

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**

NOV 18 2005

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

ORDER REGARDING RECOMMENDATIONS  
OF SETTLEMENT CONFERENCE PROGRAM EVALUATION REPORT

WHEREAS, this court implemented the settlement conference program in 1997;

WHEREAS, the program is now an integral part of court's case management process;

WHEREAS, although the program has been successful in meeting the court's original goals, an evaluation was needed to ensure the program meets the court's current goals;

WHEREAS, Nancy Neal Yeend of the John Paul Jones Group conducted a comprehensive review of the program and submitted a report with 32 recommendations;

WHEREAS, the report was submitted to the Settlement Judges Core Committee for comment;

WHEREAS, the court also solicited written comments from the settlement judges and the public at large and, on May 5, 2005, held a public hearing to receive oral comment on the report; and

WHEREAS, the court has now duly considered the evaluation report submitted by Nancy Neal Yeend and the comments received thereon;

IT IS HEREBY ORDERED that the Supreme Court of Nevada accepts Nancy Neal Yeend's evaluation and adopts in principle her report's conclusions and recommendations with modifications as set forth below.

The court agrees with Recommendations 1 and 2 to define goals for the program, and establishes the following goals: (1) reduction of the court's caseload; (2) early case assessment; (3) satisfaction of the parties; (4) consistency in settlement judge qualifications; (5) long-term education of the bar, and (5) a minimally acceptable program settlement rate.

The court agrees with Recommendation 3 to establish measurable goals for the duration of cases in the program. Cases may not be in the program for more than 180 days. That time may be extended up to 90 days upon the program administrator's approval of the parties' stipulation or the settlement judge's recommendation. If a case involves child custody issues, those time limits will be shortened to 120 days and 60 days respectively. Any case that is not settled within those time limits will be removed from the program and proceed to briefing.

Additionally, settlement judges must hold a tele-conference with counsel to schedule a date on which the initial settlement conference will be held. Further, settlement judges must conduct an early case assessment to determine whether the case is suitable for the program or if it should be exempted from the program. Within 30 days of assignment, settlement judges must file a report that includes their recommendation regarding the early case assessment and the date on which a settlement conference has been scheduled.

The court accepts Recommendation 4. A settlement conference must be scheduled within 90 days of the case being assigned to the settlement judge absent a showing of good cause.

The court disagrees with Recommendation 5 to remove the stay policy regarding the time for filing a request for transcripts or briefs and therefore rejects this recommendation. The court will, however, authorize the program administrator to lift the stay in appropriate circumstances.

The court agrees with Recommendations 6 and 7 to establish staggered terms for the Settlement Judges Core Committee members.

The court agrees with Recommendation 8 to computerize all forms used in the program and make them available on the court's website.

The court agrees with Recommendation 9, but will encourage rather than require the use of court-approved forms in the program.

The court agrees with Recommendation 10 to allow for electronic filing and communications in the program and will implement such procedures as the court's capabilities permit.

The court agrees with Recommendation 11 and defines the program's ADR model as mediation.

The court disagrees with Recommendation 12 to change the name of the program panelists from Settlement Judge to mediator and therefore rejects this recommendation.

The court accepts Recommendation 13 in part and will eliminate the settlement judges' authority to recommend sanctions based on a determination that an appeal is "frivolous." Contrary to the

recommendation, the court will preserve the settlement judges' authority to recommend sanctions to this court when a party fails to participate in the process in "good faith," but will define the specific behavior that warrants sanctions.

The court takes no action on Recommendation 14 to remove sanction authority from settlement judges, but will clarify that settlement judges have authority only to recommend sanctions to this court.

The court defers action on Recommendation 15 regarding clarification of the program's confidentiality requirement until more research is conducted on the scope of confidentiality.

The court accepts Recommendations 16 and 17 to develop educational materials regarding the program and will provide these materials on its website. The court will also require counsel to provide a written acknowledgement that they have read and discussed these materials with their clients.

The court accepts Recommendations 18 and 19 to provide data on the court's website and in other educational materials which identifies the program's ultimate cost savings to the participants and identifies potential future savings to the court.

The court disagrees with Recommendation 20 regarding completion of a Case Screening Form prior to the appeal's placement in the program and therefore rejects this recommendation. The court will, however, review the existing case appeal statement and civil docketing statement to determine whether revision of these forms would further the goal of early assessment of the cases assigned to the program.

The court agrees with Recommendation 21 to clarify the relationship of settlement judges to the court. To implement this measure, the court will require settlement judges to comply with a Code of Conduct and to be subject to removal for failure to abide by the Code. The court defers action on the issue of judicial immunity of settlement judges as raised in the Settlement Judges Core Committee's comments to Recommendation 21 pending further research on the scope and applicability of judicial immunity for mediators.

The court accepts Recommendation 22 to continue providing evaluations and comment forms to attorneys and their clients and Recommendation 23 to provide incentives for them to complete and return the evaluations.

The court accepts Recommendation 24 to adopt a formal application process for the selection of settlement judges and minimum qualifications for settlement judges. The court will also establish terms for their appointment to the settlement judge panel.

The court accepts Recommendation 25 to adopt a Code of Conduct and standards for ethical practice for settlement judges.

The court accepts Recommendation 26 in part and will develop specific standards and qualifications that settlement judges must meet in order to be assigned family law cases.

The court accepts Recommendation 27 to require settlement judges to complete a specified number of hours of continuing legal education related to the settlement program.

The court accepts Recommendation 28 to conduct a periodic review of the settlement judges' effectiveness. This review will emphasize

the settlement judges' evaluation ratings by settlement participants, fulfillment of continuing education requirements, and contributions to the program.

The court accepts Recommendation 29 and will require settlement judges to accept at least four cases each year in order to remain in the program.

The court accepts Recommendations 30, 31 and 32 regarding a future proper person mediation program, but will defer the recommended study and pilot program until the court has had an opportunity to assess the Civil Proper Person Appeals Pilot Program adopted in June of 2005. In conjunction with this pilot program, the court may refer proper person appeals to the settlement program in appropriate cases.

DATED this 18th day of November, 2005.

Becker, C.J.  
Becker

Rose, J.  
Rose

Maupin, J.  
Maupin

Gibbons, J.  
Gibbons

Douglas, J.  
Douglas

Hardesty, J.  
Hardesty

Parraguirre, J.  
Parraguirre

cc: All Settlement Judges  
Nancy Neal Yeend