IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE AMENDMENT OF THE NEVADA RULES OF APPELLATE PROCEDURE.

ADKT 0501

FILED

NOV 25 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER SETTING PUBLIC HEARING

WHEREAS, on November 4, 2014, the voters approved a Constitutional amendment establishing a Court of Appeals; and

WHEREAS, on November 24, 2014, the Hon. James W. Hardesty, Associate Justice, filed a petition with this court requesting consideration of amendments to the Nevada Rules of Procedure; and

WHEREAS, this court has determined that amendments to the rules are required to satisfy the Constitutional requirement that this court fix the jurisdiction of the Court of Appeals; accordingly,

IT IS HEREBY ORDERED that this court shall hold a public hearing at 2:00 p.m. on Thursday, December 4, 2014, in the Nevada Supreme Court Courtroom, 17th Floor, Regional Justice Center, 200 Lewis Street, Las Vegas, Nevada, to consider the report and proposed recommendations. The hearing will be videoconferenced to the Nevada Supreme Court Courtroom, 201 South Carson Street, Carson City, Nevada.

Further, this court invites written comment from the bench, bar and public regarding the proposed report and recommendations. An original and 8 copies of written comments are to be submitted to: Tracie K. Lindeman, Clerk of the Supreme Court, 201 South Carson Street, Carson City, Nevada 89701 by 5:00 p.m., December 3, 2014. Comments must be

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submitted in hard-copy format. Comments submitted electronically will not be docketed. Persons interested in participating in the hearing must notify the Clerk no later than December 3, 2014. A copy of the proposed rule amendments may be obtained from the Supreme Court Clerk's Office or downloaded from the Supreme Court's website (http://www.supreme.nvcourts.gov/).

Hearing date: December 4, 2014, at 2:00 p.m.
Supreme Court Courtroom
Regional Justice Center, 17th Floor
200 Lewis Street
Las Vegas, Nevada

Comment deadline: December 3, 2014, at 5:00 p.m.
Supreme Court Clerk's Office
201 South Carson Street
Carson City, Nevada 89701

Dated this 25th day of November, 2014.

It is so ORDERED.

_____, C.J.

cc: All District Court Judges
Elana T. Graham, President, State Bar of Nevada
Kimberly Farmer, Executive Director, State Bar of Nevada
Clark County Bar Association
Washoe County Bar Association
First Judicial District Bar Association
Administrative Office of the Courts

ADKT 501 – Exhibit A

NEVADA RULES OF APPELLATE PROCEDURE

I. APPLICABILITY OF RULES

RULE 1. SCOPE, CONSTRUCTION OF RULES

(a) Scope of Rules. These Rules govern procedure in the Supreme Court of Nevada and the Nevada Court of Appeals.

(b) Rules Not to Affect Jurisdiction. These Rules shall not be construed to extend or limit the jurisdiction of the Supreme Court or the Court of Appeals as established by law.

(c) Construction of Rules. These Rules shall be liberally construed to secure the proper and efficient administration of the business and affairs of the courts and to promote and facilitate the administration of justice by the courts.

(d) Effect of Rule and Subdivision Headings. Rule and subdivision headings set forth in these Rules shall not in any manner affect the scope, meaning or intent of any of the provisions of these Rules.

(e) Definitions of Words and Terms. In these Rules, unless the context or subject matter otherwise requires:

(1) "Appellant" includes, if appropriate, a petitioner.

(2) "Case" includes action and proceeding.

(3) "Clerk" and "clerk of the Supreme Court" means the person appointed to serve as clerk of both the Supreme Court and Court of Appeals.

(4) "Court" means the Supreme Court or Court of Appeals.

(5) "Appellate court" means the court – either the Supreme Court or the Court of Appeals – to which a case is assigned.

([~~5~~]6) "Party," "applicant," "petitioner" or any other designation of a party include such party's attorney of record. Whenever under these Rules a

notice or other paper is required to be given or served on a party, such notice or service shall be made on his attorney of record if he has one.

([6]7) "Person" includes and applies to corporations, firms, associations and all other entities, as well as natural persons.

([7]8) "Shall" is mandatory and "may" is permissive.

([8]9) The past, present and future tense shall each include the others; the masculine, feminine and neuter gender shall include the others; and the singular and plural numbers shall each include the other.

RULE 2. SUSPENSION OF RULES

On [its] the court's own or a party's motion, the [Supreme Court] appellate court may—to expedite its decision or for other good cause—suspend any provision of these Rules in a particular case and order proceedings as [it] the court directs, except as otherwise provided in Rule 26(b).

II. APPEALS FROM JUDGMENTS AND ORDERS OF DISTRICT COURTS

RULE 3. APPEAL—HOW TAKEN

(a) Filing the Notice of Appeal.

(1) Except for automatic appeals from a judgment of death under NRS 177.055, an appeal permitted by law from a district court [to the Supreme Court] may be taken only by filing a notice of appeal with the district court clerk within the time allowed by Rule 4.

(2) An appellant's failure to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for the [Supreme Court] appellate court to act as it deems appropriate, including dismissing the appeal.

(3) Deficient Notice of Appeal. The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall send the notice of appeal to the Supreme Court in accordance with subdivision (g) with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12.

(b) Joint or Consolidated Appeals.

(1) When two or more parties are entitled to appeal from a district court judgment or order, and their interests make joinder practicable, they may file a joint notice of appeal. They may then proceed on appeal as a single appellant.

(2) When the parties have filed separate timely notices of appeal, the appeals may be joined or consolidated by the **[~~Supreme Court~~]** appellate court upon its own motion or upon motion of a party.

(c) Contents of the Notice of Appeal.

(1) The notice of appeal shall:

(A) specify the party or parties taking the appeal by naming each one in the caption or body of the notice, but an attorney representing more than one party may describe those parties with such terms as "all plaintiffs," "the defendants," "the plaintiffs A, B, et al.," or "all defendants except X";

(B) designate the judgment, order or part thereof being appealed; and

(C) name the court to which the appeal is taken.

(2) In a class action, whether or not the class has been certified, the notice of appeal is sufficient if it names one person qualified to bring the appeal as representative of the class.

(3) Form 1 in the Appendix of Forms is a suggested form of a notice of appeal.

(d) Serving the Notice of Appeal.

(1) In General. The appellant shall serve the notice of appeal on all parties to the action in the district court. Service on a party represented by counsel shall be made on counsel. If a party is not represented by counsel, appellant shall serve the notice of appeal on the party at the party's last known address. The appellant must note, on each copy, the date when the notice of appeal was filed. The notice of appeal filed with the district court clerk shall contain an acknowledgement of service or proof of service that conforms to the requirements of Rule 25(d).

(2) Service in Criminal Appeals. When a defendant in a criminal case appeals, appellant's counsel shall also serve a copy of the notice of appeal on the defendant, either by personal service or by mail addressed to the defendant. In criminal appeals governed by Rule 3C, appellant's trial counsel must comply with the provisions of this Rule and Rule 3C(c) governing service of the notice of appeal.

(e) Payment of Fees. Except where provided by statute, upon filing a notice of appeal, the appellant must pay the district court clerk the Supreme Court filing fee and any fees charged by the district court. Except for amended notices of appeal filed under Rule 4(a)(7), the Supreme Court filing fee is $250 for each notice of appeal filed.

(f) Case Appeal Statement.

(1) Appellant's Duty to File Case Appeal Statement. Upon filing a notice of appeal, the appellant shall also file with the district court clerk a completed case appeal statement that is signed by appellant's counsel.

(2) District Court's Duty to Complete Case Appeal Statement. When the appellant is not represented by counsel, the district court clerk shall complete and sign the case appeal statement.

(3) Contents of Case Appeal Statement. The case appeal statement must contain the following information:

(A) the district court case number and caption showing the names of all parties to the proceedings below, but the use of et al. to denote parties is prohibited;

(B) the name of the judge who entered the order or judgment being appealed;

(C) the name of each appellant and the name and address of counsel for each appellant;

(D) the name of each respondent and the name and address of appellate counsel, if known, for each respondent, but if the name of a respondent's appellate counsel is not known, then the name and address of that respondent's trial counsel;

(E) whether an attorney identified in response to subparagraph (D) is not licensed to practice law in Nevada, and if so, whether the district court granted that attorney permission to appear under SCR 42, including a copy of any district court order granting that permission;

(F) whether the appellant was represented by appointed counsel in the district court, and whether the appellant is represented by appointed counsel on appeal;

(G) whether the district court granted the appellant leave to proceed in forma pauperis, and if so, the date of the district court's order granting that leave;

(H) the date that the proceedings commenced in the district court;

(I) a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court;

(J) whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court or Court of Appeals and, if so, the caption and **[~~Supreme Court~~]** docket number of the prior proceeding;

(K) whether the appeal involves child custody or visitation; and

(L) in civil cases, whether the appeal involves the possibility of settlement.

(4) Form Case Appeal Statement. A case appeal statement must substantially comply with Form 2 in the Appendix of Forms.

(g) Forwarding Appeal Documents to Supreme Court.

(1) District Court Clerk's Duty to Forward.

(A) Upon the filing of the notice of appeal, the district court clerk shall immediately forward to the clerk of the Supreme Court the required filing fee, together with 3 certified, file-stamped copies of the following documents:

- the notice of appeal;
- the case appeal statement;
- the district court docket entries;
- the civil case cover sheet, if any;

· the judgment(s) or order(s) being appealed;

· any notice of entry of the judgment(s) or order(s) being appealed;

· any certification order directing entry of judgment in accordance with NRCP 54(b);

· the minutes of the district court proceedings; and

· a list of exhibits offered into evidence, if any.

If, at the time of filing of the notice of appeal, any of the enumerated documents have not been filed in the district court, the district court clerk shall nonetheless forward the notice of appeal together with all documents then on file with the clerk.

(B) The district court clerk shall promptly forward any later docket entries to the clerk of the Supreme Court.

(2) Appellant's Duty. An appellant shall take all action necessary to enable the clerk to assemble and forward the documents enumerated in this subdivision.

RULE 3A. CIVIL ACTIONS: STANDING TO APPEAL; APPEALABLE DETERMINATIONS

(a) Standing to Appeal. A party who is aggrieved by an appealable judgment or order may appeal from that judgment or order, with or without first moving for a new trial.

(b) Appealable Determinations. An appeal may be taken from the following judgments and orders of a district court in a civil action:

(1) A final judgment entered in an action or proceeding commenced in the court in which the judgment is rendered.

(2) An order granting or denying a motion for a new trial.

(3) An order granting or refusing to grant an injunction or dissolving or refusing to dissolve an injunction.

(4) An order appointing or refusing to appoint a receiver or vacating or refusing to vacate an order appointing a receiver.

(5) An order dissolving or refusing to dissolve an attachment.

(6) An order changing or refusing to change the place of trial only when a notice of appeal from the order is filed within 30 days.

(A) Such an order may only be reviewed upon a timely direct appeal from the order and may not be reviewed on appeal from the judgment in the action or proceeding or otherwise. On motion of any party, the court granting or refusing to grant a motion to change the place of trial of an action or proceeding shall enter an order staying the trial of the action or proceeding until the time to appeal from the order granting or refusing to grant the motion to change the place of trial has expired or, if an appeal has been taken, until the appeal has been resolved.

(B) Whenever an appeal is taken from such an order, the clerk of the district court shall forthwith certify and transmit to the clerk of the Supreme Court, as the record on appeal, the original papers on which the motion was heard in the district court and, if the appellant or respondent demands it, a transcript of any proceedings had in the district court. The district court shall require its court reporter to expedite the preparation of the transcript in preference to any other request for a transcript in a civil matter. When the appeal is docketed in the **[~~Supreme Court~~]** appellate court, it stands submitted without further briefs or oral argument unless the **[~~Supreme Court~~]** appellate court otherwise orders.

(7) An order entered in a proceeding that did not arise in a juvenile court that finally establishes or alters the custody of minor children.

(8) A special order entered after final judgment, excluding an order granting a motion to set aside a default judgment under NRCP 60(b)(1) when the motion was filed and served within 60 days after entry of the default judgment.

(9) An interlocutory judgment, order or decree in an action to redeem real or personal property from a mortgage or lien that determines the right to redeem and directs an accounting.

(10) An interlocutory judgment in an action for partition that determines the rights and interests of the respective parties and directs a partition, sale or division.

RULE 3B. CRIMINAL ACTIONS: RULES GOVERNING

Appeals from district court determinations in criminal actions shall be governed by these Rules and by NRS 176.09183, NRS 177.015 to 177.305, and NRS 34.575. All appeals in capital cases are also subject to the provisions of SCR 250. Rule 3C applies to all other direct and post-conviction criminal appeals, except those matters specifically excluded from the fast track by Rule 3C(a).

RULE 3C. FAST TRACK CRIMINAL APPEALS

(a) Applicability.

(1) This Rule applies to an appeal from a district court judgment or order entered in a criminal or post-conviction proceeding commenced after September 1, 1996, whether the appellant is the State or the defendant. A proceeding is commenced for the purposes of this Rule upon the filing of an indictment, information, or post-conviction application in the district court.

(2) The Supreme Court may exercise its discretion and apply this Rule to appeals arising from criminal and post-conviction proceedings that are not subject to this Rule.

(3) Unless the court otherwise orders, an appeal is not subject to this Rule if:

(A) the appeal challenges an order or judgment in a case involving a category A felony, as described in NRS 193.130(2)(a), in which a sentence of death or imprisonment in the state prison for life with or without the possibility of parole is actually imposed;

(B) the appeal is brought by a defendant or petitioner who was not represented by counsel in the district court; or

(C) the appeal is filed in accordance with Rule 4(c).

(b) Responsibilities of Trial Counsel.

(1) Definition. For purposes of this Rule, "trial counsel" means the attorney who represented the defendant or post-conviction petitioner in district court in the underlying proceedings that are the subject of the appeal.

(2) Responsibilities. Trial counsel shall file the notice of appeal, rough draft transcript request form, and fast track statement and consult with appellate counsel for the case regarding the appellate issues that are raised. Trial counsel shall arrange their calendars and adjust their public or private contracts for compensation to accommodate the additional duties imposed by this Rule.

(3) Withdrawal. To withdraw from representation during the appeal, trial counsel shall file with the clerk of the **[~~Supreme Court~~]** appellate court a motion to withdraw from representation. The motion shall be considered only after trial counsel has filed the notice of appeal, rough draft transcript request and fast track statement. The granting of such

motions shall be conditioned upon trial counsel's full cooperation with appellate counsel during the appeal.

(c) Notice of Appeal. When an appellant elects to appeal from a district court order or judgment governed by this Rule, appellant's trial counsel shall serve and file a notice of appeal pursuant to applicable rules and statutes.

(d) Rough Draft Transcript. A rough draft transcript is a computer-generated transcript that can be expeditiously prepared in a condensed fashion, but is not proofread, corrected or certified to be an accurate transcript.

(1) Format. For the purposes of this Rule, a rough draft transcript shall:

(A) Be printed on paper 8 1/2 by 11 inches in size, double-sided, with the words "Rough Draft Transcript" printed on the bottom of each page;

(B) Be produced with a yellow cover sheet;

(C) Include a concordance indexing key words in the transcript; and

(D) Include an acknowledgment by the court reporter or recorder that the document submitted under this Rule is a true original or copy of the rough draft transcript.

(2) Notification of Court Reporter or Recorder. When a case may be subject to this Rule, the presiding district court judge shall notify the court reporter or recorder for the case before trial that a rough draft transcript may be required.

(3) Request for Rough Draft Transcript.

(A) Filing and Service.

(i) When a rough draft transcript is necessary for an appeal, trial counsel shall file a rough draft transcript request form with the district court and shall serve a copy of the request form upon the court reporter or recorder and opposing counsel.

(ii) Trial counsel shall serve and file the rough draft transcript request form on the same date the notice of appeal is served and filed.

(iii) Trial counsel shall file with the clerk of the **[~~Supreme Court~~]** appellate court 2 file-stamped copies of the rough draft transcript request form and proof of service of the form upon the court reporter or recorder and opposing counsel.

(B) Form. The rough draft transcript request shall substantially comply with Form 5 in the Appendix of Forms.

(C) Necessary Transcripts. Counsel shall order transcripts of only those portions of the proceedings that counsel reasonably and in good faith believes are necessary to determine whether appellate issues are present. In particular, transcripts of jury voir dire, opening statements, closing arguments, and the reading of jury instructions shall not be requested unless pertinent to the appeal.

(D) No Transcripts. If no transcript is to be requested, trial counsel shall serve and file with the clerk of the **[~~Supreme Court~~]** appellate court a certificate to that effect within the same period that a rough draft transcript request form must be served and filed under subparagraph (A). Such a certificate shall substantially comply with Form 14 in the Appendix of Forms.

(E) Court Reporter or Recorder's Duty.

(i) The court reporter or recorder shall submit an original rough draft transcript, as requested by appellant's or respondent's counsel, to the district court no more than 20 days after the date that the request is served.

(ii) The court reporter or recorder shall also deliver certified copies of the rough draft transcript to the requesting attorney and counsel for each party appearing separately no more than 20 days after the date of service of the request. The court reporter or recorder shall deliver an additional certified copy of the rough draft transcript to the requesting attorney for inclusion in the appendix. Within 5 days after delivering the certified copies of the rough draft transcript, the court reporter or recorder shall file with the clerk of the **[~~Supreme Court~~]** appellate court a certificate acknowledging delivery of the completed transcript and specifying the transcripts that have been delivered and the date that they were delivered to the requesting party. Form 15 in the Appendix of Forms is a suggested form of certificate of delivery.

(iii) Relevant portions of the trial or hearing that were audio recorded or video recorded shall be submitted in typewritten form. The **[~~Supreme Court~~]** appellate court will not accept audio- or videotapes in lieu of a rough draft transcript.

(4) Supplemental Request for Rough Draft Transcript.

(A) Opposing counsel may make a supplemental request for portions of the rough draft transcript that were not previously requested. The request shall be made no more than 3 days after opposing counsel is served with the transcript request made under Rule 3C(d)(3)(A).

(B) In all other respects, opposing counsel shall comply with the provisions of this Rule governing a rough draft transcript request when making a supplemental rough draft transcript request.

(5) Sufficiency of the Rough Draft Transcript. Trial counsel shall review the sufficiency of the rough draft transcript. If a substantial question arises regarding an inaccuracy in a rough draft transcript, the

[~~Supreme Court~~] appellate court may order that a certified transcript be produced.

(6) Exceptions. The provisions of Rule 3C(d)(1) shall not apply to preparation of transcripts produced by means other than computer-generated technology. But time limits and other procedures governing requests for and preparation of transcripts produced by means other than computer-generated technology shall conform with the provisions of this Rule respecting rough draft transcripts.

(e) Filing of Fast Track Statement, Appendix, and Fast Track Reply.

(1) Fast Track Statement.

(A) Time for Serving and Filing. Within 40 days from the date that the appeal is docketed in the [~~Supreme Court~~] appellate court under Rule 12, appellant's trial counsel shall serve and file a fast track statement that substantially complies with Form 6 in the Appendix of Forms.

(B) Length and Contents. Except by court order granting a motion filed in accordance with Rule 32(a)(7)(D), the fast track statement shall not exceed 15 pages in length or shall comply with the type-volume limitations stated in Rule 3C(h)(2). The fast track statement shall include the following:

(i) A statement of jurisdiction for the appeal;

(ii) A statement of the case and procedural history of the case;

(iii) A concise statement summarizing all facts material to a consideration of the issues on appeal;

(iv) An outline of the alleged error(s) of the district court;

(v) A statement describing how the alleged issues on appeal were preserved during trial;

(vi) Legal argument, including authorities, pertaining to the alleged error(s) of the district court;

(vii) Where applicable, a statement regarding the sufficiency of the rough draft transcript; and

(viii) Where applicable, a reference to all related or prior appeals, including the appropriate citations for those appeals.

(C) References to the Appendix. Every assertion in the fast track statement regarding matters in a rough draft transcript or other document shall cite to the page and volume number, if any, of the appendix that supports the assertion.

(D) Number of Copies to Be Filed and Served. An original and 1 copy of the fast track statement shall be filed with the clerk of the **[~~Supreme Court~~]** appellate court, and 1 copy shall be served on counsel for each party separately represented.

(2) Appendix.

(A) Joint Appendix. Counsel have a duty to confer and attempt to reach an agreement concerning a possible joint appendix to be filed with the fast track statement.

(B) Appellant's Appendix. In the absence of an agreement respecting a joint appendix, appellant shall prepare and file an original and 1 copy of a separate appendix with the fast track statement. Appellant shall serve a copy of the appendix on counsel for each party separately represented.

(C) Form and Content. The preparation and contents of appendices shall comply with Rules 30 and 32 and shall be paginated sequentially.

(3) Fast Track Reply. The appellant may file a reply to the Fast Track Response that shall be entitled "Reply to Fast Track Response." The reply shall be no longer than 5 pages or shall comply with the type-volume limitations stated in Rule 3C(h)(2). The reply must be limited to answering matters set forth in the Fast Track Response. The reply must be filed within 14 days of service of the Fast Track Response.

(f) Filing of Fast Track Response and Appendix.

(1) Fast Track Response.

(A) Time for Service and Filing. Within 20 days from the date a fast track statement is served, the respondent shall serve and file a fast track response that substantially complies with Form 7 in the Appendix of Forms.

(B) Length and Contents. Except by court order granting a motion filed in accordance with Rule 32(a)(7)(D), the fast track response shall not exceed 10 pages in length or shall comply with the type-volume limitations stated in Rule 3C(h)(2). The fast track response shall include additional authority and factual information necessary to rebut the contentions in the fast track statement.

(C) References to the Appendix. Every assertion in the fast track response regarding matters in a rough draft transcript or other document shall cite to the page and volume number, if any, of the appendix that supports the assertion.

(D) Number of Copies to Be Filed and Served. An original and 1 copy of the fast track response shall be filed with the clerk of the **[~~Supreme Court~~]** appellate court, and 1 copy shall be served on counsel for each party separately represented.

(2) Appendix.

(A) Joint Appendix. Counsel have a duty to confer and attempt to reach an agreement concerning a possible joint appendix.

(B) Respondent's Appendix. In the absence of an agreement respecting a joint appendix, respondent shall prepare and file an original and 1 copy of a separate appendix with the fast track response. Respondent shall serve a copy of the appendix on counsel for each party separately represented.

(C) Form and Contents. The preparation and contents of appendices shall comply with Rules 30 and 32 and shall be paginated sequentially.

(g) Filing of Supplemental Fast Track Statement and Response.

(1) Supplemental Fast Track Statement.

(A) When Permitted; Length. A supplemental fast track statement of not more than 5 pages or its equivalent calculated under the type-volume limitation provisions of Rule 3C(h)(2) may be filed when appellate counsel differs from trial counsel and can assert material issues that should be considered but were not raised in the fast track statement.

(B) Time for Service and Filing; Number of Copies. When permitted under subparagraph (A), an original and 1 copy of a supplemental fast track statement shall be filed with the clerk of the **[~~Supreme Court~~]** appellate court, and 1 copy shall be served upon opposing counsel, no more than 20 days after the fast track statement is filed or appellate counsel is appointed, whichever is later.

(2) Supplemental Fast Track Response. No later than 10 days after a supplemental fast track statement is served, the respondent may file and serve a response of not more than 5 pages or its equivalent calculated under the type-volume limitation provisions of Rule 3C(h)(2).

(h) Format; Type-Volume Limitation; Certificate of Compliance.

(1) Format. Fast track filings shall comply with the formatting requirements of Rule 32(a)(4)-(6), and Rule 32(a)(7)(D) shall apply in computing permissible length.

(2) Type-Volume Limitation. The size of a fast track filing may be calculated by type-volume in lieu of page limitation. Using a type-volume limitation, a fast track statement is acceptable if it contains no more than 7,000 words or 650 lines of text. A fast track response is acceptable if it contains no more than two-thirds the type-volume specified for a fast track statement (4,667 words or 433 lines of text); and a fast track reply or supplement is acceptable if it contains no more than one-third of the type-volume specified for a fast track statement (2,333 words or 216 lines of text).

(3) Certificate of Compliance. Fast track filings must include a certificate of compliance in substantially the form required by Rule 32(a)(8). A certificate that includes the first two paragraphs under "Verification" in Forms 6 and 7 of the Appendix of Forms will be regarded as sufficient to meet the requirements of this Rule.

(i) Extensions of Time.

(1) Preparation of Rough Draft Transcript.

(A) Five-Day Telephonic Extension. A court reporter or recorder may request by telephone a 5-day extension of time to prepare a rough draft transcript if the preparation requires more time than is allowed under this Rule. If good cause is shown, the clerk of the **[~~Supreme Court~~]** appellate court or a designated deputy may grant the request by telephone or by written order of the clerk.

(B) Additional Extensions by Motion. Subsequent extensions of time for filing rough draft transcripts shall be granted only upon motion to the **[~~Supreme Court~~]** appellate court. The motion shall justify the requested extension in light of the time limits provided in this Rule, and shall specify the exact length of the extension requested. Extensions of time for the filing of rough draft transcripts shall be granted only upon demonstration of good cause. Sanctions may be imposed if a motion is brought without reasonable grounds.

(2) Fast Track Statement and Response; Supplemental Statement and Response.

(A) Five-Day Telephonic Extension. Counsel may request by telephone a 5-day extension of time for filing fast track statements and responses, and supplemental fast track statements and responses. If good cause is shown, the clerk of the **[~~Supreme Court~~]** appellate court may grant the request by telephone or by written order of the clerk.

(B) Additional Extensions by Motion. Subsequent extensions of time for filing fast track statements and responses, and supplemental fast track statements and responses shall be granted only upon motion to the **[~~Supreme Court~~]** appellate court. The motion shall justify the requested extension in light of the time limits provided in this Rule, and shall specify the exact length of the extension requested. Extensions of time for the filing of fast track statements and responses, and supplemental fast track statements and responses shall be granted only upon demonstration of extreme need or merit. Sanctions may be imposed if a motion is brought without reasonable grounds.

(j) Amendments to Statements and Responses. Leave to amend fast track statements and responses, or supplemental fast track statements

and responses shall be granted only upon motion to the **[~~Supreme Court~~]** appellate court. A motion to amend shall justify the absence of the offered arguments in the initial or supplemental fast track statement or response. The motion shall be granted only upon demonstration of extreme need or merit.

(k) Full Briefing, Calendaring or Summary Disposition.

(1) Based solely upon review of the rough draft transcript, fast track statement, fast track response, and any supplemental documents, the **[~~Supreme Court~~]** appellate court may summarily dismiss the appeal, may affirm or reverse the decision appealed from without further briefing or argument, may order the appeal to be fully briefed and argued or submitted for decision without argument, may order that briefing and any argument be limited to specific issues, or may direct the appeal to proceed in any manner reasonably calculated to expedite its resolution and promote justice.

(2) Motion for Full Briefing.

(A) A party may seek leave of the **[~~Supreme Court~~]** appellate court to remove an appeal from the fast track program and direct full briefing. The motion may not be filed solely for purposes of delay. It may be filed in addition to or in lieu of the fast track pleading.

(B) The motion must identify specific reasons why the appeal is not appropriate for resolution in the fast track program. Such reasons may include, but are not limited to, the following circumstances:

(i) The case raises one or more issues that involve substantial precedential, constitutional, or public policy questions; and/or

(ii) The case is legally or factually complex.

(C) If the issues or facts are numerous but not complex, full briefing will not be granted but an excess page motion may be entertained.

(D) No opposition may be filed unless ordered by the court.

(3) If the **[~~Supreme Court~~]** appellate court orders an appeal to be fully briefed, and neither party objects to the sufficiency of the rough draft transcripts to adequately inform this court of the issues raised in the appeal, counsel are not required to file certified transcript request forms under Rule 9(a). If a party's brief will cite to a transcript not previously included in an appendix submitted to this court, that party shall file and serve a transcript request form in accordance with Rule 9 within the time specified for filing the brief in the **[~~Supreme Court~~]** appellate court's briefing order. If a party's brief will cite to documents not previously filed in the **[~~Supreme Court~~]** appellate court, that party shall file and serve an appropriately documented supplemental appendix with the brief.

(l) Withdrawal of Appeal. If an appellant no longer desires to pursue an appeal after the notice of appeal is filed, counsel responsible for the appeal at that time shall file with the clerk of the **[~~Supreme Court~~]** appellate court a notice of withdrawal of appeal. The notice of withdrawal of appeal shall substantially comply with Form 8 in the Appendix of Forms.

(m) Court Reporter or Recorder Protection and Compensation.

(1) Liability. Court reporters or recorders shall not be subject to civil, criminal or administrative causes of action for inaccuracies in a rough draft transcript unless the court reporter or recorder willfully:

(A) Fails to take full and accurate stenographic notes of the criminal proceeding for which the rough draft transcript is submitted, or willfully and improperly alters stenographic notes from the criminal proceeding, or willfully transcribes audio- or videotapes inaccurately; and

(B) Such willful conduct proximately causes injury or damage to the party asserting the action, and that party demonstrates that appellate or

post-conviction relief was granted or denied based upon the court reporter's or recorder's inaccuracies.

(2) Compensation. Court reporters shall be compensated as follows:

(A) For preparing a rough draft transcript, the court reporter shall receive 100 percent of the rate established by NRS 3.370 for each transcript page as defined by NRS 3.370 and $25 for costs. Costs include the cost of delivery of the original and copies of the rough draft transcript. In the event that overnight delivery is required to or from outlying areas, that cost shall be additional.

(B) In the event a certified transcript is ordered after the rough draft transcript is prepared, the court reporter shall receive an additional fee equal to 25 percent of the amount established by NRS 3.370 for the already prepared rough draft portion of the transcript. Any portions not included with the rough draft transcript will be compensated by the amount established by NRS 3.370.

(n) Sanctions. Any attorney, court reporter, or court recorder who lacks due diligence in compliance with this Rule may be subject to sanctions by the **[~~Supreme Court~~]** appellate court. Sanctionable actions include, but are not limited to, failure of trial counsel to file a timely fast track statement or fast track response; failure of trial counsel to fully cooperate with appellate counsel during the course of the appeal; and failure of counsel to raise material issues or arguments in a fast track statement, response, supplemental statement or supplemental response.

(o) Conflict. The provisions of this Rule shall prevail over conflicting provisions of any other rule.

RULE 3D. JUDICIAL DISCIPLINE: RIGHT TO APPEAL; HOW TAKEN; RULES GOVERNING

(a) Definitions. As used in this Rule:

(1) "Respondent" means any Supreme Court justice, Court of Appeals judge, district judge, justice of the peace, or municipal court judge or referee, master, or commissioner who is the subject of any disciplinary or removal proceedings instituted before the commission on judicial discipline.

(2) "Service" means service by personal delivery or by registered mail or certified mail, return receipt requested.

(b) Who May Appeal. Any Supreme Court justice, Court of Appeals judge, district judge, justice of the peace, or municipal court judge or referee, master, commissioner or other judicial officer who is the subject of any disciplinary or removal proceedings instituted before the commission on judicial discipline may appeal to the Supreme Court from the orders set forth in Rule 3D(c).

(c) Appealable Decisions. An appeal may be taken:

(1) From an order of suspension from the exercise of office under NRS 1.4675.

(2) From an order of censure, removal, retirement, or other form of discipline.

(d) Notice of Appeal. An appeal to the Supreme Court from a commission order shall be taken by filing a notice of appeal with the clerk of the commission and serving a copy of the notice on the prosecuting counsel, if any. Filing and service must be made within 15 days after service on the respondent of the commission's formal order of suspension, censure, removal, retirement, or other discipline, together with its formal findings of fact and conclusions of law. Upon the filing of the notice of appeal, the clerk of the

commission shall immediately transmit to the clerk of the Supreme Court 2 file-stamped copies of the notice of appeal.

(e) Transcripts. Any request for all or part of a transcript must be made in accordance with rules adopted by the commission in regard thereto.

(f) Applicable Rules. In all other respects an appeal from a commission order shall proceed in the same manner as a civil appeal except that the provisions of Rule 4(f) for expediting criminal appeals shall apply to all appeals from orders or actions taken by the commission. Other provisions in the Nevada Rules of Appellate Procedure apply to appeals from a commission order, unless this Rule expressly provides to the contrary or application of a particular rule is clearly impracticable, inappropriate, or inconsistent. All references to the district court in applicable portions of the Nevada Rules of Appellate Procedure must be deemed references to the commission.

(g) Interlocutory Orders. Review of interlocutory orders of the commission, which are considered either by the prosecuting officer or the respondent judge to be without or in excess of jurisdiction, may be sought by way of petition for an appropriate extraordinary writ.

(h) Disqualification of Supreme Court Justices. Any justice who sat on the commission is disqualified from participating in the consideration or decision of an appeal from an action that was taken by the commission during his or her membership on the commission.

RULE 3E. FAST TRACK CHILD CUSTODY APPEALS

(a) Applicability. This Rule applies to appeals and cross-appeals from district court orders pertaining to child custody or visitation in which either the appellant or cross-appellant is represented by counsel. This Rule

applies to appeals docketed on or after June 1, 2006, and to such appeals pending before this court and removed or exempted from the settlement program on or after June 1, 2006. This court having implemented a pilot program for proper person appeals, this Rule does not apply in those cases. If, however, either the appellant or cross-appellant is represented by counsel and the opposing party is in proper person, the opposing proper person party must file all documents in compliance with this Rule, notwithstanding Rule 46(b).

(b) Responsibilities of Appellant. Appellant and cross-appellant are responsible for filing the notice of appeal, case appeal statement, docketing statement, a transcript request form, and a fast track statement for the case identifying the appellate issues that are raised.

(c) Request for Transcripts or Rough Draft Transcripts.

(1) Rough Draft Transcript. For the purposes of this Rule, a rough draft transcript is a computer-generated transcript that can be expeditiously prepared in a condensed fashion, but is not proofread, corrected or certified to be an accurate transcript. A rough draft transcript shall:

(A) be printed on paper 8 1/2 by 11 inches in size, double-sided, with the words "Rough Draft Transcript" printed on the bottom of each page;

(B) be produced with a yellow cover sheet;

(C) include a concordance, indexing key words contained in the transcript; and

(D) include an acknowledgment by the court reporter or recorder that the document submitted pursuant to this Rule is a true original or copy of the rough draft transcript.

(2) Transcript Requests.

(A) Filing and Serving Request Form. The parties have a duty to confer and attempt to reach an agreement concerning the transcripts necessary for the **[~~Supreme C~~]** court's review on appeal. When a transcript is necessary for an appeal, appellant shall file the transcript or rough draft transcript request form with the district court and shall serve a copy of the request form upon the court reporter or recorder and the opposing party. Appellant shall file and serve the request form within 10 days of the date that the Supreme Court approves the settlement conference report indicating that the parties were unable to settle or, if the case was exempted or removed from the settlement program, within 10 days of the date that the case was exempted or removed from the settlement program. Appellant shall file with the clerk of the Supreme Court 2 file-stamped copies of the transcript or rough draft transcript request form and proof of service of the form upon the court reporter or recorder and the opposing party. The transcript request form shall substantially comply with Form 3 or 11 in the Appendix of Forms. If no transcript is to be requested, appellant shall file with the clerk of the Supreme Court and serve the opposing party with a certificate to that effect within the same period that the transcript request form must be filed and served under this subsection. Such a certificate shall substantially comply with Form 14 in the Appendix of Forms.

(B) Appellant shall order transcripts of only those portions of the proceedings that appellant reasonably and in good faith believes are necessary to determine the appellate issues.

(C) The court reporter or recorder shall submit an original transcript or rough draft transcript, as requested by appellant, to the district court no more than 20 days after the date that the request is served. The court reporter or recorder shall also deliver certified copies of the transcript

or rough draft transcript to the requesting and opposing parties no more than 20 days after the date when the request is served. Within 5 days after delivering the certified copies of the rough draft transcript, the court reporter or recorder shall file with the clerk of the Supreme Court a certificate acknowledging delivery of the completed transcript and specifying the transcripts that have been delivered and the date that they were delivered to the requesting party. Form 15 in the Appendix of Forms is a suggested form of certificate of delivery. The preparation of transcripts shall conform with the provisions of this Rule.

(D) Relevant portions of the trial or hearing that were audio recorded or video recorded shall be submitted in typewritten form. The **[~~Supreme Court~~]** court will not accept audio- or videotapes in lieu of transcripts.

(3) Supplemental Request for Transcripts or Rough Draft Transcripts. The opposing party may make a supplemental request for portions of the transcript or rough draft transcript that were not previously requested. The request shall be made no more than 5 days after appellant served the transcript request made pursuant to subsection (c)(2) of this Rule. In all other respects, the opposing party shall comply with the provisions of this Rule governing a transcript or rough draft transcript request when making a supplemental transcript request.

(4) Sufficiency of the Rough Draft Transcript. In the event that appellant elects to use rough draft transcripts, appellant shall be responsible for reviewing the sufficiency of the rough draft transcripts. In the event that a substantial question arises regarding a rough draft transcript's accuracy, the **[~~Supreme Court~~]** appellate court may order the production of a certified transcript.

(d) Filing Fast Track Statement, Response and Appendix.

(1) Filing Fast Track Statement. Within 40 days after the Supreme Court approves the settlement conference report indicating that the parties were unable to settle the case or, if the appeal is removed or exempted from the settlement program, within 40 days after the appeal is removed or exempted, appellant and cross-appellant shall file and serve an original and 1 copy of both a fast track statement form and an appendix with the clerk of the Supreme Court and serve 1 copy of the fast track statement and appendix on the opposing party. The fast track statement shall substantially comply with Form 12 in the Appendix of Forms. The fast track statement shall not exceed 15 pages in length or shall comply with the type-volume limitations stated in Rule 3E(e)(2). The fast track statement shall include the following:

(A) A statement of jurisdiction for the appeal;

(B) A statement of the case and procedural history of the case;

(C) A concise statement summarizing all facts material to a consideration of the issues on appeal;

(D) An outline of the alleged district court error(s);

(E) Legal argument, including authorities, pertaining to the alleged error(s) of the district court;

(F) When applicable, a statement regarding the sufficiency of the rough draft transcript; and

(G) When applicable, a reference to all related or prior appeals, including the appropriate citations for those appeals.

(2) Filing Fast Track Response. Within 20 days from the date a fast track statement is served, the respondent and cross-respondent shall file an original and 1 copy of a fast track response and serve 1 copy of the fast track response on the opposing party. The fast track response shall

substantially comply with Form 13 in the Appendix of Forms. The fast track response shall not exceed 10 pages in length or shall comply with the type-volume limitations stated in Rule 3E[~~(j)~~](e)(2). The fast track response shall include additional authority and factual information necessary to rebut the contentions in the fast track statement.

(3) Expanded Fast Track Statement or Response. A party may seek leave of the [~~Supreme Court~~] appellate court to expand the length of the fast track statement or response. The requesting party must demonstrate that the complexity of the case and the issues presented warrant granting the request. A request for expansion must be filed at least 10 days before the fast track statement or response is otherwise due, and must specify the number of additional pages requested.

(4) Appendix. The parties have a duty under Rule 30 to confer and attempt to reach an agreement concerning a possible joint appendix to be filed with the fast track statement. In the absence of an agreement respecting a joint appendix, appellant shall prepare and file a separate appendix with the fast track statement, and respondent may prepare and file a separate appendix with the fast track response. The preparation and contents of appendices shall comply with Rules 30 and 32 and shall be paginated sequentially. Every assertion in the fast track statement or response regarding matters in an appendix shall cite to the specific page number that supports that assertion.

(e) Format; Type-Volume Limitation; Certificate of Compliance.

(1) Format. Fast track filings shall comply with the formatting requirements of Rule 32(a)(4)-(6), and Rule 32(a)(7)([~~D~~]C) shall apply in computing permissible length.

(2) Type-Volume Limitation. The size of a fast track filing may be calculated by type-volume in lieu of page limitation. Using a type-volume limitation, a fast track statement is acceptable if it contains no more than 7,000 words or 650 lines of text. A fast track response is acceptable if it contains no more than two-thirds the type-volume specified for a fast track statement (4,667 words or 433 lines of text); and a fast track reply or supplement is acceptable if it contains no more than one-third of the type-volume specified for a fast track statement (2,333 words or 216 lines of text).

(3) Certificate of Compliance. Fast track filings must include a certificate of compliance in substantially the form required by Rule 32(a)(8). A certificate that includes the first two paragraphs under "Verification" in Forms 6 and 7 of the Appendix of Forms will be regarded as sufficient to meet the requirements of this Rule.

(f) Extensions of Time.

(1) Transcripts or Rough Draft Transcripts. A court reporter or recorder may request, by telephone, a 5-day extension of time for the preparation of a transcript or rough draft transcript if such preparation requires more time than is allowed under this Rule. The clerk of the Supreme Court **[~~clerk~~]** or designated deputy may, for good cause, grant such requests by telephone or by written order.

(2) Fast Track Statements or Responses. Either party may request, by telephone, a 5-day extension of time for filing a fast track statement or response. The clerk of the Supreme Court **[~~clerk~~]** or designated deputy may, for good cause, grant such requests by telephone or by written order.

(3) Subsequent Request for Extensions. Any subsequent request for an extension of time must be made by written motion to the **[~~Supreme~~**

~~Court~~] appellate court. The motion must justify the requested extension in light of the time limits provided in this Rule, and shall specify the exact length of the extension requested. Extensions of time for the filing of fast track statements and responses shall be granted only upon demonstration of extreme need or merit. Sanctions may be imposed if a subsequent motion for an extension of time is brought without reasonable grounds.

(g) Appeal Disposition, Full Briefing, or Calendaring.

(1) Based solely upon review of the transcripts or rough draft transcripts, fast track statement, fast track response, and any other documents filed with the court, the **[~~Supreme Court~~]** court may resolve the matter or direct full briefing.

(2) A party may seek leave of the **[~~Supreme Court~~]** court to remove an appeal from the fast track program and direct full briefing. The motion must demonstrate that the specific issues raised in the appeal are complex and/or too numerous for resolution in the fast track program. Counsel for the movant must attach a written waiver from the client certifying that counsel has discussed the implications of full briefing and that the client waives expeditious resolution of the appeal.

(3) If the **[~~Supreme Court~~]** court orders an appeal to be fully briefed, the parties are not required to file transcript request forms pursuant to Rule 9(a) unless otherwise ordered. If a party's brief cites to a transcript not previously filed in the **[~~Supreme Court~~]** appellate court, that party shall cause a supplemental transcript to be prepared and filed in the district court and the **[~~Supreme Court~~]** appellate court under Rule 9 within the time specified for filing the brief in the **[~~Supreme Court~~]** appellate court's briefing order. If a party's brief cites to documents not previously filed in the

[~~Supreme Court~~] appellate court, that party shall file and serve an appropriately documented supplemental appendix with the brief.

(4) Subject to extensions, and if the **[~~Supreme Court~~]** appellate court does not order full briefing, the **[~~Supreme Court~~]** court shall dispose of all fast track child custody appeals within 90 days of the date the fast track response is filed.

(h) Court Reporter or Recorder Protection and Compensation. When preparing and submitting rough draft transcripts under this Rule,

(1) Court reporters or recorders shall not be subject to civil, criminal or administrative causes of action for inaccuracies in a rough draft transcript unless the court reporter or recorder willfully

(A) fails to take full and accurate stenographic notes of the proceeding for which the rough draft transcript is submitted, or willfully and improperly alters stenographic notes from the proceeding, or willfully transcribes audio- or videotapes inaccurately; and

(B) such willful conduct proximately causes injury or damage to a party asserting the action, and that party demonstrates that appellate relief was granted or denied based upon the court reporter's or recorder's inaccuracies.

(2) Court reporters shall be compensated as follows:

(A) For the preparation of a transcript or rough draft transcript, the court reporter shall receive 100 percent of the rate established by NRS 3.370for each transcript page and for costs. A party ordering transcripts or copies must pay the court reporter's fee. No reporter may be required to perform any service in a civil case until the fees have been paid to him or her, or deposited with the court clerk.

(B) In the event that a certified transcript is ordered after the rough draft transcript is prepared, the court reporter shall receive an additional fee as established by NRS 3.370.

(i) Sanctions. Any party, attorney, court reporter, or court recorder who lacks due diligence in compliance with this Rule may be subject to sanctions by the **[~~Supreme Court~~]** appellate court. Sanctionable actions include, but are not limited to, failure of appellant to timely file a fast track statement or respondent's failure to file a fast track response; and failure of a party to raise material issues or arguments in a fast track statement or response.

(j) Conflict. The provisions of this Rule shall prevail over conflicting provisions of any other rule.

RULE 4. APPEAL—WHEN TAKEN

(a) Appeals in Civil Cases.

(1) Time and Location for Filing a Notice of Appeal. In a civil case in which an appeal is permitted by law from a district court **[~~to the Supreme Court~~]**, the notice of appeal required by Rule 3 shall be filed with the district court clerk. Except as provided in Rule 4(a)(4), a notice of appeal must be filed after entry of a written judgment or order, and no later than 30 days after the date that written notice of entry of the judgment or order appealed from is served. If an applicable statute provides that a notice of appeal must be filed within a different time period, the notice of appeal required by these Rules must be filed within the time period established by the statute.

(2) Multiple Appeals. If one party timely files a notice of appeal, any other party may file and serve a notice of appeal within 14 days after the

date when the first notice was served, or within the time otherwise prescribed by Rule 4(a), whichever period last expires.

(3) Entry Defined. A judgment or order is entered for purposes of this Rule when it is signed by the judge or by the clerk, as the case may be, and filed with the clerk. A notice or stipulation of dismissal filed under NRCP 41(a)(1) has the same effect as a judgment or order signed by the judge and filed by the clerk and constitutes entry of a judgment or order for purposes of this Rule. If that notice or stipulation dismisses all unresolved claims pending in an action in the district court, the notice or stipulation constitutes entry of a final judgment or order for purposes of this Rule.

(4) Effect of Certain Motions on a Notice of Appeal. If a party timely files in the district court any of the following motions under the Nevada Rules of Civil Procedure, the time to file a notice of appeal runs for all parties from entry of an order disposing of the last such remaining motion, and the notice of appeal must be filed no later than 30 days from the date of service of written notice of entry of that order:

(A) a motion for judgment under Rule 50(b);

(B) a motion under Rule 52(b) to amend or make additional findings of fact;

(C) a motion under Rule 59 to alter or amend the judgment;

(D) a motion for a new trial under Rule 59.

(5) Appeal From Certain Amended Judgments and Post-Judgment Orders. An appeal from a judgment substantively altered or amended upon the granting of a motion listed in Rule 4(a)(4), or from an order granting or denying a new trial, is taken by filing a notice of appeal, or amended notice of appeal, in compliance with Rule 3. The notice of appeal or amended notice of appeal must be filed after entry of a written order

disposing of the last such remaining timely motion and no later than 30 days from the date of service of written notice of entry of that order.

(6) Premature Notice of Appeal. A premature notice of appeal does not divest the district court of jurisdiction. The **[~~Supreme Court~~]** appellate court may dismiss as premature a notice of appeal filed after the oral pronouncement of a decision or order but before entry of the written judgment or order, or before entry of the written disposition of the last-remaining timely motion listed in Rule 4(a)(4). If, however, a written order or judgment, or a written disposition of the last-remaining timely motion listed in Rule 4(a)(4), is entered before dismissal of the premature appeal, the notice of appeal shall be considered filed on the date of and after entry of the order, judgment or written disposition of the last-remaining timely motion.

(7) Amended Notice of Appeal. No additional fees shall be required if any party files an amended notice of appeal in order to comply with the provisions of this Rule.

(b) Appeals in Criminal Cases.

(1) Time for Filing a Notice of Appeal.

(A) Appeal by Defendant or Petitioner. Except as otherwise provided in NRS 34.560(2), NRS 34.575(1), NRS 176.09183(6), **[~~and~~]** NRS 177.055, and Rule 4(c), the notice of appeal by a defendant or petitioner in a criminal case shall be filed with the district court clerk within 30 days after the entry of the judgment or order being appealed.

(B) Appeal by the State. Except as otherwise provided in NRS 34.575(2), NRS 176.09183(4), and NRS 177.015(2), when an appeal by the state is authorized by statute, the notice of appeal shall be filed with the district court clerk within 30 days after the entry of the judgment or order being appealed.

(2) Filing Before Entry of Judgment. A notice of appeal filed after the announcement of a decision, sentence or order—but before entry of the judgment or order—shall be treated as filed after such entry and on the day thereof.

(3) Effect of a Motion on a Notice of Appeal.

(A) If a defendant timely files a motion in arrest of judgment or a motion for a new trial on any ground other than newly discovered evidence **[~~has been made,~~]** and the motion has not been denied by oral pronouncement or entry of a written order when the judgment of conviction is entered, the notice of **[~~an~~]** appeal from **[~~a~~]** the judgment of conviction may be **[~~taken~~]** filed within 30 days after the entry of an order denying the motion.

(B) If a defendant files **[~~A~~]** a motion for a new trial based on the ground of newly discovered evidence before entry of the judgment of conviction and the motion has not been denied by oral pronouncement or entry of a written order when the judgment of conviction is entered, the notice of appeal from the judgment of conviction may be filed within 30 days after the entry of an order denying the motion. If a defendant makes such a motion within 30 days after the entry of the judgment of conviction, the time for the defendant to file the notice of appeal from the judgment of conviction will be similarly extended **[~~the time for appeal from a judgment of conviction if the motion is made before or within 30 days after entry of the judgment.~~]**

(4) Entry Defined. A judgment or order is entered for purposes of this Rule when it is signed by the judge and filed with the clerk.

(5) Time for Entry of Judgment; Content of Judgment or Order in Post-Conviction Matters.

(A) Judgment of Conviction. The district court judge shall enter a written judgment of conviction within 10 days after sentencing.

(B) Order Resolving Post-Conviction Matter. The district court judge shall enter a written judgment or order finally resolving any post-conviction matter within 20 days after the district court judge's oral pronouncement of a final decision in such a matter. The judgment or order in any post-conviction matter must contain specific findings of fact and conclusions of law supporting the district court's decision.

(C) Sanctions; Counsel's Failure to Timely Prepare Judgment or Order. The **[~~Supreme Court~~]** appellate court may impose sanctions on any counsel instructed by the district court judge to draft the judgment or order and who does not submit the proposed judgment or order to the district court judge within the applicable time periods specified in Rule 4(b)(5).

(6) Withdrawal of Appeal. If an appellant no longer desires to pursue an appeal after the notice of appeal is filed, counsel for appellant shall file with the clerk of the Supreme Court a notice of withdrawal of appeal. The notice of withdrawal of appeal shall substantially comply with Form 8 in the Appendix of Forms.

(c) Untimely Direct Appeal From a Judgment of Conviction and Sentence.

(1) When an Untimely Direct Appeal From a Judgment of Conviction and Sentence May Be Filed. An untimely notice of appeal from a judgment of conviction and sentence may be filed only under the following circumstances:

(A) A post-conviction petition for a writ of habeas corpus has been timely and properly filed in accordance with the provisions of NRS

34.720 to 34.830, asserting a viable claim that the petitioner was unlawfully deprived of the right to a timely direct appeal from a judgment of conviction and sentence; and

(B) The district court in which the petition is considered enters a written order containing:

(i) specific findings of fact and conclusions of law finding that the petitioner has established a valid appeal-deprivation claim and is entitled to a direct appeal with the assistance of appointed or retained appellate counsel;

(ii) if the petitioner is indigent, directions for the appointment of appellate counsel, other than counsel for the defense in the proceedings leading to the conviction, to represent the petitioner in the direct appeal from the conviction and sentence; and

(iii) directions to the district court clerk to prepare and file—within 5 days of the entry of the district court's order—a notice of appeal from the judgment of conviction and sentence on the petitioner's behalf in substantially the form provided in Form 1 in the Appendix of Forms.

(C) If a federal court of competent jurisdiction issues a final order directing the state to provide a direct appeal to a federal habeas corpus petitioner, the petitioner or his or her counsel shall file the federal court order within 30 days of entry of the order in the district court in which petitioner's criminal case was pending. The clerk of the district court shall prepare and file—within 30 days of filing of the federal court order in the district court—a notice of appeal from the judgment of conviction and sentence on the petitioner's behalf in substantially the form provided in Form 1 in the Appendix of Forms.

(2) Service by the District Court Clerk. The district court clerk shall serve certified copies of the district court's written order and the notice

of appeal required by Rule 4(c) on the petitioner and petitioner's counsel in the post-conviction proceeding, if any, the respondent, the Attorney General, the district attorney of the county in which the petitioner was convicted, the appellate counsel appointed to represent the petitioner in the direct appeal, if any, and the clerk of the Supreme Court.

(3) **Notice of Appeal Filed by Petitioner's Counsel or Petitioner.** If the district court has entered an order containing the findings required by Rule 4(c)(1)(B) and the district court clerk has not yet prepared and filed the notice of appeal on the petitioner's behalf, the petitioner or petitioner's counsel may file the notice of appeal from the judgment of conviction and sentence.

([~~3~~]4) Motion to Dismiss Appeal. The state may challenge a district court's written order granting an appeal-deprivation claim by filing a motion to dismiss the appeal with the clerk of the Supreme Court within 30 days after **[~~docketing~~]** the date on which the appeal is docketed in the Supreme Court. The state's motion to dismiss shall be properly supported with all documents relating to the district court proceeding that are necessary to the **[~~Supreme Court~~]** appellate court's complete understanding of the matter.

([4]5) Effect on Procedural Bars. When a direct appeal of a criminal conviction and sentence is conducted under this Rule, the timeliness provisions governing any subsequent habeas corpus attack on the judgment shall begin to run upon the termination of the direct appeal, as provided in NRS 34.726(1) and NRS 34.800(2). A habeas corpus petition filed after a direct appeal conducted under this Rule shall not be deemed a "second or successive petition" under NRS 34.810(2).

(d) Appeal by an Inmate Confined in an Institution. If an inmate confined in an institution files a notice of appeal in either a civil or a criminal case, the notice is timely if it is delivered to a prison official for mailing on or before the last day for filing. If the institution has a notice-of-appeal log or another system designed for legal mail, the inmate must use that log or system to receive the benefit of this Rule.

(e) Mistaken Filing in [~~the Supreme Court~~] Appellate Court. If a notice of appeal **[~~to the Supreme Court~~]** in either a civil or a criminal case is mistakenly filed in the **[~~Supreme Court~~]** appellate court rather than the district court, the clerk of the Supreme Court must note on the notice the date when it was received and send it to the district court clerk. The notice is then considered filed in the district court on the date so noted.

(f) Expediting Criminal Appeals. The court may, by a majority of its members, make orders to expedite the handling of criminal appeals, including without limitation the following:

(1) Elimination of steps in preparation of the record and the briefs.

(2) Expediting preparation of stenographic transcripts.

(3) Priority of calendaring for oral argument.

(4) Utilization of court opinions or per curiam orders.

(5) Other lawful measures reasonably calculated to expedite the appeal and promote justice.

RULE 5. CERTIFICATION OF QUESTIONS OF LAW

(a) Power to Answer. The Supreme Court may answer questions of law certified to it by the Supreme Court of the United States, a Court of Appeals of the United States or of the District of Columbia, a United States District Court, or a United States Bankruptcy Court when requested by the

certifying court, if there are involved in any proceeding before those courts questions of law of this state which may be determinative of the cause then pending in the certifying court and as to which it appears to the certifying court there is no controlling precedent in the decisions of the Supreme Court or Court of Appeals of this state.

(b) Method of Invoking. This Rule may be invoked by an order of any of the courts referred to in Rule 5(a) upon the court's own motion or upon the motion of any party to the cause.

(c) Contents of Certification Order. A certification order shall set forth:

(1) The questions of law to be answered;

(2) A statement of all facts relevant to the questions certified;

(3) The nature of the controversy in which the questions arose;

(4) A designation of the party or parties who will be the appellant(s) and the party or parties who will be the respondent(s) in the Supreme Court;

(5) The names and addresses of counsel for the appellant and respondent; and

(6) Any other matters that the certifying court deems relevant to a determination of the questions certified.

(d) Preparation of Certification Order. The certification order shall be prepared by the certifying court, signed by the judge presiding at the hearing, and forwarded to the Supreme Court by the clerk of the certifying court under its official seal. The Supreme Court may require the original or copies of all or of any portion of the record before the certifying court to be filed with the certification order, if, in the opinion of the Supreme Court, the record or portion thereof may be necessary in answering the questions.

(e) Costs of Certification. Fees and costs shall be the same as in civil appeals docketed before the Supreme Court and shall be equally divided between the parties unless otherwise ordered by the certifying court in its order of certification.

(f) Docketing in Supreme Court. Upon receiving the certification order, the clerk of the Supreme Court shall docket the case and notify the clerk of the certifying court, the certifying judge, and the parties that the case has been docketed in the Supreme Court.

(g) Briefs and Argument.

(1) The Supreme Court will consider whether to accept a question certified to it without oral or written argument from the parties unless otherwise directed by the Supreme Court.

(2) If the Supreme Court accepts certification of a question of law, the parties shall brief the certified question of law unless the court orders otherwise. The clerk of the Supreme Court shall notify the parties of the court's decision to accept certification and set a briefing schedule. Briefs and any appendices must be in the form provided in Rules 28, 30, and 32.

(3) If the Supreme Court decides to hear oral argument on the certified question of law, Rule 34 will govern the proceedings.

(h) Opinion. The written opinion of the Supreme Court stating the law governing the questions certified shall be sent by the clerk under the seal of the Supreme Court to the certifying court and to the parties and shall be res judicata as to the parties.

RULE 6. RESERVED

RULE 7. BOND FOR COSTS ON APPEAL IN CIVIL CASES

(a) When Bond Required. In a civil case, unless an appellant is exempted by law, or has filed a supersedeas bond or other undertaking which includes security for the payment of costs on appeal, the appellant shall file a bond for costs on appeal or equivalent security in the district court with the notice of appeal. But a bond shall not be required of an appellant who is not subject to costs.

(b) Amount of Bond. The bond or equivalent security shall be in the sum or value of $500 unless the district court fixes a different amount. A bond for costs on appeal shall have sufficient surety, and it or any equivalent security shall be conditioned to secure the payment of costs if the appeal is finally dismissed or the judgment affirmed, or of such costs as the **[~~Supreme Court~~]** appellate court may direct if the judgment is modified. If a bond or equivalent security in the sum or value of $500 is given, no approval thereof is necessary.

(c) Objections. After a bond for costs on appeal is filed, a respondent may raise for determination by the district court clerk objections to the form of the bond or to the sufficiency of the surety.

(d) Proceeding Against a Surety. Rule 8(b) applies to a surety upon a bond given under this Rule.

RULE 8. STAY OR INJUNCTION PENDING APPEAL OR RESOLUTION OF ORIGINAL WRIT PROCEEDINGS

(a) Motion for Stay.

(1) Initial Motion in the District Court. A party must ordinarily move first in the district court for the following relief:

(A) a stay of the judgment or order of, or proceedings in, a district court pending appeal or resolution of a petition to the Supreme Court or Court of Appeals for an extraordinary writ;

(B) approval of a supersedeas bond; or

(C) an order suspending, modifying, restoring or granting an injunction while an appeal or original writ petition is pending.

(2) Motion in the [~~Supreme Court~~] Appellate Court; Conditions on Relief. A motion for the relief mentioned in Rule 8(a)(1) may be made to the **[~~Supreme Court~~]** appellate court or to one of its justices or judges.

(A) The motion shall:

(i) show that moving first in the district court would be impracticable; or

(ii) state that, a motion having been made, the district court denied the motion or failed to afford the relief requested and state any reasons given by the district court for its action.

(B) The motion shall also include:

(i) the reasons for granting the relief requested and the facts relied on;

(ii) originals or copies of affidavits or other sworn statements supporting facts subject to dispute; and

(iii) relevant parts of the record.

(C) The moving party must give reasonable notice of the motion to all parties.

(D) **[~~A motion under this Rule shall be filed with the clerk and normally will be considered by a panel of the court. But in~~]** In an exceptional case in which time constraints make **[~~that procedure~~]**

consideration by a panel impracticable, the motion may be considered by a single justice or judge.

(E) The court may condition relief on a party's filing a bond or other appropriate security in the district court.

(b) Proceedings Against Sureties. If a party gives security in the form of a bond or stipulation or other undertaking with one or more sureties, each surety submits to the jurisdiction of the district court and irrevocably appoints the district court clerk as the surety's agent on whom any papers affecting the surety's liability on the bond or undertaking may be served. On motion, a surety's liability may be enforced in the district court without the necessity of an independent action. The motion and any notice that the district court prescribes may be served on the district court clerk, who shall promptly mail a copy to each surety whose address is known.

(c) Stays in Civil Cases Not Involving Child Custody. In deciding whether to issue a stay or injunction, the **[~~Supreme Court~~]** appellate court will generally consider the following factors: (1) whether the object of the appeal or writ petition will be defeated if the stay or injunction is denied; (2) whether appellant/petitioner will suffer irreparable or serious injury if the stay or injunction is denied; (3) whether respondent/real party in interest will suffer irreparable or serious injury if the stay or injunction is granted; and (4) whether appellant/petitioner is likely to prevail on the merits in the appeal or writ petition.

(d) Stays in Civil Cases Involving Child Custody. In deciding whether to issue a stay in matters involving child custody, the **[~~Supreme Court~~]** appellate court will consider the following factors: (1) whether the child(ren) will suffer hardship or harm if the stay is either granted or denied; (2) whether the nonmoving party will suffer hardship or harm if the stay is

granted; (3) whether movant is likely to prevail on the merits in the appeal; and (4) whether a determination of other existing equitable considerations, if any, is warranted.

(e) Stays in Criminal Cases; Admission to Bail. Stays in criminal cases shall be had in accordance with the provisions of NRS 177.095 et seq. Admission to bail shall be as provided in NRS 178.4873 through 178.488.

(f) Stay of Execution of Death Penalty. Immediately upon entry of an order of the Supreme Court staying execution of the death penalty, the clerk shall deliver copies thereof to the Governor of Nevada and to the warden of the Nevada State Prison.

RULE 9. TRANSCRIPT; DUTY OF COUNSEL; DUTY OF THE COURT REPORTER OR RECORDER

(a) Counsel's Duty to Request Transcript.

(1) Necessary Transcripts.

(A) Counsel have a duty to confer and attempt to reach an agreement concerning the transcripts necessary for the **[~~Supreme Court~~]** appellate court's review on appeal.

(B) **[~~Except as provided in Rule 3C(j)(2)~~]**Unless otherwise provided in these rules, the appellant shall file a transcript request form in accordance with Rule 9(a)(3) when a verbatim record was made of the district court proceedings and the necessary portions of the transcript were not prepared and filed in the district court before the appeal was docketed under Rule 12.

(C) If no transcript is to be requested, the appellant shall file and serve a certificate to that effect within the period set forth in Rule 9(a)(3) for

the filing of a transcript request form. Such a certificate shall substantially comply with Form 14 in the Appendix of Forms.

(2) Multiple Appeals. If more than one appeal is taken, each appellant shall comply with the provisions of this Rule.

(3) Transcript Request Form.

(A) Filing. The appellant shall file an original transcript request form with the district court clerk and 1 file-stamped copy of the transcript request form with the clerk of the Supreme Court no later than 15 days from the date that the appeal is docketed under Rule 12.

(B) Service and Deposit. The appellant shall serve a copy of the transcript request form on the court reporter or recorder who recorded the proceedings and on all parties to the appeal within the time provided in subparagraph (A). The appellant must pay an appropriate deposit to the court reporter or recorder at the time of service, unless appellant is proceeding in forma pauperis or is otherwise exempt from payment of the fees. Where several parties appeal from the same judgment or any part thereof, or there is a cross-appeal, the deposit shall be borne equally by the parties appealing, or as the parties may agree.

(C) Contents of Form. The appellant shall examine the district court minutes to ascertain the name of each court reporter or recorder who recorded the proceedings for which transcripts are necessary. The appellant shall prepare a separate transcript request form addressed to each court reporter or recorder who recorded the necessary proceedings, specifying only those proceedings recorded by the court reporter or recorder named on the request form. The transcript request form must substantially comply with Form 3 in the Appendix of Forms and must contain the following information:

(i) Name of the judge or officer who heard the proceedings;

(ii) Date or dates of the trial or hearing to be transcribed; individual dates must be specified, a range of dates is not acceptable;

(iii) Portions of the transcript requested; specify the type of proceedings (e.g., suppression hearing, trial, closing argument);

(iv) Number of copies required; and

(v) A certification by appellant's counsel that the attorney has ordered the required transcripts and has paid the required deposits. This certification shall specify from whom the transcript was ordered, the date the transcript was ordered, and the date the deposit was paid.

(4) Number of Copies of Transcript; Costs. Appellant shall provide a copy of the certified transcript to counsel for each party appearing separately. Unless otherwise ordered, the appellant initially shall pay any costs associated with the preparation and delivery of the transcript. Where several parties appeal from the same judgment or any part thereof, or there is a cross-appeal, the costs associated with the preparation and delivery of the transcript shall be borne equally by the parties appealing, or as the parties may agree.

(5) Supplemental Request. If the parties cannot agree on the transcripts necessary to the **[~~Supreme Court~~]** appellate court's review, and appellant requests only part of the transcript, appellant shall request any additional parts of the transcript that the respondent considers necessary. Within 10 days from the date the initial transcript request is filed, respondent shall notify appellant in writing of the additional portions required. Appellant shall have 10 days thereafter within which to file and serve a supplemental transcript request form and pay any additional deposit required.

(6) Consequences of Failure to Comply. A party's failure to comply with the provisions of this Rule may result in the imposition of sanctions, including dismissal of the appeal.

(b) Duty of the Court Reporter or Recorder.

(1) Preparation, Filing, and Delivery of Transcripts.

(A) Time to File and Deliver Transcripts. Upon receiving a transcript request form and the required deposit, the court reporter or recorder shall promptly prepare or arrange for the preparation of the transcript. Except as provided in Rule 9(b)(1)(B) and (b)(4), the court reporter or recorder shall—within 30 days after the date that a request form is served:

(i) file the original transcript with the district court clerk; and

(ii) deliver to the party ordering the transcript 1 certified copy and an additional certified copy for the appendix.

(B) Appellant's Failure to Pay Deposit. The court reporter or recorder is not obligated to prepare the transcript until receipt of the deposit required by Rule 9(a)(3)(B). If appellant fails to timely pay the deposit, the court reporter or recorder must—no later than 30 days from the date that the transcript request form is served:

(i) file with the clerk of the Supreme Court a written notice that the deposit has not been received, setting forth the full amount of the deposit and the amount that remains unpaid; and

(ii) serve a copy of the notice on counsel for the party requesting the transcript.

(2) Notice to <u>Clerk of the</u> Supreme Court. Within 10 days after the transcript is filed with the district court and delivered to the requesting party, the court reporter or recorder shall file with the clerk of the Supreme Court a notice that the completed transcript has been filed and delivered. The

notice shall specify the transcripts that have been filed and delivered and the date that those transcripts were filed and delivered. Form 15 in the Appendix of Forms is a suggested form of certificate of delivery.

(3) Format of Transcript. A certified transcript may be produced in a conventional page-for-page format. A concordance indexing keywords in the transcript shall be provided.

(4) Extension of Time to Deliver Transcript.

(A) Motion Required. If the court reporter or recorder cannot deliver a transcript within the time provided in Rule 9(b)(1)(A), the reporter or recorder shall seek an extension of time by filing a written motion with the clerk of the Supreme Court on or before the date that the transcripts are due.

(B) Supporting Documentation and Affidavits. A motion to extend the time for delivering a transcript shall be accompanied by the affidavit of the court reporter or recorder setting forth the reasons for the requested extension and the length of additional time needed to prepare the transcript.

(C) Service. The motion must be served on counsel for the party requesting the transcript.

(D) Standard for Granting. Requests for extensions of time to prepare a transcript will be closely scrutinized and will be granted only upon a showing of good cause.

(5) Sanctions for Failure to Comply. A court reporter or recorder who fails to file and deliver a timely transcript without sufficient cause as provided in Rule 9(b)(4) may be subject to sanctions under Rule 13.

(c) Statement of the Evidence When the Proceedings Were Not Recorded or When a Transcript Is Unavailable. If a hearing or trial was not recorded, or if a transcript is unavailable, the appellant may prepare

a statement of the evidence or proceedings from the best available means, including the appellant's recollection. The statement shall be served on the respondent, who may serve objections or proposed amendments within 10 days after being served. The statement and any objections or proposed amendments shall then be submitted to the district court for settlement and approval. As settled and approved, the statement shall be included by the district court clerk in the trial court record, and the appellant shall include a file-stamped copy of the statement in an appendix filed **[~~in~~]** with the clerk of the Supreme Court.

RULE 10. THE RECORD

(a) The Trial Court Record. The trial court record consists of the papers and exhibits filed in the district court, the transcript of the proceedings, if any, the district court minutes, and the docket entries made by the district court clerk.

(1) Retention of Record. The district court clerk shall retain the trial court record. When the **[~~Supreme Court~~]** appellate court deems it necessary to review the trial court record, the district court clerk shall assemble and transmit the portions of the record designated by the **[~~Supreme Court~~]** appellate court to the clerk of the Supreme Court in accordance with the provisions of Rule 11. Any costs associated with the preparation and transmission of the record shall be paid initially by the appellant, unless otherwise ordered.

(b) The Appellate Court Record.

(1) The Appendix. For the purposes of appeal, the parties shall submit to the clerk of the Supreme Court copies of the portions of the trial court record to be used on appeal, including all transcripts necessary to the

~~[Supreme Court]~~ appellate court's review, as appendices to their briefs. Under Rule 30(a), a joint appendix is preferred.

(2) Exhibits. If exhibits cannot be copied to be included in the appendix, the parties may request transmittal of the original exhibits to the clerk of the Supreme Court under Rule 30(d).

(c) Correction or Modification of the Record. If any difference arises about whether the trial court record truly discloses what occurred in the district court, the difference shall be submitted to and settled by that court and the record conformed accordingly. Questions as to the form and content of the appellate court record shall be presented to the ~~[Supreme Court]~~ appellate court.

RULE 11. PREPARING AND FORWARDING THE RECORD

(a) Preparation of the Record. Upon written direction from the ~~[Supreme Court]~~ appellate court, the district court clerk shall provide the clerk of the Supreme Court with the papers or exhibits comprising the trial court record. The record shall be assembled, paginated, and indexed in the same manner as an appendix to the briefs under Rule 30. If the ~~[Supreme Court]~~ appellate court determines that its review of original papers or exhibits is necessary, the district court clerk shall forward the original trial court record in lieu of copies.

(1) Exhibits. If the ~~[Supreme Court]~~ appellate court directs transmittal of exhibits, the exhibits shall not be included with the documents comprising the record. The district court clerk shall place exhibits in an envelope or other appropriate container, so far as practicable. The title of the case, the ~~[Supreme Court]~~ appellate court docket number, and the number

and description of all exhibits shall be listed on the envelope, or if no envelope is used, then on a separate list.

(2) Record in Proper Person Cases. When the **[~~Supreme Court~~]** appellate court directs transmission of the complete record in cases in which the appellant is proceeding in proper person, the record shall contain each and every paper, pleading and other document filed, or submitted for filing, in the district court. The record shall also include any previously prepared transcripts of the proceedings in the district court. If the **[~~Supreme Court~~]** appellate court should determine that additional transcripts are necessary to its review, the court may order the reporter or recorder who recorded the proceedings to prepare and file the transcripts.

(b) Duty of Clerk to Certify and Forward the Record. The district court clerk shall certify and forward the record to the clerk of the Supreme Court. The district court clerk shall indicate, by endorsement on the face of the record or otherwise, the date upon which it is forwarded to the clerk of the Supreme Court.

(c) Time for Forwarding the Record. The trial court record shall be forwarded within the time allowed by the **[~~Supreme Court~~]** appellate court, unless the time is extended by an order entered under Rule 11(d).

(d) Failure of Timely Transmittal; Extensions.

(1) Failure of Timely Transmittal. A district court clerk who fails to forward a timely record on appeal without sufficient excuse may be subject to sanctions.

(2) Extension of Time; Supporting Documentation and Affidavits. If the district court clerk cannot timely forward the record, the clerk shall seek an extension of time from the **[~~Supreme Court~~]** requesting appellate court. A motion to extend the time for transmitting the record shall

be accompanied by the affidavit of the clerk or deputy clerk setting forth the reasons for the requested extension, and the length of additional time needed to prepare the record.

RULE 12. DOCKETING THE APPEAL; FILING OF THE RECORD

(a) Docketing the Appeal. Upon receiving the copies of the notice of appeal and other documents from the district court clerk under Rule 3, the clerk of the Supreme Court shall docket the appeal and immediately notify all parties of the docketing date. Automatic appeals from a judgment of conviction of death shall be docketed in accordance with SCR 250. If parties on opposing sides file notices of appeal from the same district court judgment or order, in accordance with Rule 4(a), the appellants and cross-appellants shall be designated as provided in Rule 28.1. A subsequent appeal shall in all respects be treated as an initial appeal, including the payment of the prescribed filing fee. Cross-appeals will be filed under the same docket number and calendared and argued with the initial appeal.

(b) Filing the Record. Upon receiving the record, the clerk of the Supreme Court shall file it and immediately notify all parties of the filing date.

RULE 13. COURT REPORTERS' AND RECORDERS' DUTIES AND OBLIGATIONS; SANCTIONS

(a) Court Reporters' and Recorders' Duties and Obligations. Persons serving as court reporters or reporters pro tempore or court recorders in trials, proceedings, or hearings subject to **[~~Supreme Court~~]** appellate court review are, for such purposes, officers of the Supreme Court, and as such are accountable to the Supreme Court for the faithful performance of

their duties and obligations. Subject to the provisions of Rule 9, any person acting as a court reporter or reporter pro tempore or court recorder in a trial, proceeding, or other matter subject to **[~~Supreme Court~~]** appellate court review has a duty expeditiously to prepare, and punctually to deliver, all transcripts needed for such review; such person accordingly has a duty to refrain from undertaking further professional assignments that may unduly interfere with timely preparation and delivery of transcripts necessary for review of matters already heard; and where appropriate such person shall promptly notify every affected judge of the reporter's or recorder's consequent unavailability to report matters currently being heard, so that substitute reporters pro tempore or court recorders may be obtained.

(b) Sanctions. For default in the professional obligations of any court reporter or reporter pro tempore or court recorder, if such default threatens or adversely affects the efficiency or integrity of the **[~~Supreme Court~~]** appellate court, appropriate sanctions will be imposed. The **[~~Supreme Court~~]** appellate court may, for reasons stated, enter an order (1) referring an apparent offending court reporter or reporter pro tempore to the certified court reporters' board of Nevada for disciplinary action in accordance with the provisions of Chapter 656 of the Nevada Revised Statutes; or (2) requiring an apparent offender to appear before the **[~~Supreme Court~~]** appellate court, or its designated master, to show cause why he or she should not be precluded from undertaking to act as a reporter or recorder in regard to any trial, proceeding, administrative hearing, or deposition, that is subject to **[~~Supreme Court~~]** appellate court review; why he or she should not be punished for contempt of court; and why damages should not be awarded to either or both parties, and to the State of Nevada, if loss of court time results.

RULE 14. DOCKETING STATEMENT

(a) Application and Purpose of Docketing Statement.

(1) In General. Appellants shall file completed docketing statements in accordance with the provisions of this Rule in all **[**~~civil and criminal~~**]** appeals except criminal appeals governed by Rule 3C. Unless a cross-appeal is filed, the respondent may not complete a docketing statement but may file a response as specified in Rule 14(f).

(2) Original Writ Proceedings. This Rule does not apply to original proceedings commenced in the **[**~~Supreme Court~~**]** appellate court pursuant to NRS Chapters 34 or 35.

(3) Proper Person Appellants and Respondents. An appellant appearing in proper person shall not file a docketing statement unless ordered to do so by the Supreme Court. A respondent appearing in proper person may not file a response to the appellant's docketing statement unless permission is first sought and granted by the Supreme Court under Rule 46.

(4) Purpose of Docketing Statement. The purpose of the docketing statement is to assist the Supreme Court in identifying jurisdictional defects, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment, and compiling statistical information.

(5) Statement of Issues on Appeal. Counsel filing a docketing statement shall state specifically all issues that counsel in good faith reasonably believes to be the issues on appeal. The statement of issues is instrumental to the court's case management procedures, however, such statement is not binding on the court and the parties' briefs will determine the final issues on appeal. Omission of an issue from the statement of issues

will not provide an appropriate basis for a motion to strike any portion of the opening brief.

(b) Time for Filing; Form of Docketing Statement. Within 20 days after docketing of the appeal under Rule 12, the appellant shall file a docketing statement with the clerk of the Supreme Court, on a form provided by the clerk. Legible photostatic copies of the original form provided by the clerk will be accepted by the clerk for filing in lieu of the original form. The appellant may file a docketing statement that is not on the form provided by the clerk so long as it contains every question included in the clerk's form. An original and 2 copies shall be filed, together with proof of service of a copy of the completed statement on all parties and, if the appeal is assigned to the **[~~Supreme Court~~]** settlement conference program under Rule 16, on the settlement judge.

(c) Consequences of Failure to Comply. The statement must be completed fully and accurately. For civil appeals, copies of all requested documents must be attached to the completed docketing statement. Although the statement of the issues requested by the form is not binding, counsel should be mindful of the purpose of the docketing statement. The **[~~Supreme Court~~]** appellate court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate, or if the requested documentation has not been attached. Failure to file a docketing statement within the time prescribed shall not affect the validity of the appeal, but is grounds for such action as the **[~~Supreme Court~~]** appellate court deems appropriate including sanctions and dismissal of the appeal.

(d) Extensions of Time. A motion for an extension of time within which to file the docketing statement will be granted for good cause. Counsel's caseload generally will not provide grounds for an extension.

(e) Multiple Appellants. In cases involving more than one appellant, any number of appellants may join in a single docketing statement. Multiple appellants are encouraged to consult with each other and, whenever possible, file only one docketing statement.

(f) Response by Respondent(s). Respondent, within 7 days after service of the docketing statement, may file an original and 1 copy of a single-page response, together with proof of service on all parties, if respondent strongly disagrees with appellant's statement of the case or issues on appeal. If respondent believes there is a jurisdictional defect, respondent should file a motion to dismiss. In cases involving more than one respondent, any number of respondents may join in a single response. Multiple respondents are encouraged to consult with each other and, whenever possible, file only one response.

(g) Cross-Appeals. All parties who have filed a notice of appeal, whether designated as appellants or cross-appellants, shall comply with Rule 14(a). Cross-appellants and cross-respondents are subject to all the provisions of this Rule as are appellants and respondents.

RULE 15. REPEALED

RULE 16. SETTLEMENT CONFERENCES IN CIVIL APPEALS

(a) Assignment of Case to Settlement Conference Program. Any civil appeal in which all parties are represented by counsel and that does not involve termination of parental rights may be assigned to the settlement conference program. The settlement conference program administrator shall determine whether to assign an appeal to the settlement conference program.

The settlement conference shall be presided over by a qualified mediator who has been appointed as a settlement judge by the Supreme Court.

(1) Settlement Notice; Suspension of Rules. The clerk shall issue a settlement notice informing the parties that the appeal will be assigned to the settlement conference program. The settlement notice automatically stays the time for filing a request for transcripts under Rule 9 and for filing briefs under Rule 31. The notice also stays the preparation and filing of any transcripts requested under Rule 9.

(2) Assignment Notice. The clerk of the Supreme Court shall issue an assignment notice informing the parties that a case has been assigned to the settlement conference program and of the name of the settlement judge.

(3) Service. Papers or documents filed with the Supreme Court while a case is in the settlement program shall be served on all parties and the settlement judge.

(b) Early Case Assessment. The settlement judge shall conduct a pre-mediation telephone conference with counsel and file an Early Case Assessment Report within 30 days of assignment. In that report, the settlement judge shall inform the court whether the case is appropriate for the program or should be removed from the program. If the settlement judge reports that the case is not appropriate for the settlement conference program, the court may remove the case from the program and reinstate the timelines for requesting transcripts under Rule 9 and briefing under Rule 31.

(c) Scheduling of Settlement Conference. Unless the Supreme Court removes the case from the settlement conference program under Rule 16(b), the settlement judge shall schedule a settlement conference within 90 days of assignment. If the case involves child custody, visitation, relocation or

guardianship issues, the conference shall be scheduled within 60 days of assignment.

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

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

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

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

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

(3) Settlement Conference Status Reports. Within 10 days from the date of any settlement conference, the settlement judge shall file a

settlement conference status report. The report must state the result of the settlement conference, but shall not disclose any matters discussed at the conference.

(4) Settlement Documents. If a settlement is reached, the parties shall immediately execute a settlement agreement and a stipulation to dismiss the appeal, and shall file the stipulation to dismiss with the clerk of the Supreme Court. The settlement agreement does not need to be filed with the Supreme Court.

(f) Length of Time in Settlement Conference Program.

(1) Time Limits. Within 180 days of assignment, the settlement judge must file a final settlement conference status report indicating whether the parties were able to agree to a settlement. For cases involving child custody, visitation, relocation or guardianship issues, a final settlement conference status report must be filed within 120 days of assignment.

(2) Extensions. Upon stipulation of all parties or upon the settlement judge's recommendation, the settlement program administrator may extend the time for filing a final settlement conference status report. In cases not involving child custody, visitation, relocation or guardianship issues, the time may be extended for an additional 90 days. In cases involving child custody, visitation, relocation or guardianship issues, the time may be extended for an additional 60 days.

(3) Reinstatement of Rules. At the discretion of the settlement program administrator, the timelines for requesting transcripts under Rule 9 and filing briefs under Rule 31 may be reinstated during any extension period granted under Rule 16(f)(2).

(g) Sanctions. The failure of a party, or the party's counsel, to participate in good faith in the settlement conference process by not

attending a scheduled conference or not complying with the procedural requirements of the program may be grounds for sanctions against the party, the party's counsel, or both. If a settlement judge believes sanctions are appropriate, the settlement judge may file a settlement conference status report recommending the sanction to be imposed and describing the conduct warranting that sanction. Sanctions include, but are not limited to, payment of attorney's fees and costs of the opposing party, dismissal of the appeal, or reversal of the judgment below.

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

RULE 17. ~~[RESERVED]~~DIVISION OF CASES BETWEEN THE SUPREME COURT AND THE COURT OF APPEALS

(a) Cases Retained by the Supreme Court.

(1) The Supreme Court shall hear and decide the following:

(A) Except as provided in (b) of this rule, proceedings invoking the original jurisdiction of the Supreme Court;

(B) Direct appeals in capital cases and cases that involve a conviction for a primary offense that is a category A or category B felony and post-conviction habeas appeals in capital cases and cases that involve a conviction for a primary offense that is a category A felony;

(C) Cases involving ballot or election questions;

(D) Cases involving judicial discipline;

(E) Cases involving attorney admission, suspension, discipline, disability, reinstatement, and resignation;

(F) Cases involving the approval of prepaid legal service plans;

(G) Questions of law certified by a federal court;

(H) Disputes between branches of government or local governments;

(I) Administrative agency appeals involving tax, water, or public utilities commission determinations;

(J) Cases originating in business court

(K) Appeals from orders denying motions to compel arbitration;

(L) Cases involving the termination of parental rights;

(M) Matters raising as a principal issue a question of first impression involving the United States or Nevada constitution or common law; and

(N) Matters raising as a principal issue a question of statewide public importance, or an issue upon which there is an inconsistency in the published decision of the Court of Appeals or of the Supreme Court or a conflict between published decisions of the two courts.

(b) Cases Assigned to Court of Appeals. The Court of Appeals shall hear and decide only those matters assigned to it by the Supreme Court.

(1) The following case categories are presumptively assigned to the Court of Appeals:

(A) All post-conviction appeals except those in capital cases and cases that involve a conviction for a primary offense that is a category A felony; any direct appeal from a judgment of conviction based on a plea of

guilty, guilty but mentally ill, or nolo contendere (*Alford*); direct appeals from a judgment of conviction that challenges only the sentence imposed or the sufficiency of the evidence; and any direct appeal from a judgment of conviction based on a jury verdict that does not involve a conviction for a primary offense that is a category A or category B felony;

(B) Appeals from a principal judgment of $250,000 or less in a tort case;

(C) Appeals in statutory lien matters under Chapter 108 of the Nevada Revised Statutes;

(D) Administrative agency appeals except those involving tax, water, or public utilities commission determinations;

(E) Cases involving family law matters other than termination of parental rights;

(F) Appeals challenging venue or the grant or denial of injunctive relief;

(G) Pretrial writ proceedings challenging discovery orders, orders resolving motions in limine or rulings on motions to suppress.

(H) Appeals in trust and estate matters.

(I) Appeals arising from the foreclosure mediation program.

(2) In assigning cases to the Court of Appeals, due regard will be given to the workload of each court.

(3) A party who believes that a matter presumptively assigned to the Court of Appeals should be retained by the Supreme Court may state the reasons as enumerated in (a)(1) of this rule in the routing statement of the briefs. NRAP 28(a)(5), NRAP 28(b)(2), and NRAP 28.1(3)(A). A party may not file a motion or other pleading seeking reassignment of a case that the Supreme Court has assigned to the Court of Appeals.

RULE 18. RESERVED

RULE 19. RESERVED

RULE 20. RESERVED

III. EXTRAORDINARY WRITS

RULE 21. WRITS OF MANDAMUS AND PROHIBITION AND OTHER EXTRAORDINARY WRITS

(a) Mandamus or Prohibition: Petition for Writ; Service and Filing.

(1) Filing and Service. A party petitioning for a writ of mandamus or prohibition must file a petition with the clerk of the Supreme Court with proof of service on the respondent judge, corporation, commission, board or officer and on each real party in interest. The petition shall identify whether the matter falls in one of the categories of cases presumptively assigned to the Court of Appeals pursuant to NRAP 17(b), either by virtue of its subject matter or under NRAP 17(b)(1)(G). A petition directed to a court shall also be accompanied by a notice of the filing of the petition, which shall be served on all parties to the proceeding in that court.

(2) Caption. The petition shall include in the caption: the name of each petitioner; the name of the appropriate judicial officer, public tribunal, corporation, commission, board or person to whom the writ is directed as the respondent; and the name of each real party in interest, if any.

(3) Contents of Petition. The petition must state:

(A) the relief sought;

(B) the issues presented;

(C) the facts necessary to understand the issues presented by the petition; and

(D) the reasons why the writ should issue, including points and legal authorities.

(4) Appendix. The petitioner shall submit with the petition an appendix that complies with Rule 30. The appendix shall include a copy of any order or opinion, parts of the record before the respondent judge, corporation, commission, board or officer, or any other original document that may be essential to understand the matters set forth in the petition.

(5) Verification. A petition for an extraordinary writ shall be verified by the affidavit of the petitioner or, if the petitioner is unable to verify the petition or the facts stated therein are within the knowledge of the petitioner's attorney, by the affidavit of the attorney. The affidavit shall be filed with the petition.

(6) Emergency Petitions. A petition that requests the court to grant relief in less than 14 days shall also comply with the requirements of Rule 27(e).

(b) Denial; Order Directing Answer.

(1) The court may deny the petition without an answer. Otherwise, it may order the respondent or real party in interest to answer within a fixed time.

(2) Two or more respondents or real parties in interest may answer jointly.

(3) The court may invite an amicus curiae to address the petition.

(4) In extraordinary circumstances, the court may invite the trial court judge to address the petition.

(c) Other Extraordinary Writs. An application for an extraordinary writ other than one provided for in Rule 21(a) shall be made by filing a petition with the clerk of the Supreme Court with proof of service on the parties named as respondents and any real party in interest. Proceedings on the application shall conform, so far as is practicable, to the procedure prescribed in Rule 21(a) and (b).

(d) Form of Papers; Number of Copies. All papers must conform to Rule 32(c)(2). An original and 2 copies shall be filed unless the court requires the filing of a different number by order in a particular case.

(e) Payment of Fees. The **[~~Supreme Court~~]** appellate court shall not consider any application for an extraordinary writ until the petition has been filed; and the clerk shall receive no petition for filing until the $250 fee has been paid, unless the applicant is exempt from payment of fees, or the court or a justice or judge thereof orders waiver of the fee for good cause shown.

IV. HABEAS CORPUS; PROCEEDINGS IN FORMA PAUPERIS

RULE 22. HABEAS CORPUS PROCEEDINGS

Application for the Original Writ. An application for an original writ of habeas corpus should be made to the appropriate district court. If an application is made to the district court and denied, the proper remedy is by appeal **[~~to the Supreme Court~~]** from the district court's order denying the writ.

RULE 23. CUSTODY OF PRISONERS IN HABEAS CORPUS PROCEEDINGS

(a) Transfer of Custody Pending Review. Pending review of a decision in a habeas corpus proceeding commenced before a court, justice or judge of this state for the release of a prisoner, the person having custody of the prisoner shall not transfer custody to another unless a transfer is directed in accordance with the provisions of this Rule and NRS 174.325. When, upon application, a custodian shows the need for a transfer, the court, justice or judge rendering the decision may authorize the transfer and substitute the successor custodian as a party.

(b) Detention or Release of Prisoner Pending Review of Decision Not to Release. While a decision not to release a prisoner is under review, the court or judge rendering the decision, or the **[~~Supreme Court~~]** appellate court or a justice or judge of that court may order that the prisoner be:

(1) detained in the custody from which release is sought;

(2) detained in other appropriate custody; or

(3) released on personal recognizance, with or without surety.

(c) Release of Prisoner Pending Review of Decision Ordering Release. While a decision ordering the release of a prisoner is under review, the prisoner must—unless the court or judge rendering the decision, or the **[~~Supreme Court~~]** appellate court or a justice or judge of that court orders otherwise—be released on personal recognizance, with or without surety.

(d) Modification of Initial Order on Custody. An initial order governing the prisoner's custody or release, including any recognizance or surety, continues in effect pending review unless for special reasons shown to

the [~~Supreme Court~~] appellate court, or to a justice or judge of that court, the order is modified or an independent order regarding custody, release, or surety is issued.

RULE 24. PROCEEDINGS IN FORMA PAUPERIS

(a) Leave to Proceed on Appeal in Forma Pauperis.

(1) Motion in the District Court. Except as stated in Rule 24(a)(3), a party to a district court action who desires to appeal in forma pauperis shall file a motion in the district court. The party shall attach an affidavit that:

(A) shows in the detail prescribed by Form 4 in the Appendix of Forms the party's inability to pay or to give security for fees and costs;

(B) claims an entitlement to redress; and

(C) states the issues that the party intends to present on appeal.

(2) Action on the Motion. If the district court grants the motion, the party may proceed on appeal without prepaying or giving security for fees and costs. If the district court denies the motion, it must state its reasons in writing.

(3) Prior Approval. A party who was permitted to proceed in forma pauperis in a civil district court action may proceed on appeal in forma pauperis without further authorization, unless the district court—before or after the notice of appeal is filed—certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding.

(4) Notice of District Court's Denial. The district court clerk shall immediately notify the parties and the clerk of the Supreme Court when the district court does any of the following:

(A) denies a motion to proceed on appeal in forma pauperis;

(B) certifies that the appeal is not taken in good faith; or

(C) finds that the party is not otherwise entitled to proceed in forma pauperis.

(5) Motion in the [~~Supreme~~] Appellate Court. A party may file a motion to proceed on appeal in forma pauperis in the **[~~Supreme Court~~]** appellate court within 30 days after service of the notice prescribed in Rule 24(a)(4). The motion shall include a copy of the affidavit filed in the district court and a copy of the district court's statement of reasons for its action. If no affidavit was filed in the district court, the party shall include the affidavit prescribed by Rule 24(a)(1).

(b) Reserved.

(c) Leave to Use Original Record. A party allowed to proceed on appeal in forma pauperis may request that the appeal be heard on the original record without reproducing any part.

V. GENERAL PROVISIONS

RULE 25. FILING AND SERVICE

(a) Filing.

(1) Filing With the Clerk. A paper required or permitted to be filed in the **[~~Supreme Court~~]** appellate court shall be filed with the clerk as provided by this Rule.

(2) Filing: Method and Timeliness.

(A) Filing may be accomplished by mail addressed to the clerk at the Supreme Court of Nevada, 201 South Carson Street, Suite 201, Carson City, Nevada 89701-4702.

(B) Unless the court by order in a particular case directs otherwise, a document is timely filed if, on or before the last day for filing, it is:

(i) delivered to the clerk in person in Carson City;

(ii) mailed to the clerk by first-class mail, or other class of mail that is at least as expeditious, postage prepaid; or

(iii) dispatched to a third-party commercial carrier for delivery to the clerk within 3 calendar days; or

(iv) deposited in the Supreme Court drop box as provided in Rule 25(a)(3); **[~~or~~]**

(v) transmitted directly to the clerk by facsimile transmission as provided in Rule 25(a)(4); or

(vi) electronically transmitted to the court's electronic filing system consistent with NEFCR 8.

(3) [~~Supreme Court~~]Clerk's Drop Box. A paper may be submitted for filing with the clerk of the Supreme Court by means of the **[~~court~~]** clerk's drop box as provided in this Rule.

(A) Papers Eligible for Drop Box Submission. A paper required or permitted to be filed in the **[~~Supreme Court~~]** appellate court may be deposited in the drop box located in the **[~~Supreme Court's~~]** Las Vegas office of the clerk of the Supreme Court. A document that requires the payment of a filing fee may be deposited in the drop box accompanied by the filing fee in the form of a check or money order payable to the clerk. No cash shall be deposited in the drop box.

(B) Requests for Emergency or Expedited Relief. A request for emergency or expedited relief, or a response thereto, should not be deposited in the drop box. To ensure timely consideration by the **[~~Supreme~~**

~~Court~~] appellate court, counsel must submit such documents to the clerk's office in Carson City by the most expeditious means feasible, such as overnight delivery, same-day courier service, or facsimile transmission as provided for in Rule 25(a)(4).

(C) Procedure. A paper may be deposited in the drop box during all hours the Las Vegas office is open. Before being placed in the drop box, a paper must be date and time stamped and enclosed in a sealed envelope. Filing is timely if, on or before the last day of the prescribed filing period, the document is properly date and time stamped and deposited in the drop box. A document is properly date and time stamped if the original document, or the envelope containing the document, bears the **[~~Supreme Court's~~]** drop box stamp. Stamping of copies submitted to the court is not required.

(D) Transmission of Documents to Carson City. A document will be transmitted to the clerk's office in Carson City the next judicial day after its deposit in the drop box. Upon receiving the papers in Carson City, the clerk shall process them in accordance with these Rules.

(4) Filing by Facsimile Transmission. A paper may be filed with the clerk of the Supreme Court by means of facsimile transmission as provided in this Rule.

(A) In Cases Involving Death Penalty. Documents that relate to stays of execution in death penalty cases will be received for filing by the clerk of the Supreme Court through facsimile transmission to the facsimile machine situated in the office of the clerk in Carson City. Such transmission may be made whenever counsel believes that the client's interests will be served.

(B) In Other Cases. In all other cases, documents may be received for filing by the clerk through facsimile transmission only in cases of emergency, and only if an oral request for permission to do so has first been tendered to the clerk and approved, upon a showing of good cause, by any justice or judge or the clerk.

(C) Procedure. In all instances, including matters relating to stays of execution in death penalty cases, counsel must first notify the clerk of counsel's intention to transmit documents by facsimile. In all cases not involving stays of execution of the death penalty, counsel must be advised by the clerk that approval has been granted under Rule 25(a)(4)(B) before any document may be transmitted. Upon receiving the transmitted documents, the clerk shall make the number of photocopies of the transmissions required by these Rules and shall file the photocopies.

(D) Original; Service. In all cases where a document has been facsimile transmitted and filed under this Rule, counsel must file the original document with the clerk, in the manner provided in Rule 25(a)(2)(B)(i)-(iii), within 3 judicial days of the date of the facsimile transmission. The original shall be accompanied by proof of service on all parties as required by Rule 25(d). A copy of a document filed by facsimile transmission shall be served on all parties to the appeal or review by facsimile transmission and by mail at the time the document is filed with the **[~~Supreme Court~~]** appellate court.

(E) Costs. The party filing a document by means of facsimile transmission shall be responsible for all costs of the facsimile transmission and the costs of photocopying the documents transmitted. The clerk of the Supreme Court shall promptly inform counsel of the amount of costs. Such costs shall be paid within 10 days of the date of the facsimile request.

(5) Original Signature and Bar Number Required. All documents submitted to the **[~~Supreme Court~~]** appellate court for filing by a represented party shall include the original signature of at least 1 attorney of record who is an active member of the bar of this state, and the address, telephone number, and State Bar of Nevada identification number of the attorney and of any associated attorney appearing for the party filing the paper. All documents submitted to this court for filing by unrepresented parties shall include the original signature of the party and shall state the party's address and telephone number.

(b) Service of All Papers Required. Unless a rule requires service by the clerk, a party or person acting for that party must, at or before the time of filing a paper, serve a copy on the other parties to the appeal or review. Service on a party represented by counsel shall be made on the party's counsel.

(c) Manner of Service.

(1) Service may be any of the following:

(A) personal, including delivery of the copy to a clerk or other responsible person at the office of counsel;

(B) by mail;

(C) by third-party commercial carrier for delivery within 3 calendar days; **[~~or~~]**

(D) by electronic means, if the party being served consents in writing; or

(E) notice by electronic means to registered users of the court's electronic filing system consistent with NEFCR 9 .

(2) When reasonable, considering such factors as the immediacy of the relief sought, distance, and cost, service on a party shall be by a manner at least as expeditious as the manner used to file the paper with the court.

(3) Service by mail or by commercial carrier is complete on mailing or delivery to the carrier. Service by electronic means is complete on transmission, unless the party making service is notified that the paper was not received by the party served. Service through the court's electronic filing system is complete at the time of that the court or electronic filing system transmits notice that the document has been filed and is available on the court's electronic filing system.

(d) Proof of Service.

(1) Papers presented for filing shall contain either of the following:

(A) an acknowledgment of service by the person served; or

(B) proof of service in the form of a statement by the person who made service certifying:

(i) the date and manner of service;

(ii) the names of the persons served; and

(iii) the mail or electronic addresses, facsimile numbers, or the addresses of the places of delivery, as appropriate for the manner of service.

(2) Proof of service may appear on or be affixed to the papers filed.

(3) The clerk may permit papers to be filed without acknowledgment or proof of service but shall require such to be filed promptly thereafter. The court will not take any action on any such papers, including requests for ex parte relief, until an acknowledgment or proof of service is filed.

RULE 25A. ~~[FULL COURT, PANELS]~~ COURT COMPOSITION, SESSION, QUORUM AND ADJOURNMENTS

(a) Transaction of Judicial Business in Open Court, Chambers. Matters of judicial business to be transacted in open court shall be arranged by calendar setting fixed by court order. Matters of judicial business to be transacted in chambers shall be arranged by appointment with the clerk.

(b) Sessions, Quorum and Adjournments.

(1) No arguments will be heard or open sessions held on Saturday, Sunday or other nonjudicial days.

(2) Constitution of Court.

(A) Supreme Court. The full **[~~Supreme Court~~]** court consists of all seven members of the court. A panel consists of three members of the court. A quorum of the full court sitting en banc shall be four and a quorum of the court sitting as a panel shall be two. **[~~A senior justice or an active or senior district court judge may be assigned to sit in place of a justice as provided by law.~~]**

(B) Court of Appeals. The Court of Appeals consists of all three members of the court. A quorum of the court shall be two.

(C) A senior justice, senior Court of Appeals judge, or active district court judge may be assigned to sit in place of a justice or judge as provided by law.

(3) **[~~In the absence of a quorum, on any day appointed for holding a session of the court, the justices attending (or if no justices are present, the clerk or a deputy clerk) may adjourn the court until there is a quorum.~~]** Where only four justices are present for oral argument before the full Supreme Court **[~~court~~]** or where only two justices are present for oral argument before a panel of the Supreme Court **[~~court~~]** or the Court of Appeals, the absent justice(s) or judge(s) **[~~, on order of the chief justice, or, in his or her absence, the presiding justice,~~]** may participate in the

decision and the opinion of the court upon the written briefs or points and authorities. In the absence of a quorum, on any day appointed for holding a session of the court, the justices or judges attending (or if no justices or judges are present, the clerk or a deputy clerk) may adjourn the court until there is a quorum.

(4) The court may, in appropriate instances, direct the clerk or the bailiff to announce recesses and adjournments.

RULE 26. COMPUTING AND EXTENDING TIME

(a) Computing Time. The following rules apply in computing any period of time specified in these Rules, a court order, or an applicable statute:

(1) Exclude the day of the act, event, or default that begins the period.

(2) Exclude intermediate Saturdays, Sundays, and nonjudicial days when the period is less than 11 days, unless the period is stated as a specific date.

(3) Include the last day of the period unless it is a Saturday, Sunday, or a nonjudicial day, or—if the act to be done is filing a paper in court—a day on which the weather or other conditions make the clerk's office inaccessible, in which event the period extends until the end of the next day that is not a Saturday, Sunday, or a nonjudicial day.

(b) Extending Time.

(1) By Court Order.

(A) For good cause, the court may extend the time prescribed by these Rules or by its order to perform any act, or may permit an act to be done after that time expires. But the court may not extend the time to file a notice of appeal except as provided in Rule 4(c).

(B) Except as otherwise provided in these Rules, counsel may request by telephone a **[~~5~~]**14-day extension of time for performing any act except the filing of a notice of appeal. **[~~If good cause is shown, the clerk of the Supreme Court may grant such a request by telephone or by written order of the clerk. Subsequent extensions of time shall be granted only upon motion to the Supreme Court under Rule 27 and subsequent extensions of time for filing briefs will be subject to Rule 31.~~]** If good cause is shown, the clerk may grant such a request by telephone or by written order of the clerk. The grant of an extension of time to perform an act under this rule will bar any further motion for additional extensions of time to perform the same act unless such a motion, which must be in writing, demonstrates extraordinary and compelling circumstances.

(2) By Stipulation. Except as otherwise provided in these Rules, or when not otherwise controlled by statute, the time prescribed by these Rules to perform any act may be extended by stipulation of the parties. No stipulation extending time is effective unless approved by the court or a justice or judge thereof; and such stipulations must be filed before expiration of the time period that is sought to be extended.

(c) Additional Time After Service. When a party is required or permitted to act within a prescribed period after a paper is served on that party, 3 calendar days are added to the prescribed period unless the paper is delivered on the date of service stated in the proof of service or unless the party being served is a registered user of the electronic filing system. Specific due dates set by court order or acts required to be taken within a time period set forth in the order are not subject to this additional 3-day allowance.

(d) Shortening Time. Except as otherwise provided in these Rules, or when not otherwise controlled by statute, the time prescribed by these

Rules to perform any act may be shortened by stipulation of the parties, or by order of the court or a justice or judge.

RULE 26.1. DISCLOSURE STATEMENTS

(a) Who Must File Statement and Contents. Every attorney for a nongovernmental party or amicus curiae to a proceeding in the **[~~Supreme Court of Nevada~~]** appellate court must file a statement identifying all its parent corporations and listing any publicly held company that owns 10% or more of the party's stock or states that there is no such corporation. The statement must also disclose the names of all law firms whose partners or associates have appeared for the party or amicus in the case (including proceedings in the district court or before an administrative agency) or are expected to appear in this court. If any litigant is using a pseudonym, the statement must disclose the litigant's true name. A disclosure required by the preceding sentence will be kept under seal.

(b) Time to File; Supplemental Filing. A party must file the disclosure statement with the principal brief or upon filing a motion, response, petition, or answer in the **[~~Supreme Court~~]** appellate court. Even if the party's statement has already been filed, the party's principal brief must include the statement before the table of contents. A party must supplement its statement whenever the information that must be disclosed under NRAP **[~~3F~~]** 26.1(a) changes.

(c) Number of Copies. If the Rule 26.1 statement is filed before the principal brief, or if a supplemental statement is filed, the party must file an original and 1 copy unless the court requires a different number by order.

(d) Form. The certificate must be in the following form:

(1) Caption setting forth the name of the court, the title of the case, the case number and the title "NRAP 26.1 Disclosure";

(2) The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

(Here list names of all such persons and entities and identify their connection and interest.)

Attorney of record for .....

RULE 27. MOTIONS

(a) In General.

(1) Application for Relief. An application for an order or other relief is made by motion unless these Rules prescribe another form. A motion must be in writing and be accompanied by proof of service.

(2) Contents of a Motion. A motion must state with particularity the grounds for the motion, the relief sought, and the legal argument necessary to support it. The motion shall contain or be accompanied by any matter required by a specific provision of these Rules governing such a motion. If a motion is supported by affidavits or other papers, they shall be served and filed with the motion.

(3) Response.

(A) Time to File. Any party may file a response to a motion; Rule 27(a)(2) governs its contents. The response must be filed within 7 days after service of the motion unless the court shortens or extends the time. A motion authorized by Rules 8 or 41 may be acted upon after reasonable notice to the parties that the court intends to act sooner.

(B) Request for Affirmative Relief. A response may include a motion for affirmative relief. The time to respond to the new motion is governed by Rule 27(a)(3)(A). The title of the response must alert the court to the request for relief.

(4) Reply to Response. Any reply to a response shall be filed within 5 days after service of the response. A reply shall not present matters that do not relate to the response.

(b) Disposition of a Motion for a Procedural Order. The court may act on a motion for a procedural order—including a motion under Rule 26(b)—at any time without awaiting a response. Under Rule 27(c), the clerk may act on motions for specified types of procedural orders. A party adversely affected by the court's, or the clerk's, action may file a motion to reconsider, vacate or modify that action. Timely opposition filed after the motion is granted in whole or in part does not constitute a request to reconsider, vacate, or modify the disposition; a motion requesting that relief must be filed.

(c) Power of a Single Justice or Judge to Entertain Motions; Delegation of Authority to Entertain Motions.

(1) [~~Single Justice's~~] Order[s] of a Single Justice or Judge. In addition to the authority expressly conferred by these Rules or by law, a justice or judge of the **[~~Supreme Court~~]** appellate court may act alone on any motion but may not dismiss or otherwise determine an appeal or other proceeding. The **[~~Supreme Court~~]** appellate court may provide **[~~by order or rule~~]** that only the court may act on any motion or class of motions. The court may review the action of a single justice or judge.

(2) Clerk's Orders.

(A) Procedural Motions. The chief justice or judge may delegate to the clerk authority to decide motions that are subject to disposition by a single justice or judge. An order issued by the clerk under this Rule shall be subject to reconsideration by a single justice or judge of the appellate court pursuant to motion filed within 10 days after entry of the clerk's order.

(B) Orders of Dismissal. The **[~~Supreme Court~~]** appellate court may delegate to the clerk authority to enter orders of dismissal in civil cases where the appellant has filed a motion or parties to an appeal or other proceeding have signed and filed a stipulation that the proceeding be dismissed, specifying terms as to the payment of costs.

(d) Form of Papers; Number of Copies.

(1) Format.

(A) Reproduction. All papers relating to motions may be reproduced by any process that yields a clear black image of letter quality. The paper must be opaque and unglazed. Only one side of the paper may be used.

(B) Cover. A cover is not required, but there must be a caption that includes the name of the court and the docket number, the title of the case, and a brief descriptive title indicating the purpose of the motion and identifying the party or parties for whom it is filed. If a cover is used, it shall be white.

(C) Binding. The document must be bound in any manner that is secure, does not obscure the text, and permits the document to lie reasonably flat when open.

(D) Paper Size, Line Spacing, and Margins. The document must be on 8 1/2 by 11-inch paper. The text must be double-spaced, but

quotations more than 2 lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. Margins must be at least 1 inch on all 4 sides. The pages shall be consecutively numbered at the bottom.

(E) Typeface and Type Style. The document must comply with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6).

(2) Page Limits. A motion or a response to a motion shall not exceed 10 pages, unless the court permits or directs otherwise. A reply to a response shall not exceed 5 pages.

(3) Number of Copies. An original and 1 copy must be filed unless the court requires a different number by order.

(e) Emergency Motions. If a movant certifies that to avoid irreparable harm relief is needed in less than 14 days, the motion shall be governed by the following requirements:

(1) Before filing the motion, the movant shall make every practicable effort to notify the clerk of the Supreme Court and opposing counsel and to serve the motion at the earliest possible time. If an emergency motion is not filed at the earliest possible time, the **[~~Supreme Court~~]** appellate court may summarily deny the motion.

(2) A motion filed under this subdivision shall include the title "Emergency Motion Under NRAP 27(e)"immediately below the caption of the case and a statement immediately below the title of the motion that states the date or event by which action is necessary.

(3) A motion filed under this subdivision shall be accompanied by a certificate of counsel for the movant, entitled "NRAP 27(e) Certificate," that contains the following information:

(A) The telephone numbers and office addresses of the attorneys for the parties;

(B) Facts showing the existence and nature of the claimed emergency; and

(C) When and how counsel for the other parties were notified and whether they have been served with the motion; or, if not notified and served, why that was not done.

(4) If the relief sought in the motion was available in the district court, the motion shall state whether all grounds advanced in support of the motion in the **[~~Supreme Court~~]** appellate court were submitted to the district court, and, if not, why the motion should not be denied.

(5) The motion shall otherwise comply with the provisions of this Rule.

RULE 28. BRIEFS

(a) Appellant's Brief. The appellant's brief shall be entitled "Appellant's Opening Brief" and shall contain under appropriate headings and in the order indicated:

(1) a disclosure that complies with Rule 26.1;

(2) a table of contents, with page references;

(3) a table of authorities—cases (alphabetically arranged), statutes, and other authorities—with references to the pages of the brief where they are cited;

(4) a jurisdictional statement, including:

(A) the basis for the **[~~Supreme Court~~]** court's appellate jurisdiction;

(B) the filing dates establishing the timeliness of the appeal; and

(C) an assertion that the appeal is from a final order or judgment, or information establishing the **[~~Supreme Court~~]** court's jurisdiction on some other basis;

(5) a routing statement, setting forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and citing the subparagraph(s) of the Rule under which the matter falls. If the appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, based on a principal issue raised in the matter, the routing statement must include a clear statement of the relevant issue, citations to the record where the issue was raised and resolved, and an explanation of the importance of the issue;

(6) a statement of the issues presented for review;

(**[~~6~~]**7) a statement of the case briefly indicating the nature of the case, the course of the proceedings, and the disposition below;

(**[~~7~~]**8) a statement of facts relevant to the issues submitted for review with appropriate references to the record (see Rule 28(e));

(**[~~8~~]**9) a summary of the argument, which must contain a succinct, clear, and accurate statement of the arguments made in the body of the brief and which must not merely repeat the argument headings;

(**[~~9~~]**10) the argument, which must contain:

(A) appellant's contentions and the reasons for them, with citations to the authorities and parts of the record on which the appellant relies; and

(B) for each issue, a concise statement of the applicable standard of review (which may appear in the discussion of the issue or under a separate heading placed before the discussion of the issues);

([~~10~~]11) a short conclusion stating the precise relief sought; and

([~~11~~]12) an attorney's certificate that complies with Rule 28.2.

(b) Respondent's Brief. The respondent's brief shall be entitled "Respondent's Answering Brief" and shall conform to the requirements of Rule 28(a)(1)-([~~8~~]10) and ([~~10~~]12), except that none of the following need appear unless the respondent is dissatisfied with the appellant's statement:

(1) the jurisdictional statement;

(2) a routing statement, setting forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and citing the subparagraph(s) of the Rule under which the matter falls. If the respondent believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, based on a principal issue raised in the matter, the routing statement must include a clear statement of the relevant issue, citations to the record where the issue was raised and resolved, and an explanation of the importance of the issue;

(3) the statement of the issues;

(4) the statement of the case;

([~~4~~]5) the statement of the facts; and

([~~5~~]6) the statement of the standard of review.

(c) Reply Brief. The appellant may file a brief in reply to the respondent's answering brief which shall be entitled "Appellant's Reply Brief." A reply brief shall comply with Rule 28(a)(1)-(2) and (10) and must be limited to answering any new matter set forth in the opposing brief. Unless the court permits, no further briefs may be filed. A party may waive the right to file a reply brief. Providing the clerk with immediate notice of that waiver will expedite submission of the case to the court.

(d) References in Briefs to Parties. In briefs and at oral argument, counsel will be expected to keep to a minimum references to parties by such designations as "appellant" and "respondent." It promotes clarity to use the designations used in the lower court or the actual names of parties, or descriptive terms such as "the employee," "the injured person," etc.

(e) References in Briefs to the Record.

(1) Every assertion in briefs regarding matters in the record shall be supported by a reference to the page and volume number, if any, of the appendix where the matter relied on is to be found. A party referring to evidence whose admissibility is in controversy must cite the pages of the appendix or of the transcript at which the evidence was identified, offered, and received or rejected.

(2) Parties shall not incorporate by reference briefs or memoranda of law submitted to the district court or refer the ~~[Supreme Court]~~ appellate court to such briefs or memoranda for the arguments on the merits of the appeal.

(f) Reproductions of Statutes, Rules, Regulations, Etc. If the court's determination of the issues presented requires the study of statutes, rules, regulations, etc., the relevant parts shall be reproduced in the brief or in an addendum at the end, or they may be supplied to the court in pamphlet form.

(g) Length of Briefs. See Rule 32(a)(7) for provisions regarding the length of briefs.

(h) Reserved.

(i) Briefs in a Case Involving Multiple Appellants or Respondents. In a case involving more than one appellant or respondent, including consolidated cases, any number of appellants or respondents may

join in a single brief, and any party may adopt by reference a part of another's brief. Parties may similarly join in reply briefs.

(j) Sanctions for inadequate briefs. All briefs under this Rule must be concise, presented with accuracy, logically arranged with proper headings and free from burdensome, irrelevant, immaterial or scandalous matters. Briefs that are not in compliance may be disregarded or stricken, on motion or sua sponte by the court, and the court may assess attorney fees or other monetary sanctions against the offending lawyer.

RULE 28.1. CROSS-APPEALS

(a) Applicability. This Rule applies to a case in which a cross-appeal is filed. Rules 28(a)-(c), 31(a), 32(a)(2), and 32(a)(7)(A)-(B) do not apply to such a case, except as otherwise provided in this Rule.

(b) Designation of Appellant. The party who files a notice of appeal first is the appellant for all purposes. If the notices are filed on the same day, the plaintiff in the proceeding below is the appellant. These designations may be modified by the parties' agreement or by court order.

(c) Briefs. In a case involving a cross-appeal:

(1) Appellant's Opening Brief on Appeal. The appellant shall file an opening brief in the appeal. That brief must comply with Rule 28(a).

(2) Respondent's Answering Brief on Appeal and Opening Brief on Cross-Appeal. The respondent shall file a combined answering brief on appeal and opening brief on cross-appeal. That brief must comply with Rule 28(a), except that the brief need not include a statement of the case or a statement of the facts unless the respondent is dissatisfied with the appellant's statement.

(3) Appellant's Reply Brief on Appeal and Answering Brief on Cross-Appeal. The appellant shall file a brief that responds to the opening brief in the cross-appeal and may, in the same brief, reply to the response in the appeal. That brief must comply with Rule 28(a)(1)-([~~8~~]10) and ([~~10~~]12), except that none of the following need appear unless the appellant is dissatisfied with the respondent's statement in the cross-appeal:

(A) a routing statement, setting forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and citing the subparagraph(s) of the Rule under which the matter falls. If the appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, based on a principal issue raised in the matter, the routing statement must include a clear statement of the relevant issue, citations to the record where the issue was raised and resolved, and an explanation of the importance of the issue;

(B) the statement of the issues;

([~~B~~]C) the statement of the case;

([~~C~~]D) the statement of the facts; and

([~~D~~]E) the statement of the standard of review.

(4) Respondent's Reply Brief on Cross-Appeal. The respondent may file a brief in reply to the response in the cross-appeal. That brief must comply with Rule 28(a)(1)-(2) and ([~~10~~]12)) and must be limited to the issues presented by the cross-appeal.

(5) No Further Briefs. Unless the court permits, no further briefs may be filed in a case involving a cross-appeal.

(d) Cover. The cover of the appellant's opening brief must be blue; the respondent's combined answering brief on appeal and opening brief on

cross-appeal, red; the appellant's combined reply brief on appeal and answering brief on cross-appeal, yellow; the respondent's reply brief on cross-appeal, gray; an intervenor's or amicus curiae's brief, green; and any supplemental brief, tan. The front cover of a brief must contain the information required by Rule 32(a)(2).

(e) Length.

(1) Page Limitation. Unless it complies with Rule 28.1(e)(2) and (3) or permission of the court is obtained under Rule 32(a)(7)(D), the appellant's opening brief must not exceed 30 pages; the respondent's combined answering brief on appeal and opening brief on cross-appeal, 40 pages; the appellant's combined reply brief on appeal and answering brief on cross-appeal, 30 pages; and the respondent's reply brief, 15 pages.

(2) Type-Volume Limitation.

(A) The appellant's opening brief or the appellant's combined reply/answering brief is acceptable if:

(i) it contains no more than 14,000 words; or

(ii) it uses a monospaced typeface and contains no more than 1,600 lines of text.

(B) The respondent's combined answering and opening brief is acceptable if:

(i) it contains no more than 18,500 words; or

(ii) it uses a monospaced typeface and contains no more than 1,600 lines of text.

(C) The respondent's reply brief is acceptable if it contains no more than half of the type-volume specified in Rule 28.1(e)(2)(A).

(3) Certificate of Compliance. A brief submitted pursuant to this Rule shall comply with Rule 32(a)(8).

(f) Time to Serve and File a Brief. Unless the court orders a different briefing schedule in a particular case, briefs in cross-appeals must be served and filed as provided in this Rule. Motions for extensions of time are governed by Rule 31(b).

(1) All Cross-Appeals Except Child Custody and Visitation.

(A) the appellant's opening brief, within 120 days after the date on which the appeal is docketed in the Supreme Court;

(B) the respondent's combined answering brief on appeal and opening brief on cross-appeal, within 30 days after the appellant's opening brief is served;

(C) the appellant's combined reply brief on appeal and answering brief on cross-appeal, within 30 days after the respondent's combined answering brief on appeal and opening brief on cross-appeal is served; and

(D) the respondent's reply brief on cross-appeal, within 14 days after the appellant's combined reply brief on appeal and answering brief on cross-appeal is served.

(2) Cross-Appeals Involving Child Custody or Visitation.

(A) the appellant's opening brief, within 90 days after the date on which the appeal is docketed in the Supreme Court;

(B) the respondent's combined answering brief on appeal and opening brief on cross-appeal, within 20 days after the appellant's opening brief is served;

(C) the appellant's combined reply brief on appeal and answering brief on cross-appeal, within 20 days after the respondent's combined answering brief on appeal and opening brief on cross-appeal is served; and

(D) the respondent's reply brief on cross-appeal, within 10 days after the appellant's combined reply brief on appeal and answering brief on cross-appeal is served.

RULE 28.2. ATTORNEY'S CERTIFICATE

(a) Certificate Required Upon Filing of Any Brief. Any brief submitted for filing **[~~in the Supreme Court~~]** must contain a certificate signed by at least 1 attorney of record who is an active member of the bar of this state. This certificate must substantially comply with Form 9 in the Appendix of Forms, and must contain the following information:

(1) A representation that the signing attorney has read the brief;

(2) A representation that to the best of the attorney's knowledge, information and belief, the brief is not frivolous or interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(3) A representation by the signing attorney that the brief complies with all applicable Nevada Rules of Appellate Procedure, including the requirement of Rule 28(e) that every assertion in the briefs regarding matters in the record be supported by a reference to the page and volume number, if any, of the appendix where the matter relied on is to be found; and

(4) A representation that the brief complies with the formatting requirements of Rule 32(a)(4)-(6), and either the page- or type-volume limitations stated in Rule 32(a)(7).

If a brief does not contain the certification required by this Rule, it shall be stricken unless such a certification is provided within 10 days after the omission is called to the attorney's attention.

(b) Sanctions. The **[~~Supreme Court~~]** court may impose sanctions against an attorney whose certification is incomplete or inaccurate. In addition, the **[~~Supreme Court~~]** court may impose sanctions against any attorney who, upon being informed that the brief does not contain the certificate provided for by subsection (a), fails to cure the deficiency within 10 days after the omission is called to his or her attention.

RULE 29. BRIEF OF AN AMICUS CURIAE

(a) When Permitted. The United States, the State of Nevada, an officer or agency of either, a political subdivision thereof, or a state, territory or commonwealth may file an amicus curiae brief without the consent of the parties or leave of court. Any other amicus curiae may file a brief only by leave of court granted on motion or at the court's request or if accompanied by written consent of all parties.

(b) Foreign Counsel. If an amicus brief is prepared by an attorney who is not a member of the State Bar of Nevada, that attorney must move for permission to appear before the **[~~Supreme Court~~]** court under SCR 42 and comply with Rule 46(a).

(c) Motion for Leave to File. A motion for leave to file an amicus brief shall be accompanied by the proposed brief and state:

(1) the movant's interest; and

(2) the reasons why an amicus brief is desirable.

(d) Contents and Form. An amicus brief must comply with Rule 32. In addition to the requirements of Rule 32, the cover must identify the party or parties supported and indicate whether the brief supports affirmance or reversal. An amicus brief need not comply with Rule 28, but must include the following:

(1) A table of contents, with page references.

(2) A table of cases (alphabetically arranged), statutes and other authorities cited, with references to the pages of the brief where they are cited.

(3) A concise statement of the identity of the amicus curiae, its interest in the case, and the source of its authority to file.

(4) An argument, which may be preceded by a summary.

(5) An attorney's certificate that complies with the requirements contained in Rule 28.2.

(e) Length. Except by the court's permission, an amicus brief may be no more than one-half the maximum length authorized by these Rules for a party's brief. If the court grants a party permission to file a longer brief, that extension does not affect the length of an amicus brief.

(f) Time for Filing. An amicus curiae must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the brief of the party being supported is filed. An amicus curiae that does not support either party must file its brief no later than 7 days after the appellant's opening brief is filed. The court may grant leave for later filing, specifying the time within which an opposing party may answer.

(g) Reply Brief. An amicus may not file a reply brief.

(h) Oral Argument. An amicus may file a motion to participate in oral argument, but the court will grant such motions only for extraordinary reasons.

RULE 30. APPENDIX TO THE BRIEFS

(a) Joint Appendix; Duty of the Parties. Counsel have a duty to confer and attempt to reach an agreement concerning a possible joint

appendix. In the absence of an agreement, the parties may file separate appendices to their briefs.

(b) Contents of the Appendix. Except as otherwise required by this Rule, all matters not essential to the decision of issues presented by the appeal shall be omitted. Brevity is required; the court may impose costs upon parties or attorneys who unnecessarily enlarge the appendix.

(1) Transcripts. Copies of all transcripts that are necessary to the ~~[Supreme Court]~~ appellate court's review of the issues presented on appeal shall be included in the appendix.

(2) Documents Required for Inclusion in Joint Appendix. In addition to the transcripts required by Rule 30(b)(1), the joint appendix shall contain:

(A) Complaint, indictment, information or petition (including all amendments);

(B) All answers, counterclaims, cross-claims and replies, and all amendments thereto;

(C) Pretrial orders;

(D) All jury instructions given to which exceptions were taken, and excluded when offered;

(E) Verdict or findings of fact and conclusions of law with direction for entry of judgment thereon;

(F) Master's report, if any, in nonjury cases;

(G) Opinion;

(H) All judgments or orders appealed from;

(I) All notices of appeal; and

(J) Proof of service, if any, of:

(i) the summons and complaint;

(ii) written notice of entry of the judgment or order appealed from;

(iii) post-judgment motions enumerated in Rule 4(a); and

(iv) written notice of entry of an order resolving any post-judgment motions enumerated in Rule 4(a).

(3) Appellant's Appendix. If a joint appendix is not prepared, appellant's appendix to the opening brief shall include those documents required for inclusion in the joint appendix under this Rule, and any other portions of the record essential to determination of issues raised in appellant's appeal.

(4) Respondent's Appendix. If a joint appendix is not prepared, respondent's appendix to the answering brief may contain any transcripts or documents which should have been but were not included in the appellant's appendix, and shall otherwise be limited to those documents necessary to rebut appellant's position on appeal which are not already included in appellant's appendix.

(5) Reply Appendix. Appellant may file an appendix to the reply brief which shall include only those documents necessary to reply to respondent's position on appeal.

(6) Presentence Investigation Report. If a copy of appellant's presentence investigation report is necessary for the **[~~Supreme Court~~]** appellate court's review in a criminal case and a copy of the report cannot be included in the appendix, appellant shall file a motion with the clerk of the Supreme Court within the time period for filing an opening brief or fast track statement that the court direct the district court clerk to transmit the report to the clerk of the Supreme Court in a sealed envelope. The motion must demonstrate that the report is necessary for the appeal.

(c) Arrangement and Form of Appendix. The appendix shall be in the form required by Rule 32(b), shall be bound separately from the briefs, and shall be arranged as set forth in this Rule.

(1) Order and Numbering of Documents. All documents included in the appendix shall be placed in chronological order by the dates of filing beginning with the first document filed, and shall bear the file-stamp of the district court clerk, clearly showing the date the document was filed in the proceedings below. Transcripts that are included in the appendix shall be placed in chronological order by date of the hearing or trial. Each page of the appendix shall be numbered consecutively in the lower right corner of the document.

(2) Page Limits; Index of Appendix. Each volume of the appendix shall contain no more than 250 pages. The appendix shall contain an alphabetical index identifying each document with reasonable definiteness, and indicating the volume and page of the appendix where the document is located. The index shall preface the documents comprising the appendix. If the appendix is comprised of more than one volume, one alphabetical index for all documents shall be prepared and shall be placed in each volume of the appendix.

(3) Cover. The cover of an appendix shall be white and shall contain the same information as the cover of a brief under Rule 32(a), but shall be prominently entitled "JOINT APPENDIX," or "APPELLANT'S APPENDIX," or "RESPONDENT'S APPENDIX" or "APPELLANT'S REPLY APPENDIX."

(d) Exhibits. Copies of relevant and necessary exhibits shall be clearly identified, and shall be included in the appendix as far as practicable. If the exhibits are too large or otherwise incapable of being reproduced in the appendix, the parties may file a motion requesting the **[~~Supreme Court~~]**

appellate court to direct the district court clerk to transmit the original exhibits. The [~~Supreme Court~~] appellate court will not permit the transmittal of original exhibits except upon a showing that the exhibits are relevant to the issues raised on appeal, and that the [~~Supreme Court~~] appellate court's review of the original exhibits is necessary to the determination of the issues.

(e) Time for Service and Filing of Appendix. A joint appendix shall be filed and served no later than the filing of appellant's opening brief. An appellant's appendix shall be served and filed with appellant's opening brief. A respondent's appendix shall be served and filed with respondent's answering brief. If a reply brief is filed, any reply appendix shall be served and filed with the reply brief.

(f) Number of Copies to Be Filed and Served.

(1) Paper Copies. One paper copy of the appendix shall be filed with the clerk, and one copy shall be served on counsel for each party separately represented, unless the court orders otherwise.

(2) Electronic Copies. A party represented by counsel must submit every appendix on a CD-ROM, and serve a CD-ROM version on all opposing counsel, in addition to filing the required number of paper copies, unless the appendix has been electronically filed in the [~~Nevada Supreme Court~~] appellate court or counsel certifies that submitting a CD-ROM version of the appendix would constitute extreme hardship. A party not represented by counsel who has been granted permission to file documents in proper person under NRAP 46(b) is encouraged, but not required, to submit and serve a CD-ROM version of the appendix, in addition to filing the required number of paper copies.

(g) Filing as Certification; Sanctions for Nonconforming Copies or for Substantial Underinclusion.

(1) Filing an appendix constitutes a representation by counsel that the appendix consists of true and correct copies of the papers in the district court file. Willful or grossly negligent filing of an appendix containing nonconforming copies is an unlawful interference with the proceedings of the ~~[Supreme Court]~~ appellate court, and subjects counsel, and the party represented, to monetary and any other appropriate sanctions.

(2) If an appellant's appendix is so inadequate that justice cannot be done without requiring inclusion of documents in the respondent's appendix which should have been in the appellant's appendix, or without the court's independent examination of portions of the original record which should have been in the appellant's appendix, the court may impose monetary sanctions.

(h) Costs. Each party shall, initially, bear the cost of preparing its separate appendices. The appellant shall, initially, bear the cost of preparing a joint appendix; where several parties appeal from the same judgment or any part thereof, or there is a cross-appeal, the initial expense of preparing a joint appendix shall be borne equally by the parties appealing, or as the parties may agree.

RULE 31. FILING AND SERVICE OF BRIEFS

(a) Time for Serving and Filing Briefs. Unless a different briefing schedule is provided by a court order in a particular case or by these or any other court rules, parties shall observe the briefing schedule set forth in this Rule.

(1) All Appeals Except Child Custody, Visitation, or Capital Cases.

(A) The appellant shall serve and file the opening brief within 120 days after the date on which the appeal is docketed in the Supreme Court.

(B) The respondent shall serve and file the answering brief within 30 days after the appellant's brief is served.

(C) The appellant's reply brief must be served and filed within 30 days after the respondent's brief is served.

(2) Child Custody or Visitation Cases. If an appeal is taken from any district court order affecting the custody or visitation of minor children, including actions seeking termination of parental rights:

(A) The appellant shall serve and file the opening brief within 90 days after the date on which the appeal is docketed in the Supreme Court.

(B) The respondent shall serve and file the answering brief within 20 days after the appellant's brief is served.

(C) The appellant's reply brief must be served and filed within 10 days after the respondent's brief is served.

(D) The **[~~Supreme Court~~]** appellate court may order oral argument at its discretion. Where oral argument is not ordered, the matter shall be submitted for decision on the briefs and the appendix within 60 days of the date that the final brief is due.

(3) Direct Appeals in Capital Cases. On direct appeal from a judgment of conviction and sentence of death:

(A) The appellant shall serve and file the opening brief within 120 days from the date that the record on appeal is filed in the Supreme Court.

(B) The respondent shall serve and file the answering brief within 60 days after the appellant's brief is served.

(C) The appellant's reply brief must be served and filed within 45 days after the respondent's brief is served.

(4) Post-Conviction Appeals in Capital Cases. On appeal from a judgment or order resolving an application for post-conviction relief in a capital case:

(A) The appellant shall serve and file the opening brief within 120 days after the date on which the appeal is docketed in the Supreme Court.

(B) The respondent shall serve and file the answering brief within 30 days after service of the opening brief.

(C) The appellant's reply brief must be served and filed within 30 days after the respondent's brief is served.

(b) Extensions of Time for Filing Briefs.

(1) Telephonic Requests. A party may request by telephone a single 5-day extension of time for filing a brief under Rule 26(b)(1)(B). A telephonic request may be made only if there have been no prior requests for extension of time for filing the brief. Subsequent requests for extensions of time for filing a brief may be made by stipulation if permitted under Rule 31(b)(2) or by motion **[**~~to the Supreme Court~~**]** under Rule 31(b)(3).

(2) Stipulations. Unless the court orders otherwise, in all appeals except child custody, visitation, or capital cases, the parties may extend the time for filing any brief for a total of 30 days beyond the due dates set forth in Rule 31(a)(1) by filing a written stipulation with the clerk of the Supreme Court on or before the brief's due date. No extensions of time by stipulation are permitted in child custody, visitation, or capital cases.

(3) Motions for Extensions of Time. A motion for extension of time for filing a brief may be made no later than the due date for the brief and must comply with the provisions of this Rule and Rule 27.

(A) Contents of Motion. A motion for extension of time for filing a brief shall include the following:

(i) The date when the brief is due;

(ii) The number of extensions of time previously granted (including a 5-day telephonic extension), and if extensions were granted, the original date when the brief was due;

(iii) Whether any previous requests for extensions of time have been denied or denied in part;

(iv) The reasons or grounds why an extension is necessary; and

(v) The length of the extension requested and the date on which the brief would become due.

(B) Motions in All Appeals Except Child Custody, Visitation, or Capital Cases. Applications for extensions of time beyond that to which the parties are permitted to stipulate under Rule 31(b)(2) are not favored. The **[~~Supreme Court~~]** court will grant an initial motion for extension of time for filing a brief only upon a clear showing of good cause. The court shall not grant additional extensions of time except upon a showing of extraordinary circumstances and extreme need.

(C) Motions in Child Custody or Visitation Cases. The **[~~Supreme Court~~]** court will grant a motion for extension of time for filing a brief in child custody or visitation cases only in extraordinary cases that present unforeseeable circumstances justifying an extension of time.

(D) Motions in Capital Cases. The Supreme Court may grant an initial motion for an extension of time of up to 60 days for filing a

brief in a capital case upon a showing of good cause. The court shall not grant additional extensions of time except upon a showing of extraordinary circumstances and extreme need.

(c) Number of Copies to Be Filed and Served. An original and 2 copies of each brief shall be filed with the clerk unless the court by order in a particular case shall direct a different number, and 1 copy shall be served on counsel for each party separately represented. The original must be signed in compliance with Rules 25(a)(5), 28.2(a), and 32(d).

(d) Consequences of Failure to File Briefs or Appendix. If an appellant fails to file an opening brief or appendix within the time provided by this Rule, or within the time extended, a respondent may move for dismissal of the appeal. If a respondent fails to file an answering brief, respondent will not be heard at oral argument except by permission of the court. The failure of respondent to file a brief may be treated by the court as a confession of error and appropriate disposition of the appeal thereafter made. If an appellant has not filed a reply brief, oral argument will be limited as provided by Rule 34(c).

(e) Supplemental Authorities. When pertinent and significant authorities come to a party's attention after the party's brief has been filed, but before a decision, a party may promptly advise the **[~~Supreme Court~~]** appellate court by filing and serving a notice of supplemental authorities, setting forth the citations. The notice shall provide references to the page(s) of the brief that is being supplemented. The notice shall further state concisely and without argument the legal proposition for which each supplemental authority is cited. The notice may not raise any new points or issues. Any response must be made promptly and must be similarly limited. If filed less than 10 days before oral argument, a notice of supplemental

authorities shall not be assured of consideration by the court at oral argument; provided, however, that no notice of supplemental authorities shall be rejected for filing on the ground that it was filed less than 10 days before oral argument.

RULE 32. FORM OF BRIEFS, THE APPENDIX AND OTHER PAPERS

(a) Form of a Brief.

(1) Reproduction.

(A) A brief shall be reproduced by any process that yields a clear black image of letter quality. The paper must be opaque and unglazed. Only one side of the paper may be used.

(B) Text must be reproduced with a clarity that equals or exceeds the output of a laser printer.

(C) Carbon copies of briefs may not be submitted without permission of the court, except on behalf of parties allowed to proceed in forma pauperis.

(2) Cover. Covers for briefs are required. The cover of the appellant's brief must be blue; the respondent's, red; an intervenor's or amicus curiae's, green; and any reply, gray. The front cover of a brief shall contain:

(A) the name of the court and the number of the case;

(B) the title of the case (see Rule 12(a));

(C) the nature of the proceedings in the court (e.g., Appeal) and the name of the court below;

(D) the title of the document (e.g., Appellant's Opening Brief, Respondent's Answering Brief); and

(E) the names, addresses, telephone numbers, and State Bar of Nevada identification numbers of counsel representing the party for whom the brief is filed.

(3) Binding. The brief must be bound in any manner that is secure, does not obscure the text, and permits the brief to lie reasonably flat when open.

(4) Paper Size, Line Spacing, Margins, and Page Numbers. The brief must be on 8 1/2 by 11-inch paper. The text shall be double-spaced, except that quotations of more than two lines may be indented and single-spaced. Headings and footnotes may be single-spaced. Margins must be at least 1 inch on all four sides. The pages shall be consecutively numbered at the bottom. Pages in the brief preceding the statement of the case must be numbered in lowercase Roman numerals, and pages in the brief beginning with the statement of the case must be numbered in Arabic numerals.

(5) Typeface. Either a proportionally spaced or a monospaced typeface may be used. Footnotes must be in the same size and typeface as the body of the brief.

(A) A proportionally spaced typeface (e.g., Century Schoolbook, CG Times, Times New Roman, and New Century) must be 14-point or larger.

(B) A monospaced typeface (e.g., Courier and Pica) may not contain more than 10 1/2 characters per inch (e.g., Courier 12-point).

(C) Unrepresented litigants may use elite type, 12 characters per inch, if they lack access to a typewriter with larger characters.

(6) Type Styles. A brief must be set in a plain, **[~~roman~~]** Roman style, although underlining, italics or boldface may be used for emphasis. Case names must be italicized or underlined.

(7) Length.

(A) Noncapital Cases.

(i) Page Limitation. Unless it complies with Rule 32(a)(7)(A)(ii) or permission of the court is obtained under Rule 32(a)(7)(D), an opening or answering brief shall not exceed 30 pages, and a reply brief shall not exceed 15 pages.

(ii) Type-Volume Limitation. An opening or answering brief is acceptable if it contains no more than 14,000 words, or if it uses a monospaced typeface, and contains no more than 1,300 lines of text. A reply brief is acceptable if it contains no more than half the type-volume specified for an opening or answering brief under this Rule.

(B) Capital Cases.

(i) Page Limitation. Unless it complies with Rule 32(a)(7)(B)(ii) or permission of the court is obtained under Rule 32(a)(7)(D), an opening or answering brief in a capital case shall not exceed 80 pages, and a reply brief in a capital case shall not exceed 40 pages.

(ii) Type-Volume Limitation. An opening or answering brief in a capital case is acceptable if it contains no more than 37,000 words, or if it uses a monospaced typeface, shall contain no more than 3,500 lines of text. A reply brief in a capital case is acceptable if it contains no more than half the type-volume specified in this Rule for an opening or answering brief in a capital case.

(C) Computing Page- and Type-Volume Limitation. The disclosure statement, table of contents, table of authorities, required certificate of service and compliance with these Rules, and any addendum containing statutes, rules, or regulations do not count toward a brief's page or type-volume limitation. The page or type-volume limitation applies to all other portions of the brief beginning with the statement of the case, including

headings, footnotes, and quotations. Pages in the brief preceding the statement of the case must be numbered in lowercase Roman numerals, and pages in the brief beginning with the statement of the case must be numbered in Arabic numerals.

(D) Permission to Exceed Page Limit or Type-Volume Limitation.

(i) The court looks with disfavor on motions to exceed the applicable page limit or type-volume limitation, and therefore, permission to exceed the page limit or type-volume limitation will not be routinely granted. A motion to file a brief that exceeds the applicable page limit or type-volume limitation will be granted only upon a showing of diligence and good cause. The court will not consider the cost of preparing and revising the brief in ruling on the motion.

(ii) A motion seeking an enlargement of the page limit or type-volume limitation for a brief shall be filed on or before the brief's due date and shall be accompanied by a declaration stating in detail the reasons for the motion and the number of additional pages, words, or lines of text requested. A motion to exceed the type-volume limitation shall be accompanied by a certification as required by Rule 32(a)(7)(C) as to the line or word count.

(iii) The motion shall also be accompanied by a single copy of the brief the applicant proposes to file.

(8) Certificate of Compliance.

(A) Requirement of Certificate. The brief must include a certificate by the attorney, or an unrepresented party, that it complies with the typeface and type style requirements of Rule 32(a)(4)-(6), identifying the

typeface and type style used, and that it complies with either the page- or type-volume limitation under the applicable Rule.

(B) Type-Volume Certificate. A certification based on type-volume limitations may rely on the word or line count of the word-processing system used to prepare the brief and must state either the number of words in the brief or the number of lines of monospaced type in the brief.

(C) Form of Certificate. The certificate required by this Rule may be combined with the certificate required by Rule 28.2. A certificate that includes the first two paragraphs of Form 9 in the Appendix of Forms will be regarded as sufficient to meet the requirements of this Rule.

(b) Form of Appendices. An appendix must comply with Rule 32(a)(1), (2), (3), and (4) with the following exceptions:

(1) The cover of the appendix must be white (see Rule 30(c)(3)).

(2) An appendix may include a legible photocopy of any document found in the trial court record (see Rule 30).

(3) When necessary to facilitate inclusion of odd-sized documents such as technical drawings, an appendix may be a size other than 8 1/2 by 11 inches, and need not lie reasonably flat when opened.

(c) Form of Other Papers.

(1) Motion. The form of a motion is governed by Rule 27(d).

(2) Other Papers. Any other paper, including a petition for rehearing and a petition for en banc reconsideration, and any response to such a petition, shall be reproduced in the manner prescribed by Rule 32(a)(1), (3), (4), (5), and (6) and shall contain a caption setting forth the name of the court, the title of the case, the case number, and a brief descriptive title indicating the purpose of the paper. If a cover is used, it must be white.

(d) Signature. Every brief, motion, or other paper filed with the court must be signed by the party filing the paper or, if the party is represented, by one of the party's attorneys.

(e) Effect of Noncompliance With Rule. If a brief, petition, motion or other paper is not prepared in accordance with this Rule, the clerk will not file the document, but shall return it to be properly prepared.

RULE 33. APPEAL CONFERENCES

The court may direct the attorneys for the parties to appear before the court or a justice or judge thereof for a conference to address any matter that may aid in disposing of the proceedings, including simplifying the issues. The court, **[~~or~~]** justice, or judge may, as a result of the conference, enter an order controlling the course of the proceedings.

RULE 34. ORAL ARGUMENT

(a) Notice of Argument; Postponement. The clerk shall advise all parties of the date, time, and place for oral argument, the time allowed for oral argument, whether argument **[~~will be~~]** before the Supreme Court will be before the full court or a panel, and to the extent possible, issues to be addressed at oral argument. A motion to postpone the argument must be filed reasonably in advance of the date fixed for hearing.

(b) Time Allowed for Argument. Unless the case is submitted for decision on the briefs under Rule 34(f), each side, at the court's discretion, will be allowed 15 or 30 minutes for argument. If counsel believes that additional time is necessary for the adequate presentation of his or her argument, counsel may request such additional time as he or she deems necessary. A motion to allow longer argument must be filed reasonably in

advance of the date fixed for the argument and shall be liberally granted if cause therefor is shown. A party is not obliged to use all of the time allowed, and the court may terminate the argument whenever in its judgment further argument is unnecessary.

(c) Order and Content of Argument. The appellant opens and concludes the argument. If the appellant has not filed a reply brief, however, a concluding or rebuttal argument will not be allowed except by permission of the court or at the request of a justice or judge. The opening argument shall include a fair statement of the case. Counsel will not be permitted to read at length from briefs, records or authorities.

(d) Cross-Appeals and Separate Appeals. Unless the court directs otherwise, a cross-appeal or separate appeal shall be argued with the initial appeal at a single argument. If there is a cross-appeal, Rule 28.1(b) determines which party is the appellant and which is the respondent for the purpose of this Rule, unless the parties otherwise agree or the court otherwise directs. If separate appellants support the same argument, care shall be taken to avoid duplication of argument.

(e) Nonappearance of a Party. If the respondent fails to appear for argument, the court will hear the appellant's argument. If the appellant fails to appear, the court may hear the respondent's argument. If neither party appears, the case will be decided on the briefs unless the court orders otherwise.

(f) Submission on Briefs.

(1) The court may order a case submitted for decision on the briefs, without oral argument.

(2) The parties may agree to submit a case for decision on the briefs, but the court may direct that the case be argued.

(3) Appeals brought in proper person and appeals in post-conviction proceedings instituted under NRS 34.360 et seq. will be submitted for decision without oral argument, but the court may direct that a case be argued.

RULE 35. DISQUALIFICATION OF A JUSTICE[~~S~~] OR JUDGE

(a) Motion for Disqualification. A request that a justice or judge of the **[~~Supreme Court~~]** appellate court be disqualified from sitting in a particular case shall be made by motion. Unless the court permits otherwise, the motion shall be in writing and shall be in the form required by Rule 27.

(1) Time to File. A motion to disqualify a justice or judge shall be filed with the clerk of the Supreme Court within 60 days after docketing of the appeal under Rule 12, together with proof of service on all other parties. Except for good cause shown, the failure to file a timely motion to disqualify shall be deemed a waiver of the moving party's right to object to a justice's or judge's participation in a case.

(2) Contents of a Motion.

(A) Grounds, Supporting Facts, and Legal Authorities. A motion shall state clearly and concisely in separately numbered paragraphs each ground relied upon as a basis for disqualification with the specific facts alleged in support thereof and the legal argument, including citations to relevant cases, statutes or rules, necessary to support it.

(B) Verification. All assertions of fact in a motion must be supported by proper sworn averments in an affidavit or by citations to the specific page and line where support appears in the record of the case.

(i) A verification by affidavit shall be served and filed with the motion.

(ii) The affidavit shall be made upon personal knowledge by a person or persons affirmatively shown competent to testify and shall set forth only those facts that would be admissible in evidence.

(iii) The affidavit shall set forth the date or dates when the moving party first became aware of the facts set forth in the motion.

(C) Attorney's Certificate. A motion shall contain a certificate signed by at least 1 attorney of record who is an active member of the bar of this state. The certificate must contain the following information:

(i) A representation that the signing attorney has read the motion and supporting documents;

(ii) A representation that the motion and supporting documents are in the form required by this Rule; and

(iii) A representation that, based on personal investigation, the signing attorney believes all grounds asserted to be legally valid and all supporting factual allegations to be true, and that the motion is made in good faith and not for purposes of delay or for other improper motive.

If a motion does not contain the certification required by this Rule, it shall be stricken unless such a certification is provided within 10 days after the omission is called to the attorney's attention.

(b) Response.

(1) By a Party. Any party may file a response to a motion to disqualify a justice or judge. The response shall be filed within 10 days after service of the motion unless the court shortens or extends the time.

(2) By the Justice or Judge. The challenged justice or judge may submit a response to the motion in writing or orally at any hearing that may be ordered by the court.

(c) Reply. A reply may not be filed unless permission is first obtained from the court.

RULE 36. ENTRY OF JUDGMENT

(a) Entry. The filing of the court's decision or order constitutes entry of the judgment. The clerk shall file the judgment after receiving it from the court. If a judgment is rendered without an opinion, the clerk shall enter the judgment following instruction from the court.

(b) Notice. On the date when judgment is entered, the clerk shall mail to all parties a copy of the opinion, if any, or of the order entering judgment, if no opinion was written.

(c) Form of Decision. The court decides cases by either published or unpublished disposition. An unpublished disposition, while publicly available, may not be cited as precedent except in very limited circumstances, pursuant to SCR 123. A published disposition is an opinion designated for publication in the Nevada Reports and may be cited as precedent. The court will decide a case by published opinion if it:

(1) Presents an issue of first impression;

(2) Alters, modifies, or significantly clarifies a rule of law previously announced by the court; or

(3) Involves an issue of public importance that has application beyond the parties.

(d) Duplicate Order or Opinion.

(1) The justices of the Supreme Court, judges of the Court of Appeals, or district judges designated by the governor to serve on the Supreme Court or Court of Appeals for a specific case, if they are physically present within the State of Nevada, may sign duplicate copies of any order or opinion. If

duplicate copies of an order or opinion are signed by the various members of the ~~[Supreme Court]~~ appellate court, the judges or justices signing the duplicate copies shall date their signatures on duplicate copies and shall immediately inform the clerk of the court that the duplicate copies are signed. The clerk of the court shall then note on the appropriate signature line of the original order or opinion that the absent judges or justices have signed duplicate copies of the order or opinion under this Rule. When possible, a facsimile of each signed duplicate copy of the order or opinion shall also be transmitted immediately to the clerk of the court. The duplicate copies of the order or opinion containing the original signatures of the judges or justices shall be sent by the fastest means available to the clerk of the Supreme Court, who shall place those duplicates in the court's file.

(2) The clerk shall file an order or opinion that is signed in duplicate under this Rule upon receiving notice from the absent judges or justices that they have signed the duplicate copies. The order or opinion shall be effective for all purposes when the clerk receives notice under this Rule that the requisite number of signatures have been obtained and files the order or opinion. An order or opinion that is signed under this Rule shall contain a notice to the parties that it was signed under this Rule.

(e) Reversal, Modification; Certified Copy of Opinion to Lower Court. Where a judgment is reversed or modified, a certified copy of the opinion in the case shall be transmitted with the remittitur to the court below.

(f) Motion to Reissue an Order as an Opinion. A motion to reissue an unpublished disposition or order as an opinion to be published in the Nevada Reports may be made under the provisions of this subsection by any interested person. With respect to the form of such motions, the

provisions of Rule 27(d) apply; in all other respects, such motions must comply with the following:

(1) Time to File. Such a motion shall be filed within 15 days after the filing of the order. Parties may not stipulate to extend this time period, and any motion to extend this time period must be filed before the expiration of the 15-day deadline.

(2) Response. No response to such a motion shall be filed unless requested by the court.

(3) Contents. Such a motion must be based on one or more of the criteria for publication set forth in Rule 36(c)(1)-(3). The motion must state concisely and specifically on which criteria it is based and set forth argument in support of such contention. If filed by or on behalf of a nonparty, the motion must also identify the movant and his or her interest in obtaining publication.

(4) Decision. The granting or denial of a motion to publish is entrusted to the sound discretion of the panel that issued the disposition. Publication is disfavored if revisions to the text of the unpublished disposition will result in discussion of additional issues not included in the original decision.

RULE 37. INTEREST ON JUDGMENTS

(a) When the Court Affirms. Unless the law provides otherwise, if a money judgment in a civil case is affirmed, whatever interest is allowed by law is payable from the date when the district court's judgment was entered.

(b) When the Court Reverses. If the court modifies or reverses a judgment with a direction that a money judgment be entered in the district court, the mandate must contain instructions about the allowance of interest.

RULE 38. FRIVOLOUS CIVIL APPEALS—DAMAGES AND COSTS

(a) Frivolous Appeals; Costs. If the ~~[Supreme Court]~~ appellate court determines that an appeal is frivolous, it may impose monetary sanctions.

(b) Frivolous Appeals; Attorney Fees as Costs. When an appeal has frivolously been taken or been processed in a frivolous manner; when circumstances indicate that an appeal has been taken or processed solely for purposes of delay, when an appeal has been occasioned through respondent's imposition on the court below; or whenever the appellate processes of the court have otherwise been misused, the court may, on its own motion, require the offending party to pay, as costs on appeal, such attorney fees as it deems appropriate to discourage like conduct in the future.

RULE 39. COSTS

(a) Against Whom Assessed. The following rules apply in civil appeals unless the law provides or the court orders otherwise:

(1) if an appeal is dismissed, costs are taxed against the appellant, unless the parties agree otherwise;

(2) if a judgment is affirmed, costs are taxed against the appellant;

(3) if a judgment is reversed, costs are taxed against the respondent;

(4) if a judgment is affirmed in part, reversed in part, modified, or vacated, costs are taxed only as the court orders.

(b) Reserved.

(c) Costs of Briefs, Appendices, Counsel's Transportation; Limitation.

(1) Costs of Copies. The cost of producing necessary copies of briefs or appendices shall be taxable in the **[~~Supreme Court~~]** appellate court at rates not higher than those generally charged for such work in the area where the district court is located.

(2) Costs of Counsel's Transportation. The actual costs of round trip transportation for one attorney, actually attending arguments before the **[~~Supreme Court~~]** appellate court, between the place where the district court is located and the place where the appeal is argued shall be taxable. For the purpose of this Rule, "actual costs" for private automobile travel shall be deemed to be 15 cents per mile, but where commercial air transportation is available at a cost less than private automobile travel, only the cost of the air transportation shall be taxable.

(3) Bill of Costs. A party who wants such costs taxed shall—within 14 days after entry of judgment—file an itemized and verified bill of costs with the clerk, with proof of service.

(4) Objections. Objections to a bill of costs shall be filed within 5 days after service of the bill of costs, unless the court extends the time.

(5) Limit on Costs. The maximum amount of costs taxable under this section shall be $500.

(d) Clerk to Insert Costs in Remittitur. The clerk shall prepare and certify an itemized statement of costs taxed in the **[~~Supreme Court~~]** appellate court for insertion in the remittitur, but issuance of the remittitur must not be delayed for taxing costs. If the remittitur issues before costs are finally determined, the district court clerk must—upon the Supreme Court clerk's request—add the statement of costs, or any amendment of it, to the remittitur.

(e) Costs on Appeal Taxable in the District Courts. The following costs on appeal are taxable in the district court for the benefit of the party entitled to costs under this Rule:

(1) the preparation and transmission of the record;

(2) the reporter's transcript, if needed to determine the appeal;

(3) preparation of the appendix;

(4) premiums paid for a supersedeas bond or other bond to preserve rights pending appeal; and

(5) the fee for filing the notice of appeal.

RULE 40. PETITION FOR REHEARING

(a) Procedure and Limitations.

(1) Time. Unless the time is shortened or enlarged by order, a petition for rehearing may be filed within 18 days after the filing of the appellate court's decision under Rule 36. The 3-day mailing period set forth in Rule 26(c) does not apply to the time limits set by this Rule.

(2) Contents. The petition shall state briefly and with particularity the points of law or fact that the petitioner believes the court has overlooked or misapprehended and shall contain such argument in support of the petition as the petitioner desires to present. Oral argument in support of the petition will not be permitted. Any claim that the court has overlooked or misapprehended a material fact shall be supported by a reference to the page of the transcript, appendix or record where the matter is to be found; any claim that the court has overlooked or misapprehended a material question of law or has overlooked, misapplied or failed to consider controlling authority shall be supported by a reference to the page of the brief where petitioner has raised the issue.

(3) Petitions in Criminal Appeals; Exhaustion of State Remedies. **[~~The Supreme Court considers a~~]** A decision by a panel of the Supreme Court, **[~~or~~]** the en banc **[court]** Supreme Court, or the Court of Appeals resolving a claim of error in a criminal case, including a claim for post-conviction relief, **[~~to be~~]** is final for purposes of exhaustion of state remedies in subsequent federal proceedings. Rehearing is available only under the limited circumstances set forth in Rule 40(c). Petitions for rehearing filed on the pretext of exhausting state remedies may result in sanctions under Rule 40(g).

(b) Form of Petition and Answer; Number of Copies; Length; Certificate of Compliance; Filing Fee.

(1) Decision of Court of Appeals or Supreme Court Panel [~~Decision~~]. A petition for rehearing of a decision of the Court of Appeals or of a panel **[~~decision~~]** of the Supreme Court, or an answer to **[~~the~~]** such petition, shall comply in form with Rule 32, and an original and 5 copies shall be filed with the clerk unless the court by order in a particular case shall direct a different number. One copy shall be served on counsel for each party separately represented.

(2) En Banc Decision. A petition for rehearing of decision of **[~~an~~]** the en banc Supreme Court **[~~decision~~]**, or an answer to the petition, shall comply in form with Rule 32, and an original and 9 copies shall be filed with the clerk unless the court by order in a particular case shall direct a different number. One copy shall be served on counsel for each party separately represented.

(3) Length. Except by permission of the court, a petition for rehearing, or an answer to the petition, shall not exceed 10 pages. Alternatively, the petition or answer is acceptable if it contains no more than

4,667 words, or if it uses a monospaced typeface, and contains no more than 433 lines of text.

(4) Certificate of Compliance. A petition for rehearing or an answer shall include a certificate that the submission complies with the formatting requirements of Rule 32(a)(4)-(6) and the page- or type-volume limitation of this Rule, computed in compliance with Rule 32(a)(7)(C). The petition or answer must be accompanied by a completed certificate of compliance substantially similar to Form 16 in the Appendix of Forms.

(5) Filing Fee. Except as otherwise provided by statute, a $150 filing fee shall be paid to the clerk at the time a petition for rehearing is submitted for filing.

(c) Scope of Application; When Rehearing Considered.

(1) Matters presented in the briefs and oral arguments may not be reargued in the petition for rehearing, and no point may be raised for the first time on rehearing.

(2) The court may consider rehearings in the following circumstances:

(A) When the court has overlooked or misapprehended a material fact in the record or a material question of law in the case, or

(B) When the court has overlooked, misapplied or failed to consider a statute, procedural rule, regulation or decision directly controlling a dispositive issue in the case.

(d) Answer; Reply. No answer to a petition for rehearing or reply to an answer shall be filed unless requested by the court. Unless otherwise ordered by the court, the answer to a petition for rehearing shall be filed within 15 days after entry of the order requesting the answer. A petition for rehearing will ordinarily not be granted in the absence of a request for an answer.

(e) Action by Court if Granted. If a petition for rehearing is granted, the court may make a final disposition of the cause without reargument or may restore it to the calendar for reargument or resubmission or may make such other orders as are deemed appropriate under the circumstances of the particular case. A petition for rehearing of a **[~~panel~~]** decision of a panel of the Supreme Court shall be reviewed by the panel that decided the matter. If the panel determines that rehearing is warranted, rehearing before that panel will be held. The full **[~~Supreme Court~~]** court shall consider a petition for rehearing of an en banc decision.

(f) Untimely Petitions; Unrequested Answer or Reply. A petition for rehearing is timely if mailed or sent by commercial carrier to the clerk within the time fixed for filing. The clerk shall not receive or file an untimely petition, but shall return the petition unfiled. The clerk shall return unfiled any answer or reply submitted for filing in the absence of an order requesting the same.

(g) Sanctions. Petitions for rehearing which do not comply with this Rule may result in the imposition of appropriate sanctions.

RULE 40A. PETITION FOR EN BANC RECONSIDERATION

(a) Grounds for En Banc Reconsideration. En banc reconsideration of a decision of a panel of the Supreme Court **[~~decision~~]** is not favored and ordinarily will not be ordered except when (1) reconsideration by the full court is necessary to secure or maintain uniformity of **[~~its~~]** decisions of the appellate courts of this state, or (2) the proceeding involves a substantial precedential, constitutional or public policy issue. The **[~~Supreme Court~~]** court considers a decision of a panel of the court resolving a claim of error in a criminal case, including a claim for post-conviction relief, to be final

for purposes of exhaustion of state remedies in subsequent federal proceedings. En banc reconsideration is available only under the limited circumstances set forth in Rule 40A(a). Petitions for en banc reconsideration in criminal cases filed on the pretext of exhausting state remedies may result in the imposition of sanctions under Rule 40A(g).

(b) Time for Filing; Effect of Filing on Finality of Judgment. Any party may petition for en banc reconsideration of a Supreme Court panel's decision within 10 days after written entry of **[~~a~~]** the panel's decision to deny rehearing. The 3-day mailing period set forth in Rule 26(c) does not apply to the time limits set by this Rule. No petition for en banc reconsideration of a Supreme Court panel's decision to grant rehearing is allowed; however, if a panel grants rehearing, any party may petition for en banc reconsideration of the panel's decision on rehearing within 10 days after written entry of the decision. If no petition for rehearing of the Supreme Court panel's decision is filed, then no petition for en banc reconsideration is allowed.

(c) Content of Petition. A petition based on grounds that full **[~~Supreme Court~~]** court reconsideration is necessary to secure and maintain uniformity of the **[~~court's~~]** decisions of the appellate courts of this state shall demonstrate that the panel's decision is contrary to prior, published opinions of **[~~this~~]** the appellate courts of this state and shall include specific citations to those cases. If the petition is based on grounds that the proceeding involves a substantial precedential, constitutional or public policy issue, the petition shall concisely set forth the issue, shall specify the nature of the issue, and shall demonstrate the impact of the panel's decision beyond the litigants involved. The petition shall be supported by points and authorities and shall contain such argument in support of the petition as the petitioner

desires to present. Matters presented in the briefs and oral arguments may not be reargued in the petition, and no point may be raised for the first time.

(d) Form of Petition and Answer; Number of Copies; Length; Certificate of Compliance. A petition for en banc reconsideration of a Supreme Court panel's decision, or an answer to **[~~the~~]** such a petition, shall comply in form with Rule 32, and an original and 8 copies shall be filed with the clerk unless the court by order in a particular case shall direct a different number. One copy shall be served on counsel for each party separately represented. Except by permission of the court, a petition for **[~~full court~~]** en banc reconsideration, or an answer to **[~~the~~]** such a petition, shall not exceed 10 pages. Alternatively, the petition or answer is acceptable if it contains no more than 4,667 words, or if it uses a monospaced typeface, and contains no more than 433 lines of text. The petition or answer shall include the certification required by NRAP 40(b)(4) in substantially the form suggested in Form 16 of the Appendix of Forms.

(e) Answer and Reply. No answer to a petition for en banc reconsideration or reply to an answer shall be filed unless requested by the court. Unless otherwise ordered by the court, the answer to a petition for en banc reconsideration shall be filed within 15 days after entry of the order requesting the answer. A petition for en banc reconsideration will ordinarily not be granted in the absence of a request for an answer.

(f) Action by Court if Granted. Any two justices may compel the court to grant a petition for en banc reconsideration. If a petition for en banc reconsideration is granted, the court may make a final disposition of the cause without reargument or may place it on the en banc calendar for reargument or resubmission or may make such other orders as are deemed appropriate under the circumstances of the particular case.

(g) Frivolous Petitions; Costs Assessed. Unless a case meets the rigid standards of Rule 40A(a), the duty of counsel is discharged without filing a petition for en banc reconsideration of a panel decision. Counsel filing a frivolous petition shall be deemed to have multiplied the proceedings in the case and to have increased costs unreasonably and vexatiously. At the discretion of the court, counsel personally may be required to pay an appropriate sanction, including costs and attorney's fees, to the opposing party.

(h) Untimely Petitions; Unrequested Answer or Reply. A petition for en banc reconsideration is timely if mailed or sent by commercial carrier to the clerk within the time fixed for filing. The clerk shall not receive or file an untimely petition, but shall return the petition unfiled. The clerk shall return unfiled any answer or reply submitted for filing in the absence of an order requesting the same.

RULE 40B. PETITION FOR REVIEW BY THE SUPREME COURT

(a) Decisions of Court of Appeals Reviewable by Petition for Review. A decision of the Court of Appeals is a final decision that is not reviewable by the Supreme Court except on petition for review. A party aggrieved by a decision of the Court of Appeals may file a petition for review with the clerk of the Supreme Court. The petition must state the question(s) presented for review and the reason(s) review is warranted. Supreme Court review is not a matter of right but of judicial discretion. The following, while neither controlling nor fully measuring the Supreme Court's discretion, are factors that will be considered in the exercise of that discretion:

(1) Whether the question presented is one of first impression of general statewide significance;

(2) Whether the decision of the Court of Appeals conflicts with a prior decision of the Court of Appeals, the Supreme Court, or the United States Supreme Court;

(3) Whether the case involves fundamental issues of statewide public importance.

(b) Petition in Criminal Appeals; Exhaustion of State Remedies. In all appeals from criminal convictions or post-conviction relief matters, a party shall not be required to petition for review of an adverse decision of the Court of Appeals in order to be deemed to have exhausted all available state remedies respecting a claim of error. Rather, when a claim has been presented to the Court of Appeals and relief has been denied, the party shall be deemed to have exhausted all available state remedies.

(c) Time for Filing. A petition for review of a decision of the Court of Appeals must be filed in the Supreme Court within 18 days after the filing of the Court of Appeals' decision under Rule 36, or its decision on rehearing under Rule 40. A petition for review shall not be filed while a petition for rehearing is pending in the Court of Appeals. The 3-day mailing period set forth in Rule 26(c) does not apply to the time limits set by this Rule. The clerk of the Supreme Court shall not receive or file an untimely petition, but shall return the petition unfiled.

(d) Content and Form of Petition. A petition for review shall comply in form with Rule 32 and an original and 9 copies shall be filed with the clerk unless the court by order in a particular case shall direct a different number. The petition may not exceed 10 pages or 4,667 words or, if it uses a monospaced typeface, 433 lines of text. The petition shall succinctly state the precise basis on which the party seeks review by the Supreme Court and may include citation of authority in support of that contention. No citation to

authority or argument may be incorporated into the petition by reference to another document. The petitioner must attach a copy of the decision of the Court of Appeals and any petition for rehearing filed in the Court of Appeals.

(e) Response to Petition. No response to a petition for review shall be filed unless requested by the Supreme Court.

(f) Decision by Supreme Court. The Supreme Court may grant a petition for review on the affirmative vote of a majority of the justices. The Supreme Court's decision to grant or deny a petition is final and is not subject to further requests for rehearing or reconsideration.

(g) Action by Supreme Court When Petition Granted. The Supreme Court may limit the question(s) on review. The Supreme Court's review on the grant of a petition for review shall be conducted on the record and briefs previously filed in the Court of Appeals, but the Supreme Court may require supplemental briefs on the merits of all or some of the issues for review.

RULE 41. ISSUANCE OF REMITTITUR; STAY OF REMITTITUR

(a) When Issued; Contents.

(1) When Issued. The court's remittitur shall issue 25 days after the entry of judgment unless the time is shortened or enlarged by order. Unless an appeal or other proceeding is dismissed under Rule 42, a formal remittitur shall issue. **[~~The timely filing of a petition for rehearing or en banc reconsideration stays the remittitur until disposition of the petition, unless the court orders otherwise. If the petition is denied, the remittitur shall issue 25 days after entry of the order denying the petition, unless the time is shortened or enlarged by order.~~]**

(2) Contents. A certified copy of the judgment and opinion of the court, if any, and any direction as to costs shall be included with the remittitur.

(b) Stay of Remittitur [~~Pending Application for Certiorari~~].

(1) Petition for Rehearing or En Banc Reconsideration. The timely filing of a petition for rehearing or en banc reconsideration stays the remittitur until disposition of the petition, unless the court orders otherwise. If the petition is denied, the remittitur shall issue 25 days after entry of the order denying the petition, unless the time is shortened or enlarged by order.

(2) Petition for Review by Supreme Court. The timely filing of a petition for review by the Supreme Court of a Court of Appeals decision shall stay the issuance of the remittitur of the Court of Appeals. Upon the issuance of an order denying a petition for review, the clerk of the Supreme Court shall issue the remittitur.

(3) Application for Certiorari to the United States Supreme Court.

([~~1~~]A) A party may file a motion to stay the remittitur pending application to the Supreme Court of the United States for a writ of certiorari. The motion must be served on all parties.

([~~2~~]B) The stay shall not exceed 120 days, unless the period is extended for cause shown. If during the period of the stay there is filed with the clerk of the Supreme Court of Nevada a notice from the clerk of the Supreme Court of the United States that the party who has obtained the stay has filed a petition for the writ in that court, the stay shall continue until final disposition by the Supreme Court of the United States.

([~~3~~]C) The court may require a bond or other security as a condition to granting or continuing a stay of the remittitur.

([4]D) The clerk of the Supreme Court [~~court~~] shall issue the remittitur immediately when a copy of a United States Supreme Court order denying the petition for writ of certiorari is filed.

RULE 42. VOLUNTARY DISMISSAL

(a) Reserved.

(b) Dismissal in the [~~Supreme~~] Appellate Court. The clerk of the Supreme Court may dismiss an appeal or other proceeding if the parties file a signed dismissal agreement specifying how costs are to be paid and pay any fees that are due. But no remittitur or other process shall issue without a court order. An appeal may be dismissed on the appellant's motion on terms agreed to by the parties or fixed by the court.

RULE 43. SUBSTITUTION OF PARTIES

(a) Death of a Party.

(1) After Notice of Appeal Is Filed. If a party dies after a notice of appeal has been filed or while a proceeding is pending in the [~~Supreme Court~~] appellate court, the decedent's personal representative may be substituted as a party on motion filed by the representative or by any party with the clerk of the Supreme Court. A party's motion shall be served on the representative in accordance with Rule 25. If the decedent has no representative, any party may suggest the death on the record, and the court may then direct appropriate proceedings.

(2) Before Notice of Appeal Is Filed—Potential Respondent. If a party against whom an appeal may be taken dies after entry of a judgment or order in the district court, but before a notice of appeal is filed, an

appellant may proceed as if death had not occurred. After the notice of appeal is filed, substitution shall be in accordance with Rule 43(a)(1).

(3) Before Notice of Appeal Is Filed—Potential Appellant. If a party entitled to appeal dies before filing a notice of appeal, the decedent's personal representative—or, if there is no personal representative, the decedent's attorney of record—may file a notice of appeal within the time prescribed by these Rules. After the notice of appeal is filed, substitution shall be in accordance with Rule 43(a)(1).

(b) Substitution for a Reason Other Than Death. If a party needs to be substituted for any reason other than death, the procedure prescribed in Rule 43(a) applies.

(c) Public Officer: Identification; Substitution.

(1) Automatic Substitution of Officeholder. When a public officer who is a party to an appeal or other proceeding in an official capacity dies, resigns or otherwise ceases to hold office, the action does not abate. The public officer's successor is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer that does not affect the substantial rights of the parties shall be disregarded. An order of substitution may be entered at any time, but the failure to enter an order shall not affect the substitution.

(2) Identification of Party. A public officer who is a party to an appeal or other proceeding in an official capacity may be described as a party by the public officer's official title rather than by name; but the court may require the public officer's name to be added.

RULE 44. CASES INVOLVING CONSTITUTIONAL QUESTIONS WHERE STATE IS NOT A PARTY

If a party questions the constitutionality of an Act of the Legislature in a proceeding in which the state or its agency, officer, or employee is not a party in an official capacity, the questioning party shall give written notice to the clerk of the Supreme Court immediately upon the filing of the docketing statement or as soon as the question is raised in the court. The clerk shall then certify that fact to the Attorney General.

RULE 45. CLERK'S DUTIES

(a) General Provisions.

(1) Qualifications. The clerk of the Supreme Court shall take the oath and post any bond required by law. Neither the clerk nor any deputy clerk shall practice as an attorney or counselor in any court while in office.

(2) When Court Is Open. The Supreme Court and Court of Appeals [~~is~~] are always open for filing any proper paper, issuing and returning process, making a motion, and entering an order. The clerk's office with the clerk or a deputy in attendance shall be open during business hours on all days except Saturdays, Sundays and nonjudicial days. The court may provide by rule or by order that the clerk's office shall be open for specified hours on Saturdays or on particular nonjudicial days.

(b) Records.

(1) The Docket. The clerk shall maintain a docket, in the form and style prescribed by the court, and shall enter therein each case. Cases shall be assigned consecutive file numbers. The file number of each case shall be noted on the folio of the docket whereon the first entry is made. All papers filed with the clerk and all process, orders and judgments shall be entered chronologically in the docket on the folio assigned to the case. Entries shall be brief but shall show the nature of each paper filed or judgment or order

entered. The entry of an order or judgment shall show the date the entry is made. The clerk shall keep a suitable index of cases contained in the docket.

(2) Calendar. The clerk shall prepare, under the direction of the court, a calendar of cases awaiting argument. In placing cases on the calendar for argument, the clerk shall give preference to appeals in criminal cases and to appeals and other proceedings entitled to preference by law.

(3) Other Records. The clerk shall keep such other books and records as may be required from time to time by the court.

(c) Notice of Orders or Judgments. Upon the entry of an order or judgment, the clerk shall immediately serve a notice of entry by mail on each party, with a copy of any opinion, and shall make a note in the docket of the mailing. Service on a party represented by counsel shall be made on counsel.

(d) Custody of Records and Papers. The clerk has custody of the court's records and papers. Unless the court orders or instructs otherwise, the clerk shall not permit an original record or paper to be taken from the clerk's custody. Upon disposition of the case, original papers transmitted from a court or agency shall be returned to the court or agency from which they were received. The clerk shall preserve a copy of any briefs or other papers that have been filed. The transcript and appendices to the briefs must be retained for 90 days after issuance of the remittitur, and then may be destroyed.

(e) Office Location; Attendance at Court Sessions; Removal of Papers.

(1) The clerk's office shall be kept in Carson City, Nevada.

(2) The clerk or the clerk's deputy shall attend in person the sessions of the court.

(f) Fees. The clerk shall not be required to file any paper or record in the clerk's office or docket any proceeding until the fee required by law and these Rules has been paid.

RULE 45A. SEAL OF SUPREME COURT

The seal of the Supreme Court **[~~court~~]** shall contain the words "Supreme Court State of Nevada" on the upper part of the outer edge, preceded and followed by a star; and the words "Fiat Justitia" on the lower part of the outer edge, running from left to right; and in the center an eagle with its left wing displayed and the figure of the Goddess of Liberty, her left hand holding a liberty pole surmounted by a Phrygian cap, her right hand supporting a shield.

RULE 46. ATTORNEYS

(a) Practice Before [~~Supreme~~] Appellate Court—Bar Membership Required; Exceptions.

(1) Bar Membership Required. No person may practice law before the **[~~Supreme Court~~]** appellate court who is not an active member of the State Bar of Nevada except as provided by SCR 42 and subject to Rule 46(a)(3).

(2) Appearance of Counsel. Counsel for each party shall file a formal written notice of appearance as counsel of record on appeal within 10 days after service of the notice of appeal. A notice of appeal signed by an attorney will be treated as a notice of appearance by that attorney. An attorney who will participate in oral argument of a case must have filed a written notice of appearance with the clerk of the Supreme Court no later than 5 days before the date set for oral argument.

(3) Foreign Counsel. If foreign counsel has been granted permission to appear under SCR 42 upon a motion in district court, that attorney must file a copy of the district court's order with the clerk of the Supreme Court. If foreign counsel appears before the **[~~Supreme Court~~]** appellate court in the first instance, that attorney must file a motion in the **[~~Supreme Court~~]** appellate court as provided by SCR 42. If foreign counsel is associated on the briefs or any other documents submitted for filing, all such briefs and documents shall be signed by Nevada counsel, who shall be responsible to the court for the content. If foreign counsel is associated upon oral argument, Nevada counsel shall be present during oral argument and shall be responsible to the court for all matters presented.

(b) Appearances in Proper Person. With leave of the **[~~Supreme Court~~]** appellate court, a party may file, in proper person, written briefs and papers submitted in accordance with these Rules.

(c) Appointment of Counsel—Indigent Criminal, Habeas Corpus Cases. Only the **[~~Supreme Court~~]** appellate court may appoint counsel to represent indigent criminal defendants and indigent habeas corpus petitioners in original proceedings before the **[~~Supreme Court~~]** appellate court.

(d) Withdrawal, Substitution, or Discharge of Attorney in Criminal Appeals. The withdrawal, substitution, or discharge of an attorney in a criminal appeal pending before the**[~~Supreme Court~~]** appellate court shall be governed by this Rule.

(1) In General. After the filing of a notice of appeal, any stipulation or motion that effects a change in the representation of a party to the appeal must be filed in the **[~~Supreme Court~~]** appellate court.

(2) Substitution. A substitution or change of counsel may be effected by serving and filing a substitution in the **[~~Supreme Court~~]** appellate court, signed by the affected attorneys and the client or, in lieu of the client's signature, an affidavit of counsel stating that the client has been informed of and consents to the substitution. The **[~~Supreme Court~~]** appellate court may disapprove a substitution that does not have the necessary signatures or affidavit.

(3) Withdrawal. The attorney shall file a motion to withdraw with the clerk of the Supreme Court and serve a copy of the motion on the attorney's client and any adverse party. The motion shall clearly state whether counsel was appointed or retained and the reasons for the motion. Unless the motion is filed after judgment or final determination as provided in SCR 46, the motion shall be accompanied by:

(A) In a direct appeal from a judgment of conviction in which the defendant is represented by retained counsel, an affidavit or signed statement from the defendant stating that the defendant has discharged retained counsel, the grounds for that discharge, and whether the defendant qualifies for appointment of new counsel; or

(B) In a direct appeal from a judgment of conviction in which the defendant is represented by appointed counsel, an affidavit or signed statement from the defendant stating that the defendant consents to appointed counsel's being relieved and requesting appointment of substitute counsel; or

(C) In a post-conviction appeal, a motion by defendant to proceed in proper person or with substitute counsel retained by defendant.

A motion filed under this Rule that is not accompanied by defendant's affidavit or signed statement as required under subparagraphs

(A) and (B) or a motion to proceed in proper person as required under subparagraph (C) shall set forth the reasons for the omission. A motion that is filed after judgment or final determination as provided in SCR 46 will only be granted if the **[~~Supreme Court~~]** appellate court has issued a final decision in the matter and the time for filing a petition for rehearing has expired.

(4) Death, Suspension. Any party to a criminal appeal may notify the **[~~Supreme Court~~]** appellate court in writing when an attorney representing a party dies, or is removed or suspended, or ceases to act as an attorney.

(e) Withdrawal, Substitution, or Discharge of Attorney in Civil Appeals. The withdrawal, substitution or discharge of an attorney in a civil appeal pending before the **[~~Supreme Court~~]** appellate court shall be governed by this Rule.

(1) In General. After the filing of a notice of appeal, any stipulation or motion that effects a change in the representation of a party to the appeal must be filed **[~~in~~]** with the clerk of the Supreme Court.

(2) Substitution. A substitution or change of counsel may be effected by serving and filing a substitution **[~~in~~]** with the clerk of the Supreme Court, signed by the client, the withdrawing attorney and the substituted attorney. The **[~~Supreme Court~~]** appellate court may disapprove a substitution that is not signed by the client and all affected attorneys.

(3) Withdrawal. A withdrawal of counsel may be effected only by filing a motion in the **[~~Supreme Court~~]** appellate court. The withdrawing attorney shall serve a copy of the motion on the attorney's client and any adverse party. The motion shall clearly state the reasons for the attorney's withdrawal consistent with SCR 46 and RPC 1.16. A motion that is filed after

judgment or final determination as provided in SCR 46 will only be granted if the **[~~Supreme Court~~]** appellate court has issued a final decision in the matter and the time for filing a petition for rehearing has expired.

(4) Suspension. When an attorney is suspended or ceases to act as an attorney, the attorney shall notify the clerk of the Supreme Court in writing and serve a copy of the notice on the attorney's client and any adverse parties. The notice shall identify the name and address of any new counsel retained by the client or the current address for the client if no new counsel has been retained.

(5) Death. When an attorney dies, the attorney's client must promptly notify the clerk of the Supreme Court in writing and serve a copy of the notice on any adverse parties. The notice shall state that the client has retained new counsel or shall be accompanied by a motion to proceed in proper person under Rule 46(b).

RULE 47. RULES OF APPELLATE PRACTICE

(a) Promulgation of Rules by the Supreme Court. The Supreme Court by action of a majority of the justices may from time to time make and amend these Rules governing **[~~its~~]** practice in the Supreme Court and Court of Appeals. In all cases not provided for by rule, the **[~~Supreme Court~~]** appellate court may regulate its practice in any manner consistent with law and justice. The clerk of the Supreme Court shall cause a notice of entry of an order amending these Rules to be published in the official publication of the State Bar of Nevada.

(b) Drafting and Printing of Orders Amending Rules; Marking of New and Old Matter. In orders amending **[~~existing rules in or adding new rules to~~]** the Nevada Rules of Appellate Procedure, new matter

shall be indicated by underscoring or italics. Matter to be omitted shall be indicated by brackets and boldface type. In subsequent orders all matter appearing as omitted and bracketed in previously entered orders shall be omitted entirely.

RULE 48. TITLE

These Rules shall be known and cited as the Nevada Rules of Appellate Procedure, or abbreviated NRAP.