

IN THE SUPREME COURT OF THE STATE OF NEVADA

ADKT 126

IN THE MATTER OF THE DEVELOPMENT  
OF ALTERNATIVES TO TRADITIONAL  
LITIGATION FOR RESOLVING LEGAL  
DISPUTES.

**FILED**

APR 27 2000

BY *[Signature]*  
SARAHETTA BLOOM  
CLERK OF SUPREME COURT  
DEPUTY CLERK

ORDER AMENDING RULES 20 AND 24 OF THE  
NEVADA RULES OF ARBITRATION

WHEREAS, this court's Alternative Dispute Resolution General Implementation Subcommittee has submitted recommendations respecting the amendment of Nevada Arbitration Rules 20 and 24; and

WHEREAS, this court has reviewed and carefully considered those recommendations and other concerns relating thereto;

It is so ORDERED that Rules 20 and 24, as specifically set forth in Exhibit A, annexed hereto, and contained in Subpart A of Part V of the Nevada Supreme Court Rules, entitled "Nevada Arbitration Rules," be and hereby are amended as set forth in Exhibit A;

IT IS FURTHER ORDERED that these rule amendments shall become effective immediately. 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

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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 amendments.

Dated this 27<sup>th</sup> day of April, 2000.

Rose, C.J.  
Rose

Young, J.  
Young

Maupin, J.  
Maupin

Shearing, J.  
Shearing

Agosti, J.  
Agosti

Leavitt, J.  
Leavitt

Becker, J.  
Becker

cc: All District Judges  
Wesley M. Ayers, Discovery Commissioner, Second Judicial District  
Thomas Biggar, Discovery Commissioner, Eighth Judicial District  
James G. Armstrong, Subcommittee Co-Chair  
I.R. Ashleman, Subcommittee Co-Chair

EXHIBIT A  
AMENDMENTS TO RULES 20 AND 24  
OF THE NEVADA ARBITRATION RULES

Rule 20. Procedures at trial de novo.

(A) The [discovery] arbitration 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.]

(1) The prevailing party at the trial de novo is entitled to all recoverable fees, costs, and interest pursuant to statute or N.R.C.P. 68.

(2) Exclusive of any award of fees and costs under subsection (1), a party is entitled to a separate award of attorney's fees and costs as set forth in (a) and (b) below. Attorney's fees awarded pursuant to this subsection must not exceed \$10,000.

(a) Awards of \$20,000 or less. Where the arbitration award is \$20,000 or less, and the party requesting the trial de novo fails to obtain a judgment that exceeds the arbitration award by at least 20 percent of the award, the non-requesting party is entitled to its attorney's fees and costs associated with the proceedings following the request for trial de novo. Conversely, if the requesting party fails to obtain a judgment that reduces by at least 20 percent the amount for which that party is liable under the arbitration award, the non-requesting party is entitled to its attorney's fees and costs associated with the proceedings following the request for trial de novo.

(b) Awards over \$20,000. Where the arbitration award is more than \$20,000, and the party requesting the trial de novo fails to obtain a judgment that exceeds the arbitration award by at least 10 percent of the award, the non-requesting party is entitled to its attorney's fees and costs associated with the proceedings following the request for trial de novo. Conversely, if the requesting party fails to obtain a judgment that reduces by at least 10 percent the amount for which that party is liable under the arbitration award, the non-requesting party is entitled to its attorney's fees and costs associated with the proceedings following the request for trial de novo.

(3) In comparing the arbitration award and the judgment, the court shall not include costs, attorney's fees, and interest with respect to the amount of the award or judgment. If multiple parties are involved in the action, the court shall consider each party's respective award and judgment in making its comparison between the award and judgment.

(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 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) per case] six hundred fifty dollars (\$650) per case unless otherwise authorized by the arbitration commissioner for good cause shown. If required by the arbitrator, each party to the arbitration shall submit, within thirty (30) days of request by the arbitrator, a sum of up to two hundred fifty dollars (\$250) as an advance toward the arbitrator's fees and costs. If a party fails to pay the required advance, the party may be subject to sanctions, including an award dismissing the complaint or entry of the non-complying party's default.

(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. If the parties have paid an advance toward the arbitrator's fees and costs, the arbitrator shall indicate this advance on the itemized bill and shall return to the parties any

portion of the advance that is over the amount on the itemized bill.

(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.