

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE
AMENDMENT TO NEVADA
ARBITRATION RULE 18(G)

ADKT No. 126

FILED

SEP 25 2019

PETITION

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY Elizabeth A. Brown
CHIEF DEPUTY CLERK

COMES NOW, Mark Gibbons, Chief Justice of the Nevada Supreme Court, and Bonnie A. Bulla, Judge of the Nevada Court of Appeals, who petition the Supreme Court of Nevada on its Administrative Docket to amend Nevada Arbitration Rule (NAR) 18 as follows:

1. NAR 18 provides for making a request for a trial de novo and for making a motion to strike a request for trial de novo.
2. The proposed revision will clarify ambiguities in the current rule.
3. The proposed revisions are consistent with case law promulgated by the Nevada Supreme Court and the Nevada Court of Appeals.

Wherefore, we request that the Nevada Supreme Court solicit public comment and consider approving the amendments of NAR 18 to incorporate the provisions of the rule and commentary set forth in the attached Exhibit A.

Respectfully submitted this 20 day of September, 2019.

Mark Gibbons, C.J.
Gibbons

Bonnie A. Bulla, J.
Bulla

19-39839

Exhibit A

RULE 18. REQUEST FOR TRIAL DE NOVO

(G) A motion to strike a request for trial de novo may not be filed more than 30 days after service of the request for trial de novo[-]; except that a motion to strike based solely on the failure to pay the arbitrator fees and costs in accordance with subsections (A) and (C) must be filed no more than 14 days after the time to pay has expired.

Drafter's Note—2019 Amendment

Subsection (A) of the rule permits a party to request a trial de novo within 30 days. Any party making such a request must certify that all arbitrator fees and costs for such party have been paid or shall be paid within 30 days, or that an objection to the arbitrator's bill is pending. Subsection (G) of the prior rule required any party moving to strike the request for trial de novo to file a motion within 30 days after being served with the request for trial de novo. Thus, under the old rule, if the party requesting the trial de novo took the full 30 days to pay the arbitrator's bill, the motion to strike for failure to pay would not be properly before the court until after the 30 days in which to file it had expired. The unfair result being that such a motion to strike would be time-barred.

This amendment permits the filing of a motion to strike based on the failure to pay the arbitrator's bill within 14 days after the time to pay has expired, thereby avoiding this result. We recognize that under certain circumstances two motions to strike a request for trial de novo may be filed: the first for substantive reasons and the second based only on the failure to pay the arbitrator fees and costs. We also note, however, that this amendment does not preclude the district court from *sua sponte* striking, denying, or dismissing a request for trial de novo upon a party's failure to pay the arbitrator fees and costs within the time prescribed by rule 18.