



EIGHTH JUDICIAL DISTRICT COURT

REGIONAL JUSTICE CENTER
200 LEWIS AVENUE
LAS VEGAS, NEVADA 89155-2371

ELIZABETH GONZALEZ
DISTRICT JUDGE

DEPARTMENT ELEVEN
(702) 671-4378
FAX: (702) 671-4377

August 29, 2011

Chief Justice Michael Douglas
Supreme Court of Nevada
201 South Carson Street, #300
Carson City, NV 89701
Fax: 775-684-1601

FILED

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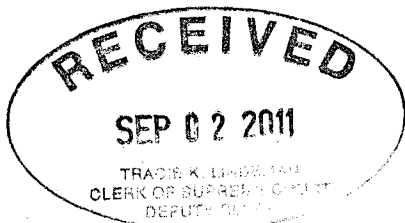
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

Re: ADKT 424

Dear Chief Justice Douglas,

This letter is provided in response to the July 29, 2011 order issued in ADKT 424 requesting comment to proposed amendments to Part IX of the Supreme Court Rules governing telephonic and audiovisual participation in the Nevada courts. These proposed changes would affect both judges in the civil and the family divisions. The concerns which are expressed are shared by judges in both of these divisions. I submit these comments in my capacity as Presiding Judge of the Civil Division on behalf of the Judges of the Eighth Judicial District.

At our monthly civil judges meeting we discussed concerns with these proposed modifications which if adopted would represent a significant change to the historical procedure for permitting videoconferencing by making it the norm for participation in court proceedings. The concerns with the proposed procedures includes items related to the scheduling of these type of hearings, the type of equipment and internet connections available to the litigants and the particular courtroom, and the inability of a person attending by videoconference to adequately participate in the proceeding especially related to exhibits and impeachment by deposition publication. There is also a fiscal impact related to the court personnel who currently support the court's audiovisual technology needs. Given all of these issues, we believe that a better practice is to permit these type of appearances where the court makes a determination it is appropriate and that the Court be permitted to require the participants to compensate the audiovisual staff of the court for the time needed to assist in the set up of the process and comply with the direction of the audiovisual staff of the court.



One of the proposals that is of most concern is the attendance at settlement conferences. Exhibit "B" to the Order contains proposed Rule 4(1)(a)(5) would permit the attendance by video conference at settlement conferences in every case. Settlement conferences are unique and most conferences include the participation of individuals who are not parties to the case. Settlement conferences involve confidential communications with the settlement conference judge. The conference can also involve multiple parties and counsel. Frequently confidential discussions and caucuses occur among varying groups of participants during the settlement conference depending upon the progress of the negotiations. Appearances by videoconference would remove the settlement conference judge's ability to caucus with varying groups based upon the progress of the settlement conference. This proposal if adopted would decrease the effectiveness of settlement conferences.

Many of our judges will waive personal appearances at a settlement conference if unusual circumstances exist. This proposal however would remove the decision from the settlement conference judge and make nonappearance at settlement conferences the norm rather than the exception. While proposed Rule 4(2)(b) permits the court to make a determination that the "personal appearance would materially assist in the resolution of the particular proceeding", if adopted we anticipate it would increase the workloads at the district court.¹ Continuing with the historical practice of making nonappearance the exception rather than the rule, we believe continuing the historic practice would promote the ability of the judge conducting the settlement conference to effectively resolve cases during the scheduled settlement conference through confidential communications, negotiations and caucusing.

Some of our judges believe that there may be circumstances where the appearance other than in person is appropriate but we believe as a group that the decision should be left to the judge conducting the settlement conference. The judge conducting the settlement conference should have the ability to make the decision as to whether unusual circumstances exist that would support a decision to waive the personal appearance of a particular participant.

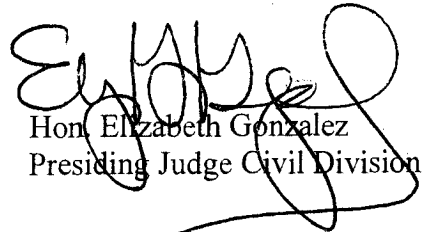
On behalf of the Judges of the Eighth Judicial District Court we request the removal of Rule 4(1)(a)(5) and a modification of Rule 2 to add "upon good cause shown" before the phrase "to the extent feasible" from the proposed rules contained in Part IX B as part of ADKT 424. As a group we take no position with respect to the remainder of the proposed changes.

¹ During the time which I oversaw the overflow settlement conference program, approximately 5% of the scheduled settlement conferences resulted in a request for a waiver of personal appearance.

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If you should have any questions, please feel free to contact me.

Very truly yours,



Hon. Elizabeth Gonzalez
Presiding Judge Civil Division

cc: Supreme Court Justices
Robin Sweet, Administrative Office of the Courts
Tracie K. Lindeman
Chief Judge Jennifer Togliatti
Presiding Criminal Division Judge Douglas Herndon
Presiding Family Division Judge Gloria Sanchez
Steve Grierson, Clark County Courts Executive Officer