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2  
3 IN THE SUPREME COURT OF THE STATE OF NEVADA

**FILED**

NOV 10 2009

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

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6 In the Matter of the

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9 NINTH JUDICIAL DISTRICT  
10 COURT RULES.  
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Docket No. ADKT 442

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15 PETITION FOR RULE CHANGE

16 Petitioner, NINTH JUDICIAL DISTRICT COURT, by and through  
17 the Honorable David R. Gamble and the Honorable Michael P.  
18 Gibbons, hereby petitions the Supreme Court of the State of  
19 Nevada to approve amendments to the Ninth Judicial District  
20 Court Rules attached as **Exhibit A**. Such amendments are  
21 proposed in order to increase judicial efficiency, and to  
22 comply with changes to the law since the rules were last  
23 reviewed.  
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25 These rules were presented by the Ninth Judicial District  
26 Court's Staff Attorney, Cassandra G. Jones, Esq., to the  
27 Douglas County Bar Association on July 23, 2009. Furthermore,  
28

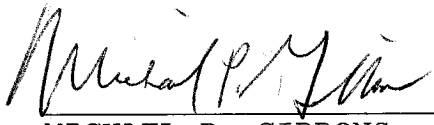
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NOV 04 2009  
TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
DEPUTY CLERK

1 Ms. Jones personally posted notice of the intended rule changes  
2 with the Ninth Judicial District Court Clerk and in both  
3 judicial departments for a period of more than ten (10) days.  
4 See **Exhibit B**. Comments were received and incorporated into  
5 the proposed rules as appropriate.

6 Accordingly, the Ninth Judicial District Court requests  
7 that this Court hereby adopt the attached rules in their  
8 entirety.

9 DATED this 2 day of Nov ~~October~~, 2009.

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12 DAVID R. GAMBLE  
13 DISTRICT JUDGE, DEPT. I

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16 MICHAEL P. GIBBONS  
17 DISTRICT JUDGE, DEPT. II  
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**EXHIBIT A**

## **Proposed Rule Changes to the Ninth Judicial District Court**

As of August 26, 2009

### **RULE 1. Applicability and citation of rules**

(a) These rules shall be known and shall be cited as the Ninth Judicial District Court Rules, or NJDCR. *These rules are to be construed and administered to secure the just, speedy, and inexpensive determination of matters before the court.*

(b) These rules govern the procedure and administration of the Ninth Judicial District Court and all actions or proceedings cognizable therein. They must be construed so as to secure the proper and efficient administration of the business and affairs of the court and to promote and facilitate the administration of justice.

(c) Whenever the Judge who will try the case, upon motion of either party or upon the Judge's own motion, determines that a case should not follow the regular procedure, the court shall make such orders as the interests of justice require.

(d) These rules govern the procedure in this court in criminal actions, insofar as they are applicable directly or by analogy, unless these rules conflict with any applicable constitutional provision or any statute of the United States or of the State of Nevada, or any applicable rule or order of the Supreme Court of the United States, or of the Supreme Court of the State of Nevada having the force of law.

(e) Time limits as contained within these rules shall be computed as provided within NRCP 6 and related Supreme Court case law.

### **RULE 1.1 Definitions**

*As applied in these rules and elsewhere by the Ninth Judicial District Court, unless the*

context otherwise requires, the following words and terms have the following meanings:

(a) Business matters: Business matters shall be:

(1) Matters in which the primary claims or issues are based on, or will require decision under NRS Chapters 78 - 92A or other similar statutes from other jurisdictions, without regard to the amount in controversy;

(2) A dispute concerning a trade-mark or trade name; a claim asserted pursuant to the Nevada Trade Secrets Act, NRS 600A.010, et seq.; a claim asserted pursuant to the Nevada Securities Act, NRS 90.211, et seq.; a claim asserted pursuant to the Nevada Deceptive Trade Practices Act, NRS 598.0903, et seq.; a claim involving investment securities governed by NRS 104.8101, et seq.; or,

(3) Any of the following where the amounts in controversy exceeds \$500,000, excluding costs, fees, interest, and/or punitive damages;

(i) Claims arising under the Uniform Commercial Code, or as to which the Code will supply the rule of decision;

(ii) Claims arising from business torts;

(iii) Claims arising from the purchase or sale of the stock of a business, all or substantially all of the assets of a business, or commercial real estate;

(iv) Business franchise transactions and relationships; or

(v) Any dispute involving parties that are business entities, such as corporations, limited liability companies, limited liability partnerships, or partnerships.

(4) Examples of cases which are not business matters include, but are not limited to, those for which the predominant legal issue is centered on:

(i) personal injury;

(ii) products liability;

(iii) claims brought by a consumer individually;

(iv) landlord-tenant disputes involving non-commercial property;

(v) eminent domain;

(vi) malpractice;

(vii) employment law, including wrongful termination claims;  
(viii) administrative appeals and appeals from the lower courts;  
(ix) proceedings to register or enforce a judgment regardless of the nature of the underlying case.; or  
(x) domestic matters, even if the quality or value of the community or separate property would otherwise qualify under this subsection.

*(b) Complex Matters: Complex matters shall be:*

*(1) Any matter with ten (10) or more named parties, counting each defendant, plaintiff, but excluding Doe defendants;*

*(2) Any matter that would otherwise qualify as a business matter under subsection (a)(3) of this rule, except that the value of amount in controversy is between \$250,000 and \$499,999;*

*(3) Matters where the primary dispute involves allegations of medical malpractice;*

*(4) Matters where the primary dispute involves allegations related to the applicability or calculation of local, state, or federal taxes; or*

*(5) Matters where the primary dispute involves the determination of water rights.*

*(6) Regardless of the above, complex matters shall not include:*

*(i) domestic matters involving divorce, annulment, paternity, child custody, child support, or separate maintenance;*

*(ii) administrative appeals and appeals from courts of limited jurisdiction;*  
*or*

*(iii) proceedings to register or enforce a judgment regardless of the nature of the underlying case.*

*\*Comments: This rule is added to comply with A.B. 65, 2009 Leg., 75<sup>th</sup> Sess (NV 2009). The definition of business matters is derived from WDCR 2.1 and EJDC 1.61. There is no definition of “complex” litigation in Nevada law, except that NRCP 16.1(f) describes it by referencing multiple parties, difficult questions of law, and difficult issues*

*of proof. Accordingly, the above definition provides that matters involving numerous parties, business matters that fall short of the \$500,000 threshold, and matters involving particularly difficult issues are complex. Section (b)(6) was added to clarify that domestic matters, appeals, and registering foreign judgments are not complex matters and therefore not subject to the higher filing fees.*

## **RULE 2. Organization of the court**

(a) The Ninth Judicial District consists of two (2) departments.

(b) The Judges of this court may interchange with each other. In the event of the absence or the incapacity of a Judge, or when agreed by the Judges, either Judge may act in the department of the other without specific assignment of the actions *unless the acting judge has been disqualified from, stricken from, or recused himself from the matter.*

(c) All civil and criminal actions shall be assigned by the Court Clerk to a department when filed with the Court Clerk. *Whenever can be reasonably done without injury to the rights of the parties, the Court Clerk should attempt to assign civil, probate, domestic, and juvenile matters to a department so that all matters involving the same individual, entity, or family are heard in the same department.*

(d) Cases will not be reassigned unless upon good cause and upon order signed by both Judges, or upon disqualification or as otherwise provided by rule or law.

\*Comments: Additions made to incorporate the court's "One Judge, One Family" policy. Assignments to one judge will apply for non-criminal matters; criminal matters would continue to be assigned on rotating basis between the judges. Language is included to allow for the assignment of a cases to a different judge if assignment to the same judge would injure the parties rights; additionally, peremptory challenges continue to be available to the parties.

### **RULE 3. Law and motion calendar**

The law and motion calendar shall be called as follows:

Department 1 - Each Tuesday

Department 2 - Each Monday

9:00 a.m.     ~~Uncontested civil calendar and probate proceedings.~~ *Adult criminal calendar.*

~~9:30 a.m.~~ 10:30 a.m.     ~~Criminal Calendar.~~ *Juvenile proceedings.*

~~11:00 a.m.~~ ~~Juvenile proceedings.~~

1:30 p.m.     *Probate proceedings, uncontested civil calendar, UIFSA and child support contempt hearings*

2:00 p.m.     *Civil and domestic relations case management and pretrial conferences*

\*Comments: Changes made to reflect the actual practice in the Ninth Judicial District and to incorporate times for the NRCP 16.2 domestic relations case management conferences.

### **RULE 4. Arbitration**

(a) The Ninth Judicial District Court has adopted the mandatory, non-binding "Nevada Arbitration Rules" and any amendments thereto promulgated by the Supreme Court of the State of Nevada.

(b) Those civil cases commenced in this court that are subject to the mandatory provisions of the "Nevada Arbitration Rules" will be processed and governed as provided in said rules except that the monetary threshold shall remain at \$25,000, and the arbitration commissioner will submit any request to exempt or remove a case from the arbitration program to the district judge to whom the case is assigned to determine



whether exemption or removal is warranted.

(c) The special master is designated as the "arbitration commissioner" for purposes of the "Nevada Arbitration Rules."

#### **RULE 5. Setting of civil cases**

(a) All contested matters *other than domestic relations matters* shall be set on dates agreeable to counsel and the court. After the case conference meeting and after the filing of the Case Conference Report (NRCP 16.1(b), (c)), the Court Clerk shall issue a NRCP 16.1 Setting Order. The Court Clerk shall send to counsel an Information Questionnaire and ~~set a date to appear to set the trial date by which the questionnaire is to be submitted.~~ If the questionnaires are not returned, counsel may appear *personally or by telephone* at 10:00 a.m. on the trial setting morning before the Judicial Assistant ~~for an application for setting of trial to submit the questionnaire.~~ The Judicial Assistant shall set the matter to be heard on a date satisfactory to counsel ~~present based upon the information submitted within the questionnaire.~~ If the questionnaires are not returned, and if there is not a personal appearance by counsel to submit the questionnaire, then the trial will be set at the convenience of the court. ~~Time shall be computed as provided in NRCP 6.~~

(b) *If based on the questionnaires* the parties cannot agree on a trial date, the Judicial Assistant shall set the case for trial on the first available date.

(c) Any party who seeks relief from the trial setting shall do so no later than ten (10) days after the date the matter is set for trial.

(d) Multiple settings shall be made by the Judicial Assistant as the Judge may direct. ~~Matters which cannot be heard in the department in which set because of a scheduling conflict may be assigned to another department to be heard, if possible, at the same time as originally set. If an assignment is not possible, the Judicial Assistant shall~~

~~immediately advise counsel for all parties. The matter is entitled to priority for resetting.~~  
*If a matter cannot be heard because of multiple settings on any given day, the Judicial Assistant shall immediately advise counsel for all parties. The postponed matter is then entitled to priority for resetting.* Criminal matters have priority over civil matters, unless otherwise provided by law or by the court.

(e) If a case is settled, counsel for the parties shall immediately notify the Judicial Assistant and Judge in writing.

Comments: Based upon the judicial assistant's comments, the rule is changed to give preference to the use of the setting questionnaire be filled out and submitted rather than personal appearance. Subparagraph (d)'s changes reflect the actual practice of resetting matters in case of a conflict.

#### ***RULE 5.1. Setting of Domestic Relations Matters***

##### ***(a) Case Management Conferences.***

*(1) In all divorce, annulment, separate maintenance actions, paternity actions, or custody matters between unmarried parties where paternity is established, the plaintiff shall file proof of service of the summons and complaint within five (5) days after service is effected. After the proof of service is filed, the Court shall issue and serve a Case Management Setting Order pursuant to NRCP 16.2(b).*

*(2) Any party or counsel who seeks relief from the date of the Case Management Conference must do so within 10 days after service of the Case Management Setting Order. Time shall be computed as provided by NRCP 6.*

*(3) Every party and counsel shall appear at the Case Management Conference in person unless excused in writing by the Court prior to the scheduled conference. Requests for an excuse must be made in writing to the court no later than 5 days before the Case Management Conference. Such requests must be made by facsimile, letter, or motion, and must be served by facsimile, electronic mail, or regular mail upon the adverse party.*

(4) Every party shall provide the court with a list of the witnesses and documents exchanged pursuant to NRCP 16.2(a)(2). Each list shall be titled as either "Plaintiff's List of Witnesses and Documents Exchanged" or "Defendant's List of Witnesses and Documents Exchanged," as appropriate. The list shall be formatted in a manner appropriate to be attached as an exhibit to the case management order.

(5) At the Case Management Conference, the court shall set the matter for trial at a date satisfactory to the parties present and the court.

*(b) Setting of Post-Trial Domestic Relations Hearings*

(1) In all contested, post-trial motions to modify or enforce child custody, parenting time, child support, or separate maintenance orders, where mediation pursuant to NJDCR 27 has been unsuccessful, or where the parties are exempt from mediation under NJDCR 26, either party may request that the motion be set for an evidentiary hearing. Upon a finding by the court that an evidentiary hearing is appropriate, the Judicial Assistant shall send all parties' counsel an Information Questionnaire. Counsel shall complete and serve the Information Questionnaire upon the Judicial Assistant and adverse parties within 5 days from being served with the questionnaire. The Judicial Assistant shall set the matter to be heard on a date satisfactory to counsel, based upon the information provided within the questionnaire, and the court. If the questionnaires are not returned, the hearing will be set at the convenience of the court.

(2) Any party or counsel who seeks relief from the date of the evidentiary hearing must do so within 10 days after service of the Setting Order.

(c) Multiple settings shall be made by the Judicial Assistant as the Judge may direct. If a matter cannot be heard because of multiple settings on any given day, the Judicial Assistant shall immediately advise counsel for all parties. The postponed matter is then entitled to priority for resetting.

(d) If a case is settled, counsel for the parties shall immediately notify the Court in

writing.

\*Comments: This new rule is proposed to comply with the requirements of NRCP 16.2

**RULE 6. Motions: Procedure for supporting and deciding**

(a) All motions and similar moving documents, unless made during a hearing or trial, shall be in writing, and if requiring testimony, shall comply with notice requirements of NRCP 6(d).

(b) A motion or response accompanied by a memorandum that consists of bare citations to statutes, rules or cases, does not comply with DCR 13, and the court may decline to consider the motion or response.

(c) Proposed orders shall accompany the motion and opposing memorandum.

(d) Upon the expiration of the time for filing a reply and points and authorities the Judicial Assistant shall submit the matter to the Judge for decision. A written or oral request for submission on the motion is unnecessary. *If the parties have agreed to extend the time permitted to respond to the substance of the motion, such agreement must be submitted in writing to the court by letter prior to the date that the response to the motion is due.*

(e) Decisions on all motions, except as otherwise provided for in these rules or by statute, shall be rendered without oral argument, unless oral argument is requested by:

- (1) The court, in which event the court shall set a date and time for hearing; or
- (2) Either party at the time of filing the motion or the response thereto, in which event the court may set a date and time for a hearing.

In all cases where the granting of a motion would dispose of the action on the merits,

and with prejudice, the court ~~shall~~ *may* grant oral argument on the request of the opposing party. If no such request is made, oral argument shall be deemed to be waived.

(f) On motions for summary judgment, each party shall file a concise statement setting forth each fact material to the disposition of the motion which the party claims is or is not genuinely in issue, *or is in dispute, but is not material to the motion*, and cite the particular portions of any pleading, affidavit, deposition, interrogatory, answer, admission, or other matter upon which he or she relies in making such argument.

(g) Motions to compel discovery or for sanctions for failure to provide discovery will not be considered unless a statement of the movant is attached thereto, certifying that, after personal consultation and a good faith effort to comply, counsel has been unable to satisfactorily resolve the matter.

*(h) The rehearing of motions must be done in conformity with DCR 13. A party seeking reconsideration of a ruling of the court, other than an order which may be addressed by motion pursuant to NRCP 50(b), 52(b), 59, or 60, must file a motion for such relief within 20 days after entry of the order or judgment, unless the time is shortened or enlarged by written order. A motion for rehearing or reconsideration must be served, noticed, filed, and heard as any other motion. A motion for rehearing may not toll the period for filing a notice of appeal from a final order or judgment.*

*(i) Any cross-motion or counter-motion must be filed as a separate document unless it is pleaded in the alternative.*

\*Comment: Subsection (i) is derived from WDCR10(9)(effective December 19, 2007), and is designed to prevent the filing of multiple motions in one document (like an opposition and cross-motion) which may delay the speedy and just resolution of a pending motion.

## **RULE 7. Affidavits on motions**

(a) Factual contentions involved in any pretrial or post trial motion must be initially presented and heard upon affidavits, depositions, answers to interrogatories, ~~and~~ or admissions.

(b) Each affidavit shall identify the affiant, the party on whose behalf it is submitted, and the motion or application to which it pertains, and must be served and filed with the motion, opposition, or reply to which it relates.

(c) Affidavits must contain only factual, evidentiary matter, conform with the requirements of NRCP 56(e), and avoid mere general conclusions or arguments. Affidavits substantially defective in these respects may be stricken, wholly or in part.

\*Note: NJDCR 7(b)and(c) appear to have been taken from DCR 13(5).

## **RULE 8. Ex parte orders**

(a) Ex parte orders are not favored and counsel are encouraged to move with notice whenever possible, *particularly for motions filed under NRCP 65.*

(b) No ex parte order, *except an order of the Court to allow an indigent to file a complaint without payment of fees,* shall be presented to a Judge for signing before the case has been filed with the clerk and given a case number.

(c) Ex parte orders and orders based upon written stipulation of counsel or in connection with any uncontested matters, shall be signed only by the Judge of the department in which the case is pending, unless that Judge designates another Judge to hear the application. If there is no such designation, and the Judge of the department in which the case is pending is unavailable, ~~the~~ an ex parte order may be signed by the Judge assigned to the other department.

(d) Whenever the court has issued an ex parte order, the party obtaining it shall serve upon each party who has appeared in the case, within which time as prescribed by the court, a copy of the order and the papers upon which it was based, except that an order to show cause shall be served within the time fixed by the order. *If no time limit is prescribed, an ex parte order shall be served within three (3) judicial days after filing or at least 24 hours prior to any deadline or hearing within the order, whichever is earlier. However, such time frame shall not obviate the requirements contained within DCR 17 regarding written notice of an ex parte order granting or extending a deadline.*

(e) *Ex parte orders in domestic relations cases:*

(1) *Ex parte orders may be obtained in domestic relations cases without notice in the following circumstances:*

(i) *Where the order mutually restrains the parties from transferring, encumbering, hypothecating, concealing or in any way disposing of any property, real or personal, whether community or separate, except in the usual course of business or for the necessities of life;*

(ii) *Where the order mutually restrains the parties from cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance coverage, including life, health, automobile, and disability coverage;*

(iii) *Where the order mutually restrains the parties from cashing, borrowing against, canceling, transferring, or disposing of retirement benefits or pension plans for the benefit (or election for benefit) of the parties or their minor child or children;*

(iv) *Where a child's health and safety is in imminent danger; or*

(v) *Where such other circumstances exist as the Court may find to warrant the issuance of an order without notice, but the moving party must demonstrate why no notice has been provided and why it is an emergency situation.*

(2) *Ex parte orders in domestic relations cases may not be obtained for the payment of support or fees in contravention of NRS 125.040 and NRS 125.200.*

(3) *No hearing need be held on an ex parte order under subsection (e)(1)(i),*

(e)(1)(ii), and (e)(1)(iii) above. All other *ex parte* orders pursuant to this subsection (e) shall be heard within 20 days of their entry, unless extended by stipulation or good cause. The hearing date shall be stated in the *ex parte* order. This subsection does not apply to temporary orders for protection against domestic violence.

\*Comment: The addition to (b) is to reflect actual practices. The addition to (d) is to resolve some conflicts we have had where someone says they have not received an *ex parte* order in a reasonable time frame and the law is otherwise silent about how quickly the *ex parte* order should have been served. The addition to (e) is derived from FJDCR 18(5)(B) and WDCR 43(2), and at the request of certain family law practitioners, to clarify which type of domestic relations matters can be ruled upon *ex parte*.

#### **RULE 9. Continuances**

A continuance of any matter set for trial or hearing on the merits will be **granted** *considered* by the court in the following situations:

- (a) Upon compliance with DCR 9 or 14;
- (b) Upon the court's own motion when necessary due to the other business of the court; or
- (c) Upon the written stipulation of counsel and parties, and upon the written approval of the presiding Judge, obtained not less than ten (10) days prior to the date for a jury trial or not less than five (5) days prior to the date for a non-jury trial or hearing. Stipulations are not binding on the court. Good cause must be shown for all continuances.

#### **RULE 10. Extension or shortening of time**

- (a) All applications for extensions of time shall be made by motion *before the time expires for the response to a motion to be filed*.
- (b) No *ex parte* motion for extension of time shall be granted, *except to serve process*



and except that the court may, upon the filing and service of a notice of motion for extension of time pursuant to DCR 17, and upon a showing of good cause, order a temporary extension pending the determination of the ~~ex parte~~ motion. A motion made under this rule must comply with NJDCR 6.

(c) For good cause, the Judge may make ex parte orders shortening time, upon notice given as required for extending time by DCR 17.

\*Comments: Amendments made to comply with actual practice.

#### **RULE 11. Copies of all pleadings to all parties.**

In all cases having more than one party plaintiff or defendant, or both, represented by separate counsel of record, each party shall furnish to counsel of record for each party who has appeared *or a party appearing in proper person*, copies of all papers served upon any party. After any new or additional party makes its first appearance of record in the proceeding, all parties shall provide to counsel for the newly appearing party copies of all pleadings and papers previously filed by them in the action.

#### **RULE 12. Documents of the court; pleading requirements**

(a) Every document presented to a Judge for his or her signature, including orders, findings, conclusions of law and judgments, and every paper presented for filing, shall bear a designation of what it purports to be, the number and title of the case, and the name of the attorney who presented same with his or her office address and telephone number immediately thereafter.

(b) All proposed findings, conclusions of law, judgments and decrees, and orders affecting the title to or creating or affecting a lien upon real or personal property, appealable orders, and such other orders as the court may direct, shall be prepared, in

writing, by the prevailing party, and shall embody the court's decision, where applicable, and incorporate the decision by reference, unless the court otherwise orders. The prevailing party shall submit to the Court Clerk a copy of any such document and the Court Clerk shall in turn submit them to the court. If the opposing party intends to object to the form or substance of any such document or move to amend it, he or she shall do so within *ten (10) calendar* ~~five (5)~~ days after the proposed findings and judgment are ~~filed with~~ *submitted to the court Court Clerk*.

(c) All orders presented to a Judge for his or her signature, whether pursuant to stipulation or otherwise, must be on a separate sheet of paper and properly entitled in the court and cause.

(d) All pleadings and documents intended for the files of this court shall be on paper known as "legal cap" of good quality and without interlineation, unless noted thereon by the clerk at the time of filing.

(e) All documents must be double spaced, while quotations of authority cited may be single spaced. Pages shall be numbered consecutively at the bottom.

### **RULE 13. Amended pleadings**

(a) A copy of a proposed amended pleading must be attached to any motion to amend the pleading. Unless otherwise permitted by the court, every pleading to which an amendment is submitted as a matter of right, or has been allowed by order of the court, must be re-typed or reprinted and filed so that it will be complete in itself, including exhibits, without reference to the superseded pleading. No pleading will be deemed to be amended until there has been compliance with this rule.

(b) All amended pleadings must contain copies of all exhibits referred to in such amended pleadings. A pleader may, upon ex parte application, obtain an order from the court directing the Court Clerk to remove any exhibit attached to prior pleadings and attach the same to the amended pleading.

#### **RULE 14. Proper filing**

The Court Clerk is authorized to refuse to file any document or pleading which is not in proper form or properly signed by all parties who are required to sign the same pursuant to applicable provisions of the Nevada Rules of Civil Procedure.

#### **RULE 15. Pretrial conferences**

(a) The Trial Judge may require a pretrial conference upon the Judge's own motion or upon a motion made at least thirty (30) days prior to trial.

(b) Pretrial conferences shall include settlement negotiations *and the parties must comply with the procedures described in the scheduling order.*

(c) The Judge may, for good cause, continue the pretrial conference for a limited period of time, ~~except that the time shall not be extended more than one hundred eighty (180) days after service of the summons and the complaint, pursuant to NRCP 16.1(a).~~

(d) Statements of counsel *and the parties* made at a pretrial conference are not admissible in evidence, unless so provided by a pretrial order.

~~(e) In suits for divorce, each party shall file with the court and serve on the opposing party a disclosure statement of all assets and liabilities and all income and expenses on such forms as the Court Clerk shall supply. Each party shall file and serve those disclosure forms within forty (40) days of service of the complaint or ten (10) days prior to the Early Case Conference held pursuant to NRCP 16.1, whichever is earlier. The form shall be amended forthwith as material information is obtained. The requirement to file and serve and to amend may not be waived as to content or time except by order of the court, for good cause shown. Failure to timely serve or amend shall subject the party, or his or her attorneys, or both, to such sanctions as the court deems just as relates not only to the subject case but also to the efficient administration of justice in this district.~~

~~(f) In motions to modify child support or spousal support, the income and expense disclosure form prescribed by the court shall be filed and served on the opposing party or their counsel at the time of filing the motion and shall be filed and served by the responding party at the time of filing a response, or twenty (20) days from the date of service of the motion, whichever is earlier. Said forms shall be amended forthwith as material information is obtained. This requirement as to filing and amendment may not be waived as to content or time except by order of the court for good cause shown. Failure to timely serve or amend shall subject the party, or his or her attorneys, or both, to such sanctions as the court deems just as relates to the subject case in the efficient administration of justice in this district.~~

~~(g) Filing and service of such prescribed forms shall not supplant nor limit such discovery as either party is entitled to undertake pursuant to the Nevada Rules of Civil Procedure.~~

\*Comments: Changes were made to conform with NRCP 16.2

#### **RULE 16. Special master**

(a) The Ninth Judicial District Court has established the position of special master *consistent with NRCP 53*.

~~(b) The parties to a civil action may stipulate in writing to, or Upon a motion, stipulation, or the court's own initiative, the judge to whom the case has been assigned may order, the appointment of the special master to report upon particular issues in the case, including discovery matters, the holding of settlement conferences, other alternate dispute resolution methods, domestic referee proceedings and any other matters permitted by law.~~

(c) Except as otherwise provided by statute or rule, the special master must file written findings of fact and recommendations with the district judge within 10 days after the

evidence presented in the matter is closed.

*(d) The compensation of special masters shall be fixed by the Court in its discretion, including any necessary disbursements, unless all interested parties consent to a rate of compensation or the special master consents to serve without compensation. Such compensation and disbursement shall be shared equally by the parties and taxed as costs, unless the Court directs otherwise.*

\*Comments: Changes to subsection (a) and (b) made to comply with actual practice in the Ninth Judicial District. Subsection (d) is derived from FJDCR 15(3) and is added so that parties are aware that, if they move for a special master they may bear the costs associated therewith.

#### **RULE 17. Trial statements**

(a) At least ten (10) days prior to trial, counsel for all parties shall meet and stipulate to as many facts and issues as possible or state why they cannot do so. A certification that this portion of this rule has been complied with shall be annexed to the trial statement and made a part thereof.

(b) At least five (5) days prior to a civil trial, each party shall file and serve on all other parties a trial statement which shall set forth the following matters in the following order:

(1) A concise statement of the claimed facts supporting the party's claims or defenses.

(2) A statement of admitted or undisputed facts.

(3) A statement of issues of law supported by a memorandum of points and authorities.

(4) A list of summaries or schedules referring to attached itemized exhibits concerning any subject matter which involves accounting, computations, chronology, or similar detailed data reasonably calling for orderly itemization (e.g., wages, income, expenses, inventories, business operations, tax computations, disability periods,

property losses, itemizations of claimed losses or injuries), the data and reasons upon which an expert bases his or her opinion (not the opinion itself), which clearly reflects the claims, defenses, or offers of proof of the party in such respects, together with references to the records or other sources upon which such summaries or schedules are based.

(5) The names and addresses of all witnesses, except *rebuttal impeaching* witnesses.

(6) A list of special questions requested to be propounded to prospective jurors. ~~Proposed voir dire questions by the parties or their attorneys must be submitted to the court in chambers not later than 4 p.m. on the 5 judicial days before the day the trial begins. See also NJDCR 19 Rule 17 on voir dire below.~~

(7) Any other appropriate comment, suggestion, or information which may assist the court in the trial or disposition of the case.

*\*Comment:* Subparagraph (d)(6) is altered so that jury voir dire questions are due the same date as the trial statements.

## **RULE 18. Jury instructions**

Proposed special jury instructions and forms of verdict shall be served on all counsel and received by the Judge ~~at the commencement of the trial~~ *no later than five (5) days before the commencement of a jury trial, or upon any earlier date ordered by the judge.* Additionally, special instructions developed during the course of the trial, which could not reasonably have been anticipated before trial, shall be exchanged by counsel and submitted to the court as soon as practicable. *In addition to providing printed copies formatted as stated below, counsel shall provide the court with electronic copies of the proposed special jury instructions in a word processing format – preferably Word Perfect or Word.*

(a) All original proposed jury instructions shall be in clear, legible type on clean, white paper of standard quality, not less than 16 lb. weight, 8 1/2 x 11 inches in size, with black border and no less than 28 numbered lines.

(b) The designation "Instruction No." shall be at the lower left hand corner at line 28.

(c) The original instruction shall not bear any markings identifying the submitting attorney, nor contain any citations of authority. No portion thereof shall be in capital letters, underlined, or otherwise emphasized.

(d) ~~Counsel~~ *Parties* are required to submit authorities and these may appear on a photocopy of the instructions.

(e) The instructions given to the jury shall be firmly bound together and the Judge shall write one word "Given" at the conclusion thereto and sign the last of the instructions to signify that all have been given.

\*Comments: Changes made to conform with actual procedure and new technologies used by the Ninth Judicial District. The five day deadline coincides with the date that trial statements are due.

#### **RULE 19. Voir dire examination**

The court shall conduct the initial examination of the prospective jurors. The trial judge ~~may~~ *shall* permit counsel to supplement the judge's examination by direct questioning of the prospective jurors. The scope of such additional questions or supplemental examination must be within reasonable limits prescribed by the trial judge in his discretion. The following areas of inquiry are not properly within the scope of voir dire examination by counsel:

(a) Questions already asked and answered;

(b) Questions touching upon anticipated instructions on the law;

(c) Questions that are in substance arguments of the case.

## **RULE 20. ~~Summary estates~~ Probate Matters**

*(a) Subsections (b) and (c) of this rule govern the practice and procedure of all proceedings under Title 12 of the NRS.*

*(b) Subject to other direction or order of this court, neither a client, petitioner, nor counsel are required to appear for a scheduled hearing if:*

*(1) The petition, accounting, pleading, or other document is verified and all exhibits are attached to the filed document;*

*(2) A certified death certificate of the decedent whose estate is at issue is contained within the court's record;*

*(3) If a bond is required, the petition or pleading sets forth with particularity the personal property of the estate together with the estimated amount of annual income from all sources;*

*(4) A proposed order, together with any copies to be conformed, is delivered to the court clerk by 12:00 p.m. on the Friday of the week before the matter is to be heard. Without a showing to the court of good cause, failure to submit a proposed order may result in a continuance of the matter;*

*(5) Any required affidavit of mailing (or appropriate waiver) or publication is filed by 12:00 p.m. on the Friday of the week before the matter is to be heard;*

*(6) There is no objection to the pleading, either through a formal filing with the court or received informally by the client, petitioner, and/or counsel. Such may be documented through a written waiver filed with the court; and*

*(7) Petitioner and/or counsel has notified the court in writing of the intention not to appear in person. Such notification shall include a certification that petitioner and/or counsel have not received notice of any objection to the pleading. Such notification shall include a telephone number for the court to contact petitioner and/or counsel between 1:30 and 2:00 on the date of the hearing if the court has questions, and petitioner and/or counsel shall make themselves available at such time. The court greatly disfavors any stand-by fees charged by counsel for being available by telephone as directed by this rule and may not grant such fees on a petition for approval of attorneys fees.*



*(c) Subsection (b) is not applicable to the following proceedings:*

- (1) Any contested matter;*
- (2) Any confirmation of sale of real or personal property during which at least one bid for a higher sale price may be requested by or offered to the court; or*
- (3) Any matter where the court has notified counsel, either orally or in writing, to appear.*

*(d) Summary Administrations and Small Estates. Summary estate proceedings qualifying under NRS Chapter 145, and estates to be set aside without administration pursuant to NRS Chapter 146, if supported by a verified petition or affidavit, or both, and by proof or waiver of notice and service by the parties entitled to notice, and if all other legal requirements have been met, may be determined by the court on the pleadings in chambers without the presence of counsel.*

*(e) Special Administrators. In special administrations pursuant to NRS Chapter 140, the special administrator shall provide an accounting pursuant to NRS 140.080 within six (6) months of his or her appointment, and at least annually thereafter. The proposed order appointing special administrator shall include the date for the initial accounting. In lieu of an accounting, the special administration may be converted into a summary administration, set aside, or probate matter by filing the appropriate petition within the same case file.*

*(f) Continuances. For good cause, the court may vacate or continue matters. If an objection is received during or before a scheduled hearing for which the petitioner or petitioner's counsel is not present pursuant to subsection (b), the court may contact the petitioner and/or counsel by telephone or continue the matter as appropriate.*

*(g) Instructions for Personal Representative. Upon the appointment of a personal representative, administrator, or person acting in a similar capacity, such person shall certify that she or he has read and understands the "Instructions for Personal*

*Representative” form available through the Clerk of the Court. The personal representative shall file the certified “Instructions for Personal Representative” prior to issuance of the Letters Testamentary or Letters of Administration by the Court Clerk.*

***RULE 20.1.Guardianships***

*1. This rule governs the practice and procedure of all proceedings under Title 13 of the NRS.*

*2. All petitions for guardianship petitions shall be verified. A petition for temporary guardianship shall contain a prayer for permanent guardianship.*

*3. Upon appointment, every guardian shall certify that she or he has read and understands the “Instructions for Guardians” form available through the Clerk of the Court. The guardian shall execute and file the certified “Instructions for Guardians” prior to the issuance of the temporary or permanent Letters of Guardianship by the Court Clerk.*

*4. A guardian shall advise the court in writing of a change of address of the guardian or of the ward within 30 days of any change.*

*(a) Thirty days prior to a move out of state, and in no case later than 30 days after such a move if advance notice is not available, a guardian shall file a petition naming a co-guardian who is qualified to serve under NRS 159.059.*

*5. Attorney's and/or guardian's fees payable from a guardianship estate shall be approved by the court prior to payment, after application, notice and hearing.*

*(a) Every application for fees shall state with specificity the information required by statute.*

*(b) The notice of hearing shall contain the amount of attorney's and/or guardian's fees requested and shall be served in accordance with statute.*

6. The reporting requirements of NRS 159.081, 159.085 and 159.177 shall be strictly enforced and may be filed on the reporting form published by the court.

7. All accountings shall contain a summary or recapitulation showing:

(a) The beginning balance of cash accounts (the figure from the inventory if it is a first accounting, or the ending balance of the prior accounting if it is a subsequent accounting);

(b) Itemization of disbursements including date, check number, payee, purpose and amount;

(c) A recapitulation showing beginning balance, plus receipts, less disbursements and the balance in the account; and

(d) A schedule of assets showing any gains on sales or other disposition of assets, with the remaining property on hand.

8. Proof of service of the Order of Appointment of Guardian in accordance with NRS 159.074 shall be filed with the court within 20 days after the order is entered unless good cause is shown for a delay.

9. A petition to terminate the guardianship, with a complete accounting, shall be filed and set for hearing at the earliest of either:

(a) Prior to the guardianship expiring as a matter of law, as in the case of a minor reaching the age of majority;

(b) Within three months after the ward's reason for incapacity is resolved, as in the case of a temporary medical problem;

(c) Within three months after the guardianship has expired as a matter of law due to the ward's death; or

(d) Within one month after a temporary guardianship expires based upon its own terms.

10. In a case where a ward has deceased during the course of a guardianship, and the entire assets of the guardianship will be subject to a set aside or summary estate, the

*guardian may file a set aside or summary estate pursuant to NRS Chapters 145 and 146 in the same matter without opening a new case file and without the payment of a new filing fee.*

\*Comments: This rule is derived from WDCR 35. Subsection (3) matches the probate rule for instructions to personal representatives. Subsections (9) and (10) were added to provide clear direction on when a guardianship file must be closed, and how a probate may flow from the guardianship file.

#### **RULE 21. Withdrawal or change of counsel**

(a) Civil cases. An attorney of record shall be deemed such in all subsequent related proceedings before the court until such time as a *valid* withdrawal of counsel is made pursuant to SCR 46.

(b) Criminal cases. Counsel of record, when intending to withdraw, shall serve notice of such intention upon the District Attorney and file the same with the Court Clerk. No withdrawal within twenty (20) days of the date set for trial will be recognized by the court, which may, if necessary to prevent a continuance, require such attorney to proceed with the trial. The attorney intending to withdraw shall give the client at least ten (10) days actual notice of such intention. In addition, there must be strict compliance with SCR 46 relative to any such withdrawal. The request to withdraw must generally relate to counsel's inability to adequately defend his or her client, with reasons given in relation thereto, rather than to matters relating to the financial arrangements between the attorney and client.

(c) *Any form of order permitting withdrawal of an attorney submitted to the court for signature shall contain the address at which the party is to be served with notice of all further proceedings.*

(d) *Except for good cause shown, no application for withdrawal or substitution shall be granted if a delay of the trial or hearing of any other matter in the case would result. Discharge of an attorney may not be grounds to delay a trial or other hearing.*

\*Comments: Subsections (c) and (d) are taken from FJDCR 22(3) and (4).

**RULE 22. Petitions for judicial review and appeals from courts of limited jurisdiction**

(a) *A petitioner is responsible for the filing and serving the record from a court of limited jurisdiction or administrative proceedings with the district court within a reasonable time after the commencement of the petition for judicial review.*

(b) *A petitioner or appellant seeking judicial review or appealing a ruling of a court of limited jurisdiction ~~must~~ shall serve and file a memorandum of points and authorities in support thereof within twenty-one (21) days after the record or transcript of the proceeding under review has been filed with the court, unless otherwise ordered by the court.*

~~(b)~~ (c) *The respondent ~~must~~ shall serve and file a memorandum of points and authorities in opposition thereto within twenty-one (21) days after service of petitioner's points and authorities, unless otherwise ordered by the court.*

~~(c)~~ (d) *Petitioner may serve and file reply points and authorities no later than ~~seven (7)~~ ten (10) days after service of respondent's opposition, unless otherwise ordered by the court.*

~~(d)~~ (e) *After petitioner's time to reply has expired, the matter shall be submitted to the court for a decision without hearing. Either party may request a hearing or oral argument at the time of filing the petition or opposition. The court upon request or its own initiative may set the matter for hearing or oral argument upon a finding that a hearing or oral argument is appropriate. ~~either party may then notice the hearing of the petition by serving and filing a notice of hearing setting the petition for hearing on a day when the Judge is hearing civil motions and not less than seven (7) days from the~~*

~~date the notice is served and filed.~~

\*Comments: Altered to reflect the Ninth Judicial's actual practices. Altered to clarify that the petitioner is obligated to provide the record on appeal. *This rule acts as a default scheduling order for both justice court appeals and petitions for review. The deadlines in this rule may be altered by court order if appropriate.*

### **RULE 23. Sanctions for non-compliance**

If a party or an attorney fails, refuses, or neglects to comply with these rules, the Supreme Court Rules, the Nevada Rules of Appellate Procedure, the Nevada Rules of Civil Procedure, the District Court Rules, *the orders of the court*, or any other statutory requirements, the court may, after notice and an opportunity to be heard, impose any and all sanctions authorized by statute or rule, including but not limited to the following:

- (a) Hold the disobedient party or attorney in contempt of court.
- (b) Continue any hearing until the disobedient party or attorney has complied with the requirements imposed, and require the disobedient party to pay the other party his or her reasonable expenses, including reasonable attorney's fees, incurred ~~in preparation for and attending the hearing.~~ *as a result of the party's disobedience.*
- (c) Set the case for immediate trial.
- (d) Impose a fine.
- (e) Continue the trial subject to prescribed conditions.
- (f) Where such party or attorney has failed to make an adequate and fair disclosure of such matters in his or her case conference reports, pretrial memorandum, at the pretrial conference, ~~or in the trial statement,~~ *or as otherwise ordered by the court*, refuse to

allow the disobedient party or attorney to support or oppose designated claims or defenses, or prohibit him or her from introducing evidence relative to such matter at time of trial.

(g) Impose such other sanction, condition or remedy as the court, in its discretion, may allow.

\*Comments: Changes made to give court broader authority, consistent with statutes and the NRCP, to sanction violation of the court's orders.

#### **RULE 24. Effective date of rules**

These rules take effect February 1, 1991, *and may be amended from time to time*. They govern all proceedings in actions brought after that date and all further proceedings in actions pending on that date, unless in the opinion of the court their application in a particular pending action would not be feasible or would work an injustice, in which event the former procedure applies.

#### **RULE 25. Financial Declarations**

a) In all contested suits for divorces, ~~or suits for separate maintenance, paternity, child custody, or child support matters,~~ each party shall *complete the court-approved Financial Disclosure Form.* ~~file with the Court a disclosure statement of all assets and liabilities and all income and expenses on a form approved by the Court (hereinafter referred to as a Financial Declaration).~~ Each party shall file his or her Financial Declaration ~~within ten (10) days after an answer is filed.~~ *At the commencement of an action, each party shall then file his or her Financial Disclosure Form as provided in NRCP 16.2. This court shall accept the Financial Disclosure Form required by the Nevada Supreme Court pursuant to NRCP 16.2 or the Financial Declaration approved by this court.*

(b) A party filing any motion relating to child or spousal support, *child custody, paternity*

or the award of attorneys fees pursuant to NRS 125.040, must file a current Financial ~~Disclosure Form Declaration~~ at the time of filing the motion, unless a current Financial ~~Disclosure Form Declaration~~ is already on file. The filing of an incomplete, *inaccurate*, or *untimely* Financial ~~Disclosure Form Declaration~~ or the failure to timely file a current Financial ~~Declaration~~ may be construed as an admission that the motion is not meritorious and as cause for its denial, *and may result in any appropriate sanction available pursuant to NRCP 16.2(a)(1).*

(c) Any party opposing a motion relating to child or spousal support, *child custody*, paternity or the award of attorneys fees pursuant to NRS 125.040 must file a current Financial ~~Disclosure Form Declaration~~ at the time of filing his or her opposition, unless a current Financial ~~Disclosure Form Declaration~~ is already on file. The filing of an incomplete, *inaccurate*, or *untimely* Financial ~~Disclosure Form Declaration~~ or the failure to timely file a Financial ~~Disclosure Form Declaration~~ may be construed as an admission that the opposing party has the resources to pay the amount requested by the moving party and that the moving party's motion is meritorious, *and may result in any appropriate sanction available pursuant to NRCP 16.2(a)(1).*

(d) The ~~A Financial Disclosure Form Declaration~~ shall include income of the current ~~any successor~~ spouse of a party in the "other income" section of the Financial ~~Disclosure Form Declaration~~. In addition, if a party resides with one or more adults other than a spouse, that party's Financial Declaration shall reflect, in the "other income" section, the number of adult persons living in the household and the extent to which the adult persons provide support and/or share in the party's living expenses. *All children living within the household for which the party is providing financial support shall also be listed within the Monthly Expenses portion of the Financial Declaration Form. This information is regarded as a supplement to the standard form.*

(e) All Financial ~~Declarations~~ filed with the Court must be updated forthwith as material information is obtained by the parties or their respective attorneys. *A party must supplement or correct the party's Financial Disclosure Form within 10 days after the*



*party acquires additional information or otherwise learns that in some material respect the party's disclosure is incomplete or incorrect. If the supplemental disclosure includes an asset, liability, income, or expense omitted from the party's prior disclosure(s), the supplemental disclosure shall include an explanation as to why the item was omitted.*

(f) Filing of a Financial *Disclosure Form Declaration* shall not supplant nor limit discovery pursuant to the Nevada Rules of Civil Procedure.

(g) The requirements of this Rule shall not be waived except by order of the Court for good cause shown.

(h) Attorneys fees, and other sanctions described in NJDCR 23 may be awarded for the untimely, ~~fraudulent~~ *inaccurate*, or incomplete filing of a Financial *Disclosure Form Declaration*.

(i) *When a party is not represented by an attorney, the party must still comply with this rule.*

\*Comments: This rule has been altered to comply with NRCP 16.2 and the Supreme Court's forms.

## **RULE 26. Mediation**

(a) Matters subject to mediation.

(1) Unless an action is exempt pursuant to subsection (m) of this Rule, all district court actions which involve a dispute regarding child custody, access or *parenting time visitation* shall be referred to mediation.

(2) Mediation of the dispute by the approved family mediators or by private mediator must take place before the trial or any hearing on custody, access or *parenting time visitation*, unless waived by the Court.

(b) Referral for mediation by the Court. Referrals to mediation made by the Court pursuant to subsection (a) of this Rule shall be to approved family mediators.

(c) Referral for mediation by individual party. If there is a disagreement between the parties concerning custody, access or *parenting time* ~~visitation~~, and the matter has not been referred to mediation by the Court, either party or both parties may file with the Clerk of the Court and serve upon the other party, or counsel, ~~and the Court, a~~ "Request for Mediation." The Court may then refer the matter to an approved family mediator.

(d) Private mediation, selection.

(1) Parties may select by agreement a private mediator.

(2) The parties shall contract directly with the private mediator and be responsible for payment of fees for mediation services.

(3) The mediator has a right to withdraw from any case.

(e) Private mediation, written notice to Court. If a private mediator is selected, the parties or counsel, if any, shall file with the Court a written notice that private mediation will take place. The notice shall set forth the name of the mediator and the date set for the first mediation conference.

(f) Scheduling mediation. Upon referral to the approved family mediator, an orientation and conference will be scheduled which both parties must attend, unless other procedures are agreed upon pursuant to this Rule.

(g) Mediation conference.

(1) The mediator will conduct a conference in an effort to carry out the purpose of this Rule.

(2) Counsel for the parties shall be provided an opportunity to confer with the mediator prior to the mediation conference and shall be excluded thereafter, when, in the discretion of the mediator, exclusion of counsel is deemed by the mediator to be appropriate or necessary.

(3) The mediator shall be entitled to interview the child or children when the

mediator deems such interviews appropriate, unless a protective order is sought and obtained.

(h) Mediation report.

(1) If the mediation is successful in resolving any of the custody, access or *parenting time* ~~visitation~~ issues, such resolution shall be reduced to writing and submitted to the Court for approval.

(2) In the event that no resolution is reached, the mediator shall notify the Court that mediation has been unsuccessfully concluded.

(i) Failure to ~~appear for~~ *participate in* mediation. If one or both parties fail to appear at any mediation conference, *or fails to participate in good faith*, the mediator shall report to the Court the identity of each person who failed to appear *or participate*. The Court shall thereafter take whatever action it deems necessary or appropriate, including imposing any of the sanctions described in NJDCR 23.

(j) Confidentiality of mediation. Mediation proceedings shall be held in private, and all communications, verbal or written, made in the proceedings shall be confidential and shall not be disclosed except upon waiver of the privilege by both parties, and their respective attorneys if they are represented, and except:

(1) where the mediator is required to report any information which falls within the scope of the child abuse reporting requirements; *or*

(2) *where the court has issued an order for open mediation prior to the commencement of the mediation.*

(k) Subsequent evaluation. The approved family mediator or private mediator shall not conduct an evaluation of the parties after an unsuccessful mediation unless the parties file a written notice consenting thereto signed by each party and counsel *or such evaluation is ordered by the court.*

(l) If an Order for Protection Against Domestic Violence has been obtained by either party against the other, an order of referral to mediation shall include:

(1) The fact that an order for Protection Against Domestic Violence has been obtained; and

(2) The case number of the protection order action.

(m) Exemption from mediation. A party who believes a case is inappropriate for referral to mediation may seek an exemption from mediation. The party seeking an exemption must file a motion with the Court. The motion should be filed with the initial pleading of the moving party, but may be filed at a later time if new information is obtained supporting a motion.

(n) Inappropriate cases.

(1) Mediation is not appropriate when:

(i) There are substantial allegations of child abuse or neglect.

(ii) The case involves multiple social agencies or psychiatric contacts for parents and/or children.

(iii) A parent has serious psychological problems or has displayed severe anti-social modes of behavior.

(iv) The mediator *or the court* determines mediation ~~is~~ *will be* futile or impractical.

(2) Mediation may be inappropriate when:

(i) ~~The~~ *The* case is at the post-dissolution stage and has involved protracted litigation; ~~or a~~

(ii) An order ~~related~~ *pertaining* to protection against domestic violence has been entered; or

(iii) *There are substantial allegations of domestic violence between the parents, or between a party and another member of the family.*

(o) Support persons. A party may have a third person present for support before and after meetings with the mediator. The support person may not be present during mediation sessions, unless both parties and the mediator agree.

(p) Fees for service. *For mediation not otherwise covered by subparagraph (d)(2),*

Fees may be assessed to parties referred to mediation pursuant to NRS 3.500(2)(e) and in accordance with the fee schedule approved by the Court. Unless otherwise directed, each party is required to pay one-half the fee of the court-approved mediator. Payment will be made to the Clerk of the District Court ~~in the County where the action is being heard~~. The payments shall be made promptly, using procedures for such payment established by the County Clerk.

(q) Failure to pay fees for mediation. In the event that either party fails to pay the mandated fees for mediation, *the court clerk or the court-approved mediator shall contact the Court and report such failure. The Court may enter such further orders, including contempt orders, necessary to ensure prompt payment of the fees.*

#### **RULE 27. Unsuccessful mediation**

(a) In each case in which mediation has been unsuccessful in resolving custody or ~~visitation parenting time~~ issues, ~~the parties and/or their counsel shall meet with the Court within sixty (60) days of notice that mediation was unsuccessful for the purpose of case planning the mediator, the parties, and/or their counsel shall notify inform the court within ten (10) judicial days that mediation has been unsuccessful within ten (10) days.~~ *If a trial or evidentiary matter is not already scheduled, then parties and/or their counsel shall request the Judicial Assistant to schedule set this matter pursuant to NJDCR 5.1. If appropriate, the parties and/or their counsel may request in writing a case management conference.*

(b) In each case where mediation has been unsuccessful in resolving custody or ~~visitation parenting time~~ issues, the case may be subject to a custody evaluation. The custody evaluation may ~~occur be~~ by stipulation ~~or appointment~~ or by order of the court, *including appointment of to the appropriate individual to conduct for such custody evaluation.*

(c) Child custody evaluation.

(1) When it appears that a child custody evaluation is necessary, the parties are encouraged to stipulate to the retention of one expert to evaluate the parties and the

child(ren).

(2) Upon the request of either party or on its own initiative, the Court may appoint a neutral expert if the parties cannot agree on their own.

(3) The treating therapist of any of the parties or children may not serve as the stipulated evaluator.

#### **RULE 28. Short trial program**

(a) The Ninth Judicial District Court has adopted the binding Short Trial Program as provided by NRS 38.258 and the "Nevada Short Trial Rules," including any amendments to those rules promulgated by the Supreme Court of the State of Nevada.

(b) Those actions submitted to the Short Trial Program will be processed and conducted as set forth in the "Nevada Short Trial Rules" except a judgment arising out of the Short Trial Program may not exceed \$25,000 *exclusive of interest, costs and attorney's fees*, unless the parties establish a different ceiling of recovery by stipulation.

(c) The special master is appointed to administer the Short Trial Program.

#### **RULE 29. Post-Trial Matters in Domestic Relations Cases**

*This rule only applies to contested, post-trial motions to modify child custody, parenting time, child support, or separate maintenance.*

(a) *Discovery. Any party may obtain discovery by one or more of the methods provided in NRCP 26 through NRCP 37, inclusive, commencing ten (10) days after service of the opposition to the motion. Discovery shall be completed no later than ten (10) days before a scheduled hearing.*

(b) *Initial Disclosures. A party must, without awaiting a discovery request, provide to the other parties the initial disclosures required by NRCP 16.2(a)(2) within ten (10) judicial days after service of the opposition to the motion. This provision is in addition to any financial disclosures required by these rules or the NRCP.*

*(c) Disclosure of Expert Testimony. A party shall disclose to all other parties the identity of any person who may be used at the evidentiary hearing to present evidence pursuant to NRS 50.275, 50.285, and 50.305. These disclosures must be made within twenty (20) days after the service of the opposition to the motion, or, if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party, within ten (10) days after the disclosure made by the other party.*

*(d) Pre-hearing Disclosures. In addition to the other pre-hearing disclosures required by this rule, a party must provide to the other parties the disclosures required by NRCP 16.2(a)(4) regarding the evidence that the party may present at the evidentiary hearing, including impeachment and rebuttal evidence.*

*Unless otherwise directed by the court, these disclosures must be made at least ten (10) days before the evidentiary hearing. Within seven (7) days thereafter, unless a different time is specified by the court, a party may serve any objections, along with the grounds therefor, to the materials identified. Objections not made and served, other than objections pursuant to NRS 48.025 and 48.035, may be deemed waived unless excused by the court for good cause shown.*

*(e) Continuing Duty to Supplement. Each party is under a continuing duty to supplement or correct the disclosures under this rule pursuant to NRCP 26(e).*

*(f) Hearing Statements. At least three (3) days prior to the evidentiary hearing, each party shall file and serve a hearing statement which shall set forth the following matters in the following order:*

*(1) A concise statement of the claimed facts supporting the party's claim or defenses;*

*(2) A statement of admitted or undisputed facts;*

*(3) A statement of issues of law supported by a memorandum of points and authorities; and*

*(4) Any other appropriate comment, suggestion, or information which may assist the court in the trial or disposition of the case.*

*(g) When a party is not represented by an attorney, the party must comply with this rule.*

*\*Comment: Due to ongoing problems with post-trial discovery and exchange of information, this rule modifies the elements of NRCP 16.2 so that discovery and disclosure is required in post-trial domestic matters.*

### **Rule 30. Special Advocates**

*(a) Under appropriate circumstances, the judge may appoint a court appointed special advocate (CASA) as an advocate for any minor child, or appoint a special advocate for the elderly (SAFE) as an advocate for a fragile adult or adult subject to a court-ordered guardianship. When a CASA is appointed, the CASA Office shall supervise the advocate's activities under the policies and procedures adopted by the CASA office. When a SAFE is appointed, the SAFE Office shall supervise the advocate's activities under the policies and procedures adopted by the SAFE office.*

*(b) A CASA may be appointed by the court, upon its own initiative or upon the request of either party, in the following cases:*

*(1) Cases pursuant to NRS Chapter 432B;*  
*(2) Cases involving children subject to adjudication and detention under NRS Chapters 52 through 63, inclusive; or*

*(3) Cases pursuant to NRS Chapter 159; or*  
*(4) In addition to any other victim impact statement permitted by law, cases where the child is a victim of criminal activity and due to age or competency cannot make his or her own victim impact statement; or*

*(3) Domestic relations cases where the best interests of a minor child is subject to a custody or parenting time dispute, and:*

*(A) There are allegations of domestic violence by one of the adults against the minor child, a relative of the minor child, or another adult involved in the action;*

*(B) There are allegations of substance abuse that indicate the child's*



welfare may be endangered; or

(C) *There are allegations of child abuse by one of the adults against the minor child or a relative of the minor child.*

(4) *Any other case where the court determines that the services of a CASA would serve the best interests of the minor child or expedite the resolution of the matter.*

(c) *A SAFE may be appointed by the court, upon its own initiative or upon the request of either party, in the following cases:*

(1) *Civil or criminal matters involving allegations of exploitation, abuse, or neglect of the fragile adult or ward;*

(2) *In addition to any other victim impact statement permitted by law, where the fragile adult or ward is a victim of criminal activity and due to lack of competency cannot make his or her own victim impact statement;*

(3) *Cases where an adult ward's condition requires extraordinary care or supervision and the appointment of the advocate would aid the ward and/or guardian in obtaining appropriate services for the ward; or*

(4) *Any other case where the court determines that the services of a SAFE would serve the best interests of the fragile adult or ward and expedite the resolution of the matter.*

(d) *A matter may be continued for the sole purpose of obtaining an advocate.*

(e) *Any written report prepared by the advocate shall be delivered to the judge in chambers; the judges' chambers shall distribute copies of the report as appropriate.*

(1) *Written reports are confidential, except as otherwise ordered. Advocate's reports shall be sealed in the file. Only the parties and their attorneys are entitled to read the written report. No copy of the written report, or any part thereof, may be made an exhibit to any pleading in the file or to any exhibit at a hearing or trial unless it is sealed.*

(2) *Only a special advocate, licensed attorney, social worker, juvenile probation officer, or an unrepresented party may retain possession of a written report outside the*

court record. Any person retaining a copy of a written report may not make copies of it without advance permission of the judge; such permission may be sought informally by telephone or facsimile. Any person retaining a copy of a written report may not disclose its contents to anyone without advance permission of the judge other than the adult ward, parent, or guardian.

(3) If an attorney retaining a copy of a written report withdraws from the case, the attorney may not give the copy to the client. The attorney must either deliver the written report to another licensed attorney who has appeared as successor counsel for that party or return the copy to the judge or CASA in the matter.

(4) No minor child who is the subject of the written report may see a copy of the written report or be advised of its contents by anyone, unless otherwise ordered by the court.

(5) An unrepresented party must retain the written report in the same manner as an attorney. An unrepresented party may not copy or otherwise distribute the contents of the report in any manner not authorized by rule or court order.

(6) A violation of this rule may result in contempt sanctions pursuant to NJDCR 23.

(f) The CASA and SAFE Offices may formulate guidelines, procedures and policies relevant to the scope of services offered by them, subject to approval by the court, which are then enforceable by the court.

(g) In domestic relations cases involving minor children, unless authorized in advance by the judge, no minor child of the parties shall be brought to the courthouse for any evidentiary hearing or trial that concerns the child or the child's parents. In appropriate cases, the judge may interview minor children in chambers outside the presence of counsel and the parties. Minor children will not be permitted to testify in open court unless the judge determines that the probative value of the child's testimony outweighs the potential harm to the child.

*\*Comments: This rule is added to provide to give clear guidance as to when and how an advocate should be appointed. The portions regarding the written report reflect*

*actual practice and are also derived from EJDCCR 5.69. Subsection (g) is derived from EDCR 5.06 and addresses ongoing problems related to when parties should present their children to the court in domestic relations disputes.*

**EXHIBIT B**

AFFIDAVIT OF CASSANDRA G. JONES

COUNTY OF DOUGLAS )  
 )  
 ) ss.  
STATE OF NEVADA )  
 )

I, CASSANDRA G. JONES, ESQ., do hereby swear and affirm  
under penalty of perjury:

1. I am the Staff Attorney for the Ninth Judicial District Court. I am an attorney licensed to practice law in the State of Nevada since 2002, and in California since 2003.
2. On July 23, 2009, I presented a copy of the proposed changes to the Ninth Judicial District Court Rules (NJDCR) to the Douglas County Bar Association as part of a continuing legal education workshop.
3. On August 5, 2009, I personally posted the attached notice of the proposed changes to the NJDCR throughout the Ninth Judicial District courthouse including at the District Court Clerk's Office and in both department's court rooms. The notices were removed on August 26, 2009.
4. With the assistance of the Douglas County Bar Association, a copy of the proposed rules and notice were emailed to the Douglas County Bar membership on or about August 5, 2009.
5. As of August 26, 2009, I received comments from three local attorneys which were presented to the district

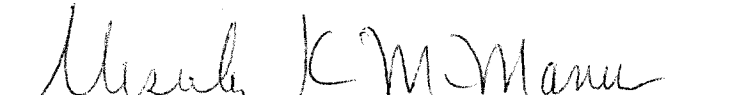
1 court judges for their consideration and incorporated  
2 into the proposed rules as appropriate. To date, no  
3 other comments have been submitted to the court for  
4 consideration.

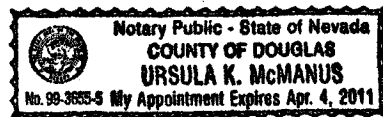
5 DATED this 27 day of October, 2009:

6  
7 

8 CASSANDRA G. JONES, ESQ.  
9 Staff Attorney  
10 Ninth Judicial District Court  
11 Nevada Bar No. 8115  
12 Cal. Bar No. 237634 (inactive)  
13 P.O. Box 218  
14 Minden, Nevada 89423  
15 775 - 771 -9951

16 SUBSCRIBED AND SWORN to before me this  
17 27<sup>th</sup> day of October, 2009.

18   
19 NOTARY PUBLIC



# **NOTICE**

## **OF PROPOSED RULE CHANGES**

The Ninth Judicial District  
Court Rules (NJDCR) are  
under review.

Copies of the proposed rules  
are available from the  
District Court Clerk.

Please submit any comments in writing by  
**Tuesday, August 18, 2009**, to:

Cassandra G. Jones, Esq.  
Staff Attorney  
PO Box 218, District Court Department II  
Minden, NV 89423