissioner a written request for trial de novo of the action. Any party requesting a trial de novo must certify that all arbitrator fees and costs for such party have been paid or shall be paid within thirty (30) days, or that an objection is pending and any balance of fees or costs shall be paid in accordance with subsection (C) of this rule.

(B) [After the filing and service of the written request for trial de novo, the case shall be set for trial pursuant to applicable court rules.] The thirty (30) day filing requirement is jurisdictional; an untimely request for trial de novo shall not be considered by the district court.

(C) Any party who has failed to pay the arbitrator's bill in accordance with this rule shall be deemed to have waived the right to a trial de novo; if a timely objection to the arbitrator's bill has been filed with the arbitration commissioner pursuant to Nevada Arbitration Rules 23 and/or 24, a party shall have ten (10) days from the date of service of the commissioner's decision in which to pay any remaining balance owing on said bill. No such objection shall toll the thirty (30) day filing requirement of subsection (B) of this rule.

(D) Any party to the action is entitled to the benefit of a timely filed request for trial de novo; subject to Rule 22, the case shall proceed in the district court as to all parties in the action unless otherwise stipulated by all appearing parties in the arbitration.

(E) After the filing and service of the written request for trial de novo, the case shall be set for trial upon compliance with applicable court rules.

Rule 18. Request for trial de novo.

(A) Within thirty (30) days after the arbitration award is served upon the parties, any party may file with the clerk of the court and serve on the other parties and the arbitration commissioner a written request for trial de novo of the action. Any party requesting a trial de novo must certify that all arbitrator fees and costs for such party have been paid or shall be paid within thirty (30) days, or that an objection is pending and any balance of fees or costs shall be paid in accordance with subsection (C) of this rule.

(B) The thirty (30) day filing requirement is jurisdictional; an untimely request for trial de novo shall not be considered by the district court.

(C) Any party who has failed to pay the arbitrator's bill in accordance with this rule shall be deemed to have waived the right to a trial de novo; if a timely objection to the arbitrator's bill has been filed with the arbitration commissioner pursuant to Nevada Arbitration Rules 23 and/or 24, a party shall have ten (10) days from the date of service of the commissioner's decision in which to pay any remaining balance owing on said bill. No such objection shall toll the thirty (30) day filing requirement of subsection (B) of this rule.

(D) Any party to the action is entitled to the benefit of a timely filed request for trial de novo; subject to Rule 22, the case shall proceed in the district court as to all parties in the action unless otherwise stipulated by all appearing parties in the arbitration.

(E) After the filing and service of the written request for trial de novo, the case shall be set for trial upon compliance with applicable court rules.

Rule 19. Judgment on award. Upon notification to the prevailing party by the discovery commissioner that no party has filed a written request for trial de novo within thirty (30) days after service of the award on the parties, the prevailing party may either submit to the clerk of the court for entry by the clerk a form of final judgment in accordance with the arbitration award, or submit to the district judge to whom the case was assigned a form of final judgment in accordance with the award to be signed by the judge and filed with the clerk. A judgment entered pursuant to this rule shall have the same force and effect as a final judgment of the court in a civil action, but may not be appealed.

Rule 19. Judgment on award. Upon notification to the prevailing party by the [discovery] arbitration commissioner that no party has filed a written request for trial de novo within thirty (30) days after service of the award on the parties, the prevailing party shall submit to the arbitration commissioner a form of final judgment in accordance with the arbitration award, including any grant of fees, costs and/or interest, which judgment shall then be submitted for signature to the district judge to whom the case was assigned; the judgment must then be filed with the clerk. [may either submit to the clerk of the court for entry by the clerk a form of final judgment in accordance with the arbitration award, or submit to the district judge to whom the case was assigned a form of final judgment in accordance with the award to be signed by the judge and filed with the clerk.]

(A) A judgment entered pursuant to this rule shall have the same force and effect as a final judgment of the court in a civil action, but may not be appealed.

(B) Although clerical mistakes in judgments and errors therein arising from oversight or omission may be corrected by the court at any time on its own initiative or on the motion of any party, no other amendment of or relief from a judgment entered pursuant to this rule shall be allowed.

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(B) Although clerical mistakes in judgments and errors therein arising from oversight or omission may be corrected by the court at any time on its own initiative or on the motion of any party, no other amendment of or relief from a judgment entered pursuant to this rule shall be allowed.

Revised

Rule 20. Procedures at trial de novo.

(A) The discovery commissioner shall seal any arbitration award if a trial de novo is requested. The jury, if a jury is demanded, will not be informed of the arbitration proceedings, the award, or about any other aspect of the arbitration proceedings. The sealed arbitration award shall not be opened until after the verdict is received and filed in a jury trial, or until after the judge has rendered a decision in a bench trial. Except as otherwise provided in this subsection, if the amount of the award in the trial de novo does not either exceed the arbitration award made to the party requesting the trial de novo, or reduce the liability imposed on that party by the arbitration award, the party requesting the trial de novo must pay to the adverse parties all recoverable costs and actual attorney's fees associated with the prosecution or defense of the trial de novo. Awards of attorney's fees may not exceed the total amount of \$3,000 unless the court finds extraordinary circumstances justifying a higher award.

(B) All discovery obtained during the course of the arbitration proceedings shall be admissible in the trial de novo, subject to all applicable rules of civil procedure and evidence. The court in the trial de novo shall insure that any reference to the arbitration proceeding is omitted from any discovery taken therein and sought to be introduced at the trial de novo.

Rule 20. Procedures at trial de novo.

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(1) Regardless of the arbitration award, but taking into consideration any applicable offers of judgment pursuant to NRS 17.115 and NRCP 68, the prevailing party at the trial de novo is entitled to recoverable costs and interest.

(2) If the amount of the judgment, exclusive of costs, fees and interest, at the trial de novo does not either exceed the arbitration award made to the party requesting the trial de novo, or reduce the liability imposed on that party by the arbitration award, the party requesting the trial de novo must pay to the adverse parties all recoverable costs and actual reasonable attorney fees associated with the prosecution or defense of the arbitration and trial de novo.

(3) Even if the party requesting the trial de novo does obtain a judgment which constitutes an improvement over the arbitration award received by that party, the trial judge may still award attorney fees to the non-requesting party, if the judge finds the trial de novo resulted in no substantial improvement of position by the requesting party.

In determining whether the requesting party achieved a substantial improvement in position, the trial judge shall consider, but not be limited to, the following factors:

- (a) amount of the award;
- (b) amount of the judgment;
- (c) any applicable offers of judgment;
- (d) all arbitration attorney fees and costs incurred by the requesting party;
- (e) all trial de novo attorney fees and costs incurred by the requesting party.

(B) All discovery obtained during the course of the arbitration proceedings shall be admissible in the trial de novo, subject to all applicable rules of civil procedure and evidence. The court in the trial de novo shall insure that any reference to the arbitration proceeding is omitted from any discovery taken therein and sought to be introduced at the trial de novo.

With Changes

Rule 20. Procedures at trial de novo.

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- (e) all trial de novo attorney fees and costs incurred by the requesting party.

(B) All discovery obtained during the course of the arbitration proceedings shall be admissible in the trial de novo, subject to all applicable rules of civil procedure and evidence. The court in the trial de novo shall insure that any reference to the arbitration proceeding is omitted from any discovery taken therein and sought to be introduced at the trial de novo.

Rule 21. Scheduling of trial de novo. Cases requiring a trial de novo will not be given preference on the trial calendar of the district court simply because those cases were subject to arbitration proceedings pursuant to these rules. Trials de novo will be processed in the ordinary course of the district court's business.

No Changes

Rule 22. Sanctions.

(A) The failure of a party or an attorney to either prosecute or defend a case in good faith during the arbitration proceedings shall constitute a waiver of the right to request a trial de novo.

(B) If, during the proceedings in the trial de novo, the district court determines that a party or attorney engaged in conduct designed to obstruct, delay or otherwise adversely affect the arbitration proceedings, it may impose, in its discretion, any sanction authorized by NRCP 11 or NRCP 37.

Old Rule

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(B) If, during the proceedings in the trial de novo, the district court determines that a party or attorney engaged in conduct designed to obstruct, delay or otherwise adversely affect the arbitration proceedings, it may impose, in its discretion, any sanction authorized by NRCP 11 or NRCP 37.

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Revised

Rule 23. Costs.

(A) The arbitrator is entitled to recover the costs, not to exceed two hundred fifty dollars (\$250), that the arbitrator reasonably incurs in processing and deciding an action. Costs recoverable by the arbitrator are limited to:

1. Reasonable costs for telecopies;
2. Reasonable costs for photocopies;
3. Reasonable costs for long distance telephone calls;
4. Reasonable costs for postage;
5. Reasonable costs for travel and lodging; and
6. Reasonable costs for secretarial services.

(B) To recover such costs, the arbitrator must submit to the parties an itemized bill of costs within five (5) days of the date that the arbitrator serves the award in an action; within five (5) days of notice of removal of the case from the program by resolution or exemption; or within five (5) days of notice of change of arbitrator, whichever date is earliest.

(C) Costs must be borne equally by the parties to the arbitration, and must be paid to the arbitrator within ten (10) days of the date that the arbitrator serves the bill reflecting the arbitrator's costs. If any party fails to pay that party's portion of the arbitrator's costs within the time prescribed in this subdivision, the district court shall, after giving appropriate notice and opportunity to be heard, enter a judgment and a writ of execution against the delinquent party for the amount owed by that party to the arbitrator, plus any costs and attorney's fees incurred by the arbitrator in the collection of the costs. If one of the parties to the arbitration is an unrepresented indigent person who was exempted pursuant to NRS 12.015 from paying a filing fee, the arbitrator may not collect costs from any party to the arbitration.

(D) All disputes regarding the propriety of an item of costs must be filed with the discovery commissioner within five (5) days of the date that the arbitrator serves the bill reflecting the arbitrator's costs, and resolved by the discovery commissioner.

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5. Reasonable costs for travel and lodging; and
6. Reasonable costs for secretarial services.

(B) To recover such costs, the arbitrator must submit to the parties an itemized bill of costs within [five (5)] *fifteen (15)* days of the date that the arbitrator serves the award in an action; within [five (5)] *fifteen (15)* days of notice of removal of the case from the program by resolution or exemption; or within [five (5)] *fifteen (15)* days of notice of change of arbitrator, whichever date is earliest.

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(D) All disputes regarding the propriety of an item of costs must be filed with the [discovery] *arbitration* commissioner within five (5) days of the date that the arbitrator serves the bill reflecting the arbitrator's costs, and resolved by the [discovery] *arbitration* commissioner.

(E) For purposes of this rule, if several parties are represented by one attorney, they shall be considered as one party.

With Changes

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3. Reasonable costs for long distance telephone calls;
4. Reasonable costs for postage;
5. Reasonable costs for travel and lodging; and
6. Reasonable costs for secretarial services.

(B) To recover such costs, the arbitrator must submit to the parties an itemized bill of costs within fifteen (15) days of the date that the arbitrator serves the award in an action; within fifteen (15) days of notice of removal of the case from the program by resolution or exemption; or within fifteen (15) days of notice of change of arbitrator, whichever date is earliest.

(C) Costs must be borne equally by the parties to the arbitration, and must be paid to the arbitrator within ten (10) days of the date that the arbitrator serves the bill reflecting the arbitrator's costs. If any party fails to pay that party's portion of the arbitrator's costs within the time prescribed in this subdivision, the district court shall, after giving appropriate notice and opportunity to be heard, enter a judgment and a writ of execution against the delinquent party for the amount owed by that party to the arbitrator, plus any costs and attorney fees incurred by the arbitrator in the collection of the costs. If one of the parties to the arbitration is an unrepresented indigent person who was exempted pursuant to NRS 12.015 from paying a filing fee, the arbitrator may not collect costs from any party to the arbitration.

(D) All disputes regarding the propriety of an item of costs must be filed with the arbitration commissioner within five (5) days of the date that the arbitrator serves the bill reflecting the arbitrator's costs, and resolved by the arbitration commissioner.

(E) For purposes of this rule, if several parties are represented by one attorney, they shall be considered as one party.

Revised

Rule 24. Fees for arbitrators.

(A) Arbitrators appointed to hear cases pursuant to these rules are entitled to be compensated at the rate of seventy-five dollars (\$75) per hour to a maximum of [five hundred dollars (\$500)] one thousand dollars (\$1000) per case. If required by the arbitrator, each party to the arbitration shall submit within thirty (30) days of request by the arbitrator, the sum of two hundred fifty dollars (\$250) as an advance toward the arbitrator's fees and costs. Failure to timely pay the required advance shall allow the arbitrator to file an award dismissing the complaint or entering the default of a non-complying party.

(B) To recover any fee, the arbitrator must submit to the parties an itemized bill reflecting the time spent on a case within [five (5)] fifteen (15) days of the date that the arbitrator serves an award in an action; within [five (5)] fifteen (15) days of notice of removal of the case from the program by resolution or exemption; or within [five (5)] fifteen (15) days of notice of change of arbitrator, whichever date is earliest.

(C) The fee of the arbitrator must be paid equally by the parties to the arbitration, and must be paid to the arbitrator within ten (10) days of the date that the arbitrator serves the bill reflecting the fee. If any party fails to pay that party's portion of the arbitrator's fee within the time prescribed in this subdivision, the district court shall, after giving appropriate notice and opportunity to be heard, enter a judgment and a writ of execution against the delinquent party for the amount owed by that party to the arbitrator, plus any costs and attorney['s] fees incurred by the arbitrator in the collection of the fee. If one of the parties to the arbitration is an unrepresented indigent person who was exempted pursuant to NRS 12.015 from paying a filing fee, the arbitrator may not collect a fee from any party to the arbitration.

(D) All disputes regarding the fee of the arbitrator must be filed with the [discovery] arbitration commissioner within five (5) days of the date that the arbitrator serves the bill reflecting the arbitrator's fee, and resolved by the [discovery] arbitration commissioner.

(E) For purposes of this rule, if several parties are represented by one attorney, they shall be considered one party.

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(D) All disputes regarding the fee of the arbitrator must be filed with the discovery commissioner within five (5) days of the date that the arbitrator serves the bill reflecting the arbitrator's fee, and resolved by the discovery commissioner.

Nevada Arbitration Rules effective July 1, 1992

Amended Rules effective October 24, 1993

Old Rule

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