

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

OCT 12 2016

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

**ORDER AMENDING NEVADA RULES OF
APPELLATE PROCEDURE 17 AND 21**

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

WHEREAS, on December 18, 2014, this court amended the Nevada Rules of Appellate Procedure (NRAP) in order to satisfy the Constitutional requirement that this court fix the jurisdiction of the Court of Appeals; and

WHEREAS, this court has determined that additional amendments to NRAP 17 and NRAP 21 are warranted; accordingly,

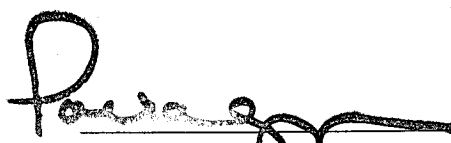
IT IS HEREBY ORDERED that NRAP 17 shall be amended as set forth in Exhibit A; and

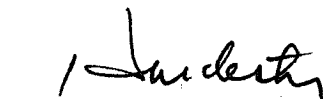
IT IS FURTHER ORDERED that NRAP 21 shall be amended as set forth in Exhibit B.


IT IS FURTHER ORDERED that these amendments shall be effective on January 1, 2017, and shall apply to all appeals docketed in the Nevada Supreme Court or Court of Appeals of Nevada on or after that date. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada. Publication of this order shall be accomplished by the clerk disseminating


copies of this order to all subscribers of the advance sheets of the Nevada Reports and all persons and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk of this court as to the accomplishment of the above-described publication of notice of entry and dissemination of this order shall be conclusive evidence of the adoption and publication of the foregoing rule amendments.


Dated this 12th day of October, 2016



Parraguirre C.J.


Hardesty, J.


Douglas, J.


Cherry, J.


Gibbons, J.


Pickering, J.

cc: All District Court Judges
Court of Appeals Judges
Bryan K. Scott, 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

AMENDMENTS TO NEVADA RULES OF APPELLATE PROCEDURE

EXHIBIT A

RULE 17. DIVISION OF CASES BETWEEN THE SUPREME COURT AND THE COURT OF APPEALS

(a) **Cases Retained by the Supreme Court.** The Supreme Court shall hear and decide the following:

~~[(1) Except as provided in (b) of this Rule, proceedings invoking the original jurisdiction of the Supreme Court;]~~

~~[(2)]~~(1) All ~~[direct appeals, postconviction appeals, and writ petitions in]~~ death penalty cases;

~~[(3)]~~(2) Cases involving ballot or election questions;

~~[(4)]~~(3) Cases involving judicial discipline;

~~[(5)]~~(4) Cases involving attorney admission, suspension, discipline, disability, reinstatement, and resignation;

~~[(6)]~~(5) Cases involving the approval of prepaid legal service plans;

~~[(7)]~~(6) Questions of law certified by a federal court;

~~[(8)]~~(7) Disputes between branches of government or local governments;

~~[(9)]~~(8) Administrative agency ~~[appeals]~~ cases involving tax, water, or public utilities commission determinations;

~~[(10) Cases originating in business court;]~~

~~[(11) Appeals from orders denying motions to compel arbitration;]~~

~~[(12)]~~(9) Cases involving the termination of parental rights or NRS Chapter 432B;

~~[(13)]~~(10) Matters raising as a principal issue a question of first impression involving the United States or Nevada Constitutions or common law; and

~~[(14)]~~(11) Matters raising as a principal issue a question of statewide public importance, or an issue upon which there is an inconsistency in the published decisions 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 and those matters within its original jurisdiction. Except as provided in Rule 17(a), the Supreme Court may assign to the Court of Appeals any case filed in the Supreme Court. The following case categories are presumptively assigned to the Court of Appeals:

~~(1) [All postconviction appeals except those in death penalty cases and cases that involve a conviction for any offenses that are 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 any offenses that are category A or category B felonies]~~Appeals from a judgment of conviction based on a plea of guilty, guilty but mentally ill, or nolo contendere (Alford);

(2) Appeals from a judgment of conviction based on a jury verdict that

(A) do not involve a conviction for any offenses that are category A or B felonies; or

(B) challenge only the sentence imposed and/or the sufficiency of the evidence;

(3) Postconviction appeals that involve a challenge to a judgment of conviction or sentence for offenses that are not category A felonies;

(4) Postconviction appeals that involve a challenge to the computation of time served under a judgment of conviction, a motion to correct an illegal sentence, or a motion to modify a sentence;

~~[(2)]~~(5) Appeals from a judgment, exclusive of interest, attorney fees, and costs, of \$250,000 or less in a tort case;

(6) Cases involving a contract dispute where the amount in controversy is less than \$75,000;

(7) Cases originating in business court that do not involve questions of first impression;

(8) Appeals from postjudgment orders in civil cases;

~~[(3) Appeals in]~~(9) Cases involving statutory lien matters under NRS Chapter 108;

~~[(4)]~~(10) Administrative agency [appeals] cases except those involving tax, water, or public utilities commission determinations;

~~[(5)]~~(11) Cases involving family law matters other than termination of parental rights or NRS Chapter 432B proceedings;

~~[(6)]~~(12) Appeals challenging venue;

~~[(7) Appeals]~~(13) Cases challenging the grant or denial of injunctive relief;

~~[(8)]~~(14) Pretrial writ proceedings challenging discovery orders or orders resolving motions in limine;

~~[(9) Appeals in]~~(15) Cases involving trust and estate matters in which the corpus has a value of less than \$5,430,000; and

~~[(10) Appeals]~~(16) Cases arising from the foreclosure mediation program.

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

(d) Routing Statements; Finality. 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) of this Rule in the routing statement of the briefs as provided in Rules 3C, 3E, and 28 or a writ petition as provided in Rule 21. 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.

(e) Transfer and Notice. Upon the transfer of a case to the Court of Appeals, the clerk shall issue a notice to the parties. With the exception of a petition for Supreme Court review under Rule 40B, any pleadings in a case after it has been transferred to the Court of Appeals shall be entitled "In the Court of Appeals of the State of Nevada."

EXHIBIT B

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)(8).]~~ 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) whether the matter falls in one of the categories of cases retained by the Supreme Court pursuant to NRAP 17(a) or presumptively assigned to the Court of Appeals pursuant to NRAP 17(b);

(B) the relief sought;

~~(B)~~(C) the issues presented;

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

~~(D)~~(E) 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. Rule 30(i), which prohibits pro se parties from filing an appendix, shall not apply to a petition for relief filed under this Rule and thus pro se writ petitions shall be accompanied by an appendix as required by this Rule. 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 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.