

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE ADOPTION  
OF RULE 16 OF THE NEVADA RULES  
OF APPELLATE PROCEDURE  
GOVERNING SETTLEMENT  
CONFERENCES IN CIVIL APPEALS.

ADKT No. 244

FILED

JUL 26 2002

JANETTE M. BLOOM  
CLERK OF SUPREME COURT

BY *J. Richard*  
CHIEF DEPUTY CLERK

ORDER AMENDING RULE 16 OF THE  
NEVADA RULES OF APPELLATE PROCEDURE

It appearing to the court that the amendment of Nevada Rule of Appellate Procedure 16 is warranted;

IT IS ORDERED that Nevada Rule of Appellate Procedure 16 shall be amended to read as set forth in Exhibit A.

IT IS FURTHER ORDERED that this amendment shall become 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 amendment.

DATED this 26th day of July, 2002.

Maupin, C.J.  
Maupin

Young, J.  
Young

Agosti, J.  
Agosti

Leavitt, J.  
Leavitt

Shearing, J.  
Shearing

Rose, J.  
Rose

Becker, J.  
Becker

cc: Allen W. Kimbrough, Executive Director, State Bar of Nevada  
All Settlement Judges

**EXHIBIT A**  
**AMENDMENT TO RULE 16 OF THE**  
**NEVADA RULES OF APPELLATE PROCEDURE**

**RULE 16. SETTLEMENT CONFERENCES IN CIVIL APPEALS.**

**(a) Submission of Case to Settlement Conference; Removal of Case from Settlement Program.** Any civil appeal may be scheduled for a settlement conference. The Supreme Court, or any person designated by the court, shall determine whether to schedule an appeal for a settlement conference. The settlement conference shall be presided over by a senior justice, senior judge, or other judicial officer appointed by the Supreme Court, who shall be designated the settlement judge.

The settlement judge may, for good cause shown, recommend that an appeal be removed from the settlement program. To recommend that an appeal be removed from the settlement program, the settlement judge shall file, within twenty (20) days from the date the settlement judge receives the case assignment, a report with the clerk of the Supreme Court setting forth the basis for the recommendation.

**(b) Scheduling of Settlement Conference.** The clerk of the Supreme Court shall notify the parties of the scheduling of a settlement conference, and of the name of the presiding settlement judge. No later than

thirty (30) days from the date of the clerk's notice, the settlement judge will schedule the appeal for a settlement conference.

**(c) Suspension of Rules.** The clerk's issuance of a scheduling notice automatically stays the time for filing a request for transcripts under Rule 9, and for filing briefs under Rule 31. Issuance of the notice also stays the preparation and filing of any transcripts ordered pursuant to Rule 9.

**(d) Settlement Statement.** Each party to the appeal shall submit a settlement statement directly to the settlement judge within fifteen (15) days from the date of the clerk's scheduling notice. A settlement statement shall not be filed in the Supreme Court and shall not be served on opposing counsel.

A settlement statement is limited to five (5) pages, and shall concisely state: (1) the relevant facts; (2) the issues on appeal; (3) the argument supporting the party's position on appeal; (4) the weakest points of the party's position on appeal; (5) the settlement proposal that the party believes would be fair or would be willing to make in order to conclude the matter; and (6) all matters which, in counsel's professional opinion, may assist the settlement judge in conducting the settlement conference. Form 10 in the Appendix of Forms is a suggested form of a settlement statement.

**(e) Settlement Conference.** The settlement conference shall be held at a time and place designated by the settlement judge. Counsel for all

parties and their clients must attend the conference. The settlement judge may, for good cause shown, excuse a client's attendance at the conference, provided that counsel has written authorization to resolve the case fully or has immediate telephone access to the client.

The agenda for the settlement conference and the sequence of presentation shall be at the discretion of the settlement judge. A subsequent settlement conference may be conducted by agreement of the parties or at the direction of the settlement judge.

If a settlement is reached, the parties shall immediately execute a settlement agreement and a stipulation to dismiss the appeal, and shall file the stipulation to dismiss with the clerk of the Supreme Court.

**(f) Failure to Participate in Settlement Conference; Frivolous Appeals.** The failure of a party, or the party's counsel, to participate in good faith in the settlement conference process is grounds for sanctions against the party, the party's counsel, or both. The filing of a frivolous appeal is also grounds for sanctions. Sanctions include, but are not limited to, payment of attorney's fees and costs of the opposing party, dismissal of the appeal, or reversal of the judgment below.

**(g) Settlement Conference Report.** Within ten (10) days from the date of any settlement conference, the settlement judge shall prepare and file with the clerk of the Supreme Court a settlement conference report. Such

report must state the result of the settlement conference, but shall not disclose any matters discussed at the conference. When the settlement judge determines that a party has failed to participate in good faith in the settlement conference process or that an appeal is frivolous, the report must state the basis for the determination and recommend an appropriate sanction. The Supreme Court may require a party to show cause why a recommended sanction should not be adopted by the court. The Supreme Court may defer acting on the recommendation until after it has rendered a decision on the appeal.

**(h) Confidentiality.** Papers or documents prepared by counsel or a settlement judge in furtherance of a settlement conference, excluding the settlement conference report, shall not be available for public inspection or submitted to or considered by the Supreme Court. Matters discussed at the settlement conference and papers or documents prepared pursuant to this Rule shall not be admissible in evidence in any judicial proceeding and shall not be subject to discovery.

**[(i) Advertising.** No person serving as a settlement judge appointed pursuant to this Rule may use his or her status as a settlement judge for any advertising purpose whatsoever.]