

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE ADOPTION  
OF A UNIFORM RULE GOVERNING  
TELEPHONIC AND AUDIOVISUAL  
PARTICIPATION IN CIVIL, CRIMINAL  
AND FAMILY LAW CASES IN ALL  
COURTS IN THE STATE OF NEVADA.

ADKT No. 424

**FILED**

DEC 04 2009

TRACIE L. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

ORDER AMENDING PART IX OF THE SUPREME COURT RULES

WHEREAS, on December 18, 2008, this court adopted uniform rules to govern telephonic and audiovisual participation in Nevada courts, and

WHEREAS, this court conducted a public hearing on the proposed amendment of the rules on Tuesday, October 6, 2009, and

WHEREAS, this court has concluded that amendment of the rules is warranted, accordingly

IT IS HEREBY ORDERED that Part IX of the Supreme Court Rules is amended as set forth in Exhibit A.

IT IS FURTHER ORDERED that the amendments shall be effective 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 State Bar of Nevada's official publication. The clerk shall publish this order by disseminating copies of it 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 that she has accomplished 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 rules.

Dated this 4<sup>th</sup> day of December, 2009.

Hardesty, C.J.  
Hardesty

Parraguirre, J.  
Parraguirre

Douglas, J.  
Douglas

Cherry, J.  
Cherry

Saitta, J.  
Saitta

Gibbons, J.  
Gibbons

Pickering, J.  
Pickering

cc: Kathleen J. England, President, State Bar of Nevada  
Kimberly K. Farmer, Executive Director, State Bar of Nevada  
All District Court Judges  
All District Court Clerks  
Administrative Office of the Courts

## Exhibit A

### AMENDMENT OF PART IX OF THE SUPREME COURT RULES

#### PART IX. RULES GOVERNING APPEARANCE BY [COMMUNICATION] AUDIOVISUAL TRANSMISSION EQUIPMENT

**Rule 1. Definitions.** In these rules, unless the context or subject matter otherwise requires:

1. “[~~Communication~~] Audiovisual transmission equipment” means a conference telephone or other electronic device that permits all those appearing or participating to hear and speak to each other, provided that all conversation of all parties is audible to all persons present.
2. “Court” means either a general or limited jurisdiction court.
3. “Party” shall include and apply to such party’s attorney of record.
4. “Shall” is mandatory and “may” is permissive.

**Rule 2. Policy favoring [~~communication~~] audiovisual transmission equipment appearances.** The intent of this rule is to promote uniformity in the practices and procedures relating to [~~communication~~] audiovisual transmission equipment appearances in civil cases. To improve access to the courts and reduce litigation costs, courts shall permit parties, to the extent feasible, to appear by [~~communication~~] audiovisual transmission equipment at appropriate conferences, hearings, and proceedings in civil cases.

**Rule 3. Application.** This rule applies to all cases except [~~criminal,~~] juvenile[,] and appellate proceedings. In criminal cases, the court may follow the procedures set forth in these rules or NRS 50.330.

**Rule 4. Appearance by [~~communication~~] audiovisual transmission equipment.**

1. **Circumstances in which appearance by [~~communication~~] audiovisual transmission equipment shall be allowed.** Except as provided in subsection 4, parties shall be allowed to appear before a court or master using [~~communication~~] audiovisual transmission equipment in the following matters:

- (a) Case management conferences, provided the party has made a good faith effort to meet and confer and has timely served and filed a case management statement before the conference date;
- (b) Trial setting conferences;
- (c) Hearings on law and motion, except motions in limine;

(d) Hearings on discovery motions, except where the discovery commissioner determines that it is necessary for parties to meet personally regarding discovery disputes or scheduling matters;

(e) Status conferences, including conferences to review the status of an arbitration or a mediation;

(f) Hearings to review the dismissal of an action; and

(g) Any other hearing that is scheduled for not more than 15 minutes.

**2. Required personal appearances.**

(a) Except as provided in subsection 3(c), a personal appearance is required for hearings, conferences, and proceedings not listed in subsection 1, including the following:

(1) Trials and hearings at which witnesses are expected to testify;

(2) Hearings on temporary restraining orders;

(3) Settlement conferences;

(4) Trial management conferences;

(5) Hearings on motions in limine;

(6) Hearings on petitions to confirm the sale of property under NRS Title 12; and

(7) Any hearing in which the discovery commissioner determines that the presence of the parties is necessary to resolve discovery disputes or scheduling matters.

(b) In addition, except as provided in subsection 3(c), a personal appearance is required for the following persons:

(1) Applicants seeking an ex parte order, except when the applicant is seeking an order:

(i) For permission to file a memorandum in excess of the applicable page limits;

(ii) For an extension of time to serve pleadings;

(iii) To set hearing dates on alternative writs and orders to show cause; or

(iv) By stipulation of the parties;

(2) Persons ordered to appear to show cause why sanctions should not be imposed for violation of a court order or a rule; or

(3) Persons ordered to appear in an order or citation issued under NRS Title 12.

At the proceedings listed in (1), (2), and (3), parties who are not required to appear in person under this rule may appear by **[communication]** audiovisual transmission equipment.

**3. Court discretion to modify rule.**

(a) In exercising its discretion under this provision, the court should consider the general policy favoring **[communication]** audiovisual transmission equipment appearances in civil and criminal cases.

(b) **Court may require personal appearances.** Upon a showing of good cause either by motion of a party or upon its own motion, the court may require a party to appear in person at a hearing, conference, or proceeding listed in subsection 1 if the court determines on a hearing-by-hearing basis that a personal appearance would materially assist in the determination of the proceedings or in the effective management or resolution of the particular case.

(c) **Court may permit appearances by [eommunication] audiovisual transmission equipment.** The court may permit a party to appear by [eommunication] audiovisual transmission equipment at a hearing, conference, or proceeding listed in subsection 2 if the court determines that a [eommunication] audiovisual transmission equipment appearance is appropriate.

4. **Need for personal appearance.** If, at any time during a hearing, conference, or proceeding conducted by [eommunication] audiovisual transmission equipment, the court determines that a personal appearance is necessary, the court may continue the matter and require a personal appearance.

5. **Notice by party.**

(a) A party choosing to appear by [eommunication] audiovisual transmission equipment at a hearing, conference, or proceeding under this rule must either:

(1) Place the phrase “[Communication] Audiovisual Transmission Equipment Appearance” below the title of the moving, opposing, or reply papers; or

(2) At least three court days before the appearance, notify the court and all other parties of the party’s intent to appear by [eommunication] audiovisual transmission equipment. If the notice is oral, it must be given either in person or by [eommunication] audiovisual transmission equipment. If the notice is in writing, it must be given by filing a “Notice of Intent to Appear by [Communication] Audiovisual Transmission Equipment” with the court at least three court days before the appearance and by serving the notice at the same time on all other parties by personal delivery, fax transmission, express mail, or other means reasonably calculated to ensure delivery to the parties no later than the close of the next business day.

(b) If after receiving notice from another party as provided under subsection 5(a) a party that has not given notice also decides to appear by [eommunication] audiovisual transmission equipment, the party may do so by notifying the court and all other parties that have appeared in the action, no later than noon on the court day before the appearance, of its intent to appear by [eommunication] audiovisual transmission equipment.

(c) If a party that has given notice that it intends to appear by [eommunication] audiovisual transmission equipment under subsection

5(a) subsequently chooses to appear in person, the party must so notify the court and all other parties that have appeared in the action, by **[communication]** audiovisual transmission equipment, at least two court days before the appearance.

(d) The court, on a showing of good cause, may permit a party to appear by **[communication]** audiovisual transmission equipment at a conference, hearing, or proceeding even if a party has not given the notice required under subsection 5(a) or (b) and may permit a party to appear in person even if the party has not given the notice required in subsection 5(c).

**6. Notice by court.** After a party has requested a **[communication]** audiovisual transmission equipment appearance under subsection 5, if the court requires the personal appearance of the party, the court must give reasonable notice to all parties before the hearing and may continue the hearing if necessary to accommodate the personal appearance. The court may direct the court clerk, a court-appointed vendor, a party, or an attorney to provide the notification.

**7. Private vendor; charges for service.** A court may provide teleconferencing for court appearances by entering into a contract with a private vendor. The contract may provide that the vendor may charge the party appearing by **[communication]** audiovisual transmission equipment a reasonable fee, specified in the contract, for its services.

**8. Audibility and procedure.**

(a) The court must ensure that the statements of participants are audible to all other participants and the court staff and that the statements made by a participant are identified as being made by that participant.

(b) Upon convening a telephonic or audiovisual proceeding, the judge shall:

(1) Recite the date, time, case name, case number, names and locations of parties and counsel, and the type of hearing;

(2) Ascertain that all statements of all parties are audible to all participants;

(3) Give instructions on how the hearing is to be conducted, including notice that in order to preserve the record speakers must identify themselves each time they speak.

**9. Reporting.** All proceedings involving **[communication]** audiovisual transmission equipment appearances must be reported to the same extent and in the same manner as if the participants had appeared in person.

**10. Conference call provider.** A court, by local rule, may designate a particular conference call provider that must be used for **[communication]** audiovisual transmission equipment appearances.

**11. Information on [communication] audiovisual transmission equipment appearances.** The court must publish a notice providing parties with the particular information necessary for them to appear by

~~[communication]~~ audiovisual transmission equipment at conferences, hearings, and proceedings in that court under this rule.

12. **Public access.** The right of public access to court proceedings must be preserved in accordance with law.