

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

ADKT 126

**FILED**

APR 28 2003

ORDER AMENDING RULE 20 OF THE  
NEVADA ARBITRATION RULES

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

WHEREAS, there is a conflict between Rule 20 of the Nevada Arbitration Rules, which provides that an arbitration award shall be sealed if a trial de novo is requested, and NRS 38.259, which was enacted during the 1999 legislative session and provides that an arbitration award is admissible in a trial de novo; and

WHEREAS, this court has considered the policy concerns supporting NAR 20 and NRS 38.259 and determined that the admission of the arbitration award at a trial de novo best serves the purpose of the Court Annexed Arbitration Program; and

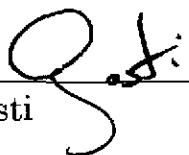
WHEREAS, it appears to this court that amendment of the Nevada Arbitration Rules is warranted, accordingly,

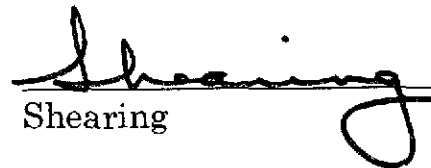
IT IS HEREBY ORDERED that Rule 20, contained in Subpart A of Part V of the Supreme Court Rules, entitled "Nevada Arbitration Rules," shall be amended and shall read as set forth in Exhibit A.

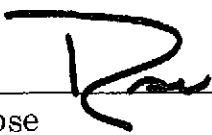
IT IS HEREBY FURTHER ORDERED that this rule amendment shall be effective sixty (60) days from the date of this order. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada. Publication of this order shall be accomplished 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 amendments.

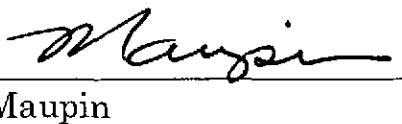
Dated this 28th day of April, 2003.

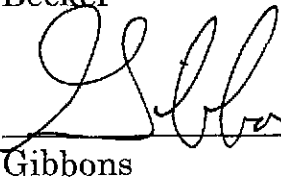
  
\_\_\_\_\_, C.J.  
Agosti

  
\_\_\_\_\_, J.  
Shearing

  
\_\_\_\_\_, J.  
Rose


  
\_\_\_\_\_, J.  
Becker

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Gibbons

LEAVITT, J., dissenting:

I conclude that the current version of Rule 20 of the Nevada Arbitration Rules, which provides that an arbitration award shall be sealed if a trial de novo is requested, is the better rule. I therefore dissent from the court's amendment of Rule 20 of the Nevada Arbitration Rules.

  
\_\_\_\_\_, J.  
Leavitt

cc: Wesley M. Ayers, Discovery Commissioner, Second District  
Chris Beecroft, Arbitration Commissioner, Eighth District  
Steven D. McMorris, Arbitration Commissioner, Ninth District  
Administrative Office of the Courts

**EXHIBIT A**  
**AMENDMENT TO RULE 20 OF THE**  
**NEVADA RULES OF ARBITRATION**

**Rule 20. Procedures at trial de novo.**

**[(A) The 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.]**

**(A) Evidence. If a trial de novo is requested, the arbitration award shall be admitted as evidence in the trial de novo, and 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.**

**(B) Attorney fees; costs; interest.**

(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.]**