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ALTERNATIVE DISPUTE RESOLUTION RULES

Adopted Effective March 1, 2005

Including Amendments Received Through February 1, 2016

Adopting Rules Governing Alternative Dispute Resolution and Nevada Mediation Rules and Amending the Nevada Arbitration Rules and Nevada Short Trial Rules.

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ORDER ADOPTING RULES GOVERNING ALTERNATIVE DISPUTE RESOLUTION AND NEVADA MEDIATION RULES AND AMENDING THE NEVADA ARBITRATION RULES AND NEVADA SHORT TRIAL RULES

WHEREAS, on June 7, 2000, this court adopted the Nevada Short Trial Rules implementing the short trial program and allowing parties to participate in the program by mutual consent; and

WHEREAS, the Supreme Court Advisory Committee on the Short Trial Rules filed a report with this court on September 17, 2003, proposing amendments to the Nevada Short Trial Rules that would mandate a short trial in certain cases; and

WHEREAS, the Advisory Committee also recommended amendments to the Nevada Arbitration Rules and the adoption of two new sets of rules: Rules Governing Alternative Dispute Resolution and Nevada Mediation Rules; and

WHEREAS, the Judges of the Eighth Judicial District Court have also petitioned this court to amend the Nevada Arbitration Rules; and

WHEREAS, this court held a public hearing on these matters and accepted public comment on the proposed amendments to this court's rules; and

WHEREAS, this court subsequently referred draft rule amendments to the Short Trial Review Committee to analyze and critique a modified short trial program; and

WHEREAS, the Review Committee submitted its report to this court on October 26, 2004, assessing the draft rules and prospective mandatory program; and

WHEREAS, it appears to this court that amendment of the Nevada Arbitration Rules and Nevada Short Trial Rules and adoption of Rules Governing Alternative Dispute Resolution and Nevada Mediation Rules is warranted; and

WHEREAS, it further appears to this court that reorganization of the existing court rules is necessary to effect the expansion of the short trial program and the implementation of the court annexed mediation program; accordingly,

IT IS HEREBY ORDERED that Part V of the Supreme Court Rules shall be amended by removing Subpart A

conference for the purpose of facilitating settlement of the case.

As added eff. Mar. 1, 2005.

Rule 2. Forms of court annexed alternative dispute resolution.

(A) For certain civil cases commenced in judicial districts that include a county whose population is 100,000 or more, there shall be made available the following forms of court annexed alternative dispute resolution:

- (1) Arbitration, pursuant to Subpart B of these rules;
- (2) Mediation, pursuant to Subpart C of these rules;
- (3) Settlement conference, as provided herein; and

(4) Such other alternative dispute resolution mechanisms contemplated by NRS 38.250 as may from time to time be promulgated.

(B) Judicial districts having a lesser population may adopt local rules implementing all or part of these forms of alternative dispute resolution.

(C) Each district may appoint an alternative dispute resolution commissioner to serve at the pleasure of the court. The alternative dispute resolution commissioner (hereafter the commissioner) may be an arbitration commissioner, discovery commissioner, short trial commissioner, other special master, or any qualified and licensed Nevada attorney appointed by the court. The appointment shall be made in accordance with local rules. The commissioner so appointed shall have the responsibilities and powers conferred by these Alternative Dispute Resolution Rules and any local rules.

As added eff. Mar. 1, 2005.

B

NEVADA ARBITRATION RULES

Rule 1. The court annexed arbitration program.

The Court Annexed Arbitration Program (the program) is a mandatory, non-binding arbitration program, as hereinafter described, for certain civil cases commenced in judicial districts that include a county whose population is 100,000 or more. Judicial districts having a lesser population may adopt local rules implementing all or part of the program.

Added as Rule 1 in Subpart A of Part V of the Supreme Court Rules, eff. July 1, 1992. As amended, eff. May 7, 1998. Amended and reassigned as Rule 1 in Part B of the Rules Governing Alternative Dispute Resolution, eff. Jan. 1, 2005.

Rule 2. Intent of program and application of rules.

(A) The purpose of the program is to provide a simplified procedure for obtaining a prompt and equitable resolution of certain civil matters.

(B) These rules shall apply to all arbitration proceedings commenced in the program.

(C) These arbitration rules are not intended, nor should they be construed, to address every issue which may arise during the arbitration process. The intent of these rules is to give considerable discretion to the arbitrator, the commissioner and the district judge. Arbitration hearings are intended to be informal, expeditious and consistent with the purposes and intent of these rules.

(D) These rules may be known and cited as the Nevada Arbitration Rules, or abbreviated N.A.R.

Added as Rule 2 in Subpart A of Part V of the Supreme Court Rules, eff. July 1, 1992. As amended, eff. Dec. 24, 1997. Amended and reassigned as Rule 2 in Part B of the Rules Governing Alternative Dispute Resolution, eff. Jan. 1, 2005.

Rule 3. Matters subject to arbitration.

(A) All civil cases commenced in the district courts that have a probable jury award value not in excess of \$50,000 per plaintiff, exclusive of interest and costs, and regardless of comparative liability, are subject to the program, except class actions, appeals from courts of limited jurisdiction, probate actions, divorce and other domestic relations actions, actions seeking judicial review of administrative decisions, actions concerning title to real estate, actions for declaratory relief, actions governed by the provisions of NRS 41A.008 to 41A.069, inclusive, actions presenting significant issues of public policy, actions in which the parties have agreed in writing to submit the controversy to arbitration or other alternative dispute resolution method prior to the accrual of the cause of action, actions seeking equitable or extraordinary relief, actions that present unusual circumstances that constitute good cause for removal from the program, actions in which any of the parties is incarcerated and actions utilizing mediation pursuant to Subpart C of these rules.

(B) Any civil case, regardless of the monetary value, the amount in controversy, or the relief sought, may be submitted to the program upon the agreement of all parties and the approval of the district judge to whom the case is assigned.

(C) While a case is in the program, the parties may, with the approval of the district judge to whom the case is assigned, stipulate, or the court may order that a settlement conference, mediation proceeding, or other appropriate settlement technique be conducted by another district judge, a senior judge, or a special master. The settlement procedure conducted pursu-

Rule 18. Request for trial de novo.

(A) Within 30 days after the arbitration award is served upon the parties, any party may file with the clerk of the court and serve on the other parties and the commissioner a written request for trial de novo of the action. Any party requesting a trial de novo must certify that all arbitrator fees and costs for such party have been paid or shall be paid within 30 days, or that an objection is pending and any balance of fees or costs shall be paid in accordance with subsection (C) of this rule.

(B) The 30-day filing requirement is jurisdictional; an untimely request for trial de novo shall not be considered by the district court.

(C) Any party who has failed to pay the arbitrator's bill in accordance with this rule shall be deemed to have waived the right to a trial de novo; if a timely objection to the arbitrator's bill has been filed with the commissioner pursuant to Nevada Arbitration Rules 23 and/or 24, a party shall have 10 days from the date of service of the commissioner's decision in which to pay any remaining balance owing on said bill. No such objection shall toll the 30-day filing requirement of subsection (B) of this rule.

(D) Any party to the action is entitled to the benefit of a timely filed request for trial de novo. Subject to Rule 22, the case shall proceed in the district court as to all parties in the action unless otherwise stipulated by all appearing parties in the arbitration. In judicial districts that are required to provide a short trial program under the Nevada Short Trial Rules, the trial de novo shall proceed in accordance with the Nevada Short Trial Rules, unless a party timely filed a demand for removal from the short trial program as provided in N.S.T.R. 5.

(E) After the filing and service of the written request for trial de novo, the case shall be set for trial upon compliance with applicable court rules. In judicial districts that are required to provide a short trial program under the Nevada Short Trial Rules, the case shall be set for trial as provided in those rules, unless a party timely filed a demand for removal from the short trial program as provided in N.S.T.R. 5.

(F) If the district court strikes, denies, or dismisses a request for trial de novo for any reason, the court shall explain its reasons in writing and shall enter a final judgment in accordance with the arbitration award. A judgment entered pursuant to this rule shall have the same force and effect as a final judgment of the court in a civil action, and may be appealed in the same manner. Review on appeal, however, is limited to the order striking, denying, or dismissing the trial de novo request and/or a written interlocutory order disposing of a portion of the action.

(G) A motion to strike a request for trial de novo may not be filed more than 30 days after service of the request for trial de novo.

Added as Rule 18 in Subpart A of Part V of the Supreme Court Rules, eff. July 1, 1992. As amended, eff. Dec. 24, 1997. Amended and reassigned as Rule 18 in Part B of the Rules Governing Alternative Dispute Resolution, eff. Jan. 1, 2005. Amended eff. Mar. 25, 2005, governing all proceedings commenced after Jan. 1, 2005.

Rule 19. Judgment on award.

(A) Upon notification to the prevailing party by the commissioner that no party has filed a written request for trial de novo within 30 days after service of the award on the parties, the prevailing party shall submit to the commissioner a form of final judgment in accordance with the arbitration award, including any grant of fees, costs and/or interest, which judgment shall then be submitted for signature to the district judge to whom the case was assigned; the judgment must then be filed with the clerk.

(B) A judgment entered pursuant to this rule shall have the same force and effect as a final judgment of the court in a civil action, but may not be appealed. Except that an appeal may be taken from the judgment if the district court entered a written interlocutory order disposing of a portion of the action. Review on appeal, however, is limited to the interlocutory order and no issues determined by the arbitration will be considered.

(C) Although clerical mistakes in judgments and errors therein arising from oversight or omission may be corrected by the court at any time on its own initiative or on the motion of any party, no other amendment of or relief from a judgment entered pursuant to this rule shall be allowed.

Added as Rule 19 in Subpart A of Part V of the Supreme Court Rules, eff. July 1, 1992. As amended, eff. Dec. 24, 1997. Amended and reassigned as Rule 19 in Part B of the Rules Governing Alternative Dispute Resolution, eff. Jan. 1, 2005.

Rule 20. Procedures at trial de novo.

(A) **Evidence.** If a trial de novo is requested, the arbitration award shall be admitted as evidence in the trial de novo, and all discovery obtained during the course of the arbitration proceedings shall be admissible in the trial de novo, subject to all applicable rules of civil procedure and evidence.

(B) Attorney fees; costs; interest.

(1) The prevailing party at the trial de novo is entitled to all recoverable fees, costs, and interest pursuant to statute or N.R.C.P. 68.

(2) Exclusive of any award of fees and costs under subsection (1), a party is entitled to a separate award of attorney's fees and costs as set forth in (a) and (b) below.

(a) Awards of \$20,000 or less. Where the arbitration award is \$20,000 or less, and the party

requesting the trial de novo fails to obtain a judgment that exceeds the arbitration award by at least 20 percent of the award, the non-requesting party is entitled to its attorney's fees and costs associated with the proceedings following the request for trial de novo. Conversely, if the requesting party fails to obtain a judgment that reduces by at least 20 percent the amount for which that party is liable under the arbitration award, the non-requesting party is entitled to its attorney's fees and costs associated with the proceedings following the request for trial de novo.

(b) Awards over \$20,000. Where the arbitration award is more than \$20,000, and the party requesting the trial de novo fails to obtain a judgment that exceeds the arbitration award by at least 10 percent of the award, the non-requesting party is entitled to its attorney's fees and costs associated with the proceedings following the request for trial de novo. Conversely, if the requesting party fails to obtain a judgment that reduces by at least 10 percent the amount for which that party is liable under the arbitration award, the non-requesting party is entitled to its attorney's fees and costs associated with the proceedings following the request for trial de novo.

(3) In comparing the arbitration award and the judgment, the court shall not include costs, attorney's fees, and interest with respect to the amount of the award or judgment. If multiple parties are involved in the action, the court shall consider each party's respective award and judgment in making its comparison between the award and judgment.

Added as Rule 20 in Subpart A of Part V of the Supreme Court Rules, eff. July 1, 1992. As amended, eff. May 7, 1992; eff. April 27, 2000; eff. June 27, 2003. Amended and reassigned as Rule 20 in Part B of the Rules Governing Alternative Dispute Resolution, eff. Jan. 1, 2005.

Rule 21. Scheduling of trial de novo.

(A) In judicial districts required to provide a short trial program under the Nevada Short Trial Rules, a trial de novo shall be processed as provided in those rules, unless a party timely filed a demand for removal from the short trial program as provided in N.S.T.R. 5. Cases that are removed from the short trial program will not be given preference on the trial calendar of the district court simply because those cases were subject to arbitration proceedings pursuant to these rules. Trials de novo in cases removed from the short trial program will be processed in the ordinary course of the district court's business.

(B) In judicial districts that do not provide a short trial program, cases requiring a trial de novo will not be given preference on the trial calendar of the district court simply because those cases were subject to arbitration proceedings pursuant to these rules. Tri-

als de novo will be processed in the ordinary course of the district court's business.

Added as Rule 21 in Subpart A of Part V of the Supreme Court Rules, eff. July 1, 1992. Amended and reassigned as Rule 21 in Part B of the Rules Governing Alternative Dispute Resolution, eff. Jan. 1, 2005. Amended eff. May 7, 2005, governing all proceedings commenced after Jan. 1, 2005.

Rule 22. Sanctions.

(A) The failure of a party or an attorney to still prosecute or defend a case in good faith during the arbitration proceedings shall constitute a waiver of the right to a trial de novo.

(B) If, during the proceedings in the trial de novo, the district court determines that a party or attorney engaged in conduct designed to obstruct, delay, or otherwise adversely affect the arbitration proceedings, it may impose, in its discretion, any sanction authorized by N.R.C.P. 11 or N.R.C.P. 37.

Added as Rule 22 in Subpart A of Part V of the Supreme Court Rules, eff. July 1, 1992. As amended, eff. Dec. 1, 1997. Amended and reassigned as Rule 22 in Part B of the Rules Governing Alternative Dispute Resolution, eff. Jan. 1, 2005.

Rule 23. Costs.

(A) The arbitrator is entitled to recover the costs not to exceed \$250, that the arbitrator reasonably incurs in processing and deciding an action. The costs recoverable by the arbitrator are limited to:

1. Reasonable costs for telecopies;
2. Reasonable costs for photocopies;
3. Reasonable costs for long distance telephone calls;
4. Reasonable costs for postage;
5. Reasonable costs for travel and lodging; and
6. Reasonable costs for secretarial services.

(B) To recover such costs, the arbitrator must submit to the parties an itemized bill of costs within 10 days of the date that the arbitrator serves the action in an action; within 15 days of notice of removal of case from the program by resolution or exemption; within 15 days of notice of change of arbitrator; or, if no date is set, the date is earliest.

(C) Costs must be borne equally by the parties to the arbitration, and must be paid to the arbitrator within 10 days of the date that the arbitrator serves the bill reflecting the arbitrator's costs. If any party fails to pay that party's portion of the arbitrator's costs within the time prescribed in this subsection, the district court shall, after giving appropriate notice and opportunity to be heard, enter a judgment and order of execution against the delinquent party for the amount owed by that party to the arbitrator, plus costs and attorney's fees incurred by the arbitrator in the collection of the costs. If one of the parties to the arbitration is an indigent person who was ex-

NRS 2.090 Jurisdiction to review on appeal. The Supreme Court has jurisdiction to review upon appeal:

1. A judgment in an action or proceeding, commenced in a district court, when the matter in dispute is embraced in the general jurisdiction of the Supreme Court, and to review upon appeal from such judgment any intermediate order or decision involving the merits and necessarily affecting the judgment and, in a criminal action, any order changing or refusing to change the place of trial of the action or proceeding.

2. An order granting or refusing a new trial in such cases; an order in a civil action changing or refusing to change the place of trial of the action or proceeding after motion is made therefor in the cases in which that court has appellate jurisdiction; and from an order granting or refusing to grant an injunction or mandamus in the case provided for by law.

[6:19:1865; B § 915; BH § 2430; C § 2513; RL § 4833; NCL § 8375]—(NRS A 1981, 1706)

NRS 18.010 Award of attorney's fees.

1. The compensation of an attorney and counselor for his or her services is governed by agreement, express or implied, which is not restrained by law.

2. In addition to the cases where an allowance is authorized by specific statute, the court may make an allowance of attorney's fees to a prevailing party:

(a) When the prevailing party has not recovered more than \$20,000; or

(b) Without regard to the recovery sought, when the court finds that the claim, counterclaim, cross-claim or third-party complaint or defense of the opposing party was brought or maintained without reasonable ground or to harass the prevailing party. The court shall liberally construe the provisions of this paragraph in favor of awarding attorney's fees in all appropriate situations. It is the intent of the Legislature that the court award attorney's fees pursuant to this paragraph and impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all appropriate situations to punish for and deter frivolous or vexatious claims and defenses because such claims and defenses overburden limited judicial resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in business and providing professional services to the public.

3. In awarding attorney's fees, the court may pronounce its decision on the fees at the conclusion of the trial or special proceeding without written motion and with or without presentation of additional evidence.

4. Subsections 2 and 3 do not apply to any action arising out of a written instrument or agreement which entitles the prevailing party to an award of reasonable attorney's fees.

[1911 CPA § 434; A 1951, 59]—(NRS A 1957, 129; 1967, 1254; 1969, 435, 667; 1971, 165, 802; 1975, 309; 1977, 774; 1985, 327; 1999, 903; 2003, 3478)

NRS 233B.130 Judicial review; requirements for petition; statement of intent to participate; petition for rehearing.

1. Any party who is:
 - (a) Identified as a party of record by an agency in an administrative proceeding; and
 - (b) Aggrieved by a final decision in a contested case,↪ is entitled to judicial review of the decision. Where appeal is provided within an agency, only the decision at the highest level is reviewable unless a decision made at a lower level in the agency is made final by statute. Any preliminary, procedural or intermediate act or ruling by an agency in a contested case is reviewable if review of the final decision of the agency would not provide an adequate remedy.
2. Petitions for judicial review must:
 - (a) Name as respondents the agency and all parties of record to the administrative proceeding;
 - (b) Be instituted by filing a petition in the district court in and for Carson City, in and for the county in which the aggrieved party resides or in and for the county where the agency proceeding occurred; and
 - (c) Be filed within 30 days after service of the final decision of the agency.↪ Cross-petitions for judicial review must be filed within 10 days after service of a petition for judicial review.
3. The agency and any party desiring to participate in the judicial review must file a statement of intent to participate in the petition for judicial review and serve the statement upon the agency and every party within 20 days after service of the petition.
4. A petition for rehearing or reconsideration must be filed within 15 days after the date of service of the final decision. An order granting or denying the petition must be served on all parties at least 5 days before the expiration of the time for filing the petition for judicial review. If the petition is granted, the subsequent order shall be deemed the final order for the purpose of judicial review.
5. The petition for judicial review and any cross-petitions for judicial review must be served upon the agency and every party within 45 days after the filing of the petition, unless, upon a showing of good cause, the district court extends the time for such service. If the proceeding involves a petition for judicial review or cross-petition for judicial review of a final decision of the State Contractors' Board, the district court may, on its own motion or the motion of a party, dismiss from the proceeding any agency or person who:
 - (a) Is named as a party in the petition for judicial review or cross-petition for judicial review; and
 - (b) Was not a party to the administrative proceeding for which the petition for judicial review or cross-petition for judicial review was filed.
6. The provisions of this chapter are the exclusive means of judicial review of, or judicial action concerning, a final decision in a contested case involving an agency to which this chapter applies.
(Added to NRS by 1965, 966; A 1969, 318; 1975, 495; 1977, 57; 1981, 80; 1989, 1651; 1991, 465; 2003, 1904; 2005, 1003; 2007, 558)

NRS 233B.135 Judicial review: Manner of conducting; burden of proof; standard for review.

1. Judicial review of a final decision of an agency must be:

- (a) Conducted by the court without a jury; and
- (b) Confined to the record.

➤ In cases concerning alleged irregularities in procedure before an agency that are not shown in the record, the court may receive evidence concerning the irregularities.

2. The final decision of the agency shall be deemed reasonable and lawful until reversed or set aside in whole or in part by the court. The burden of proof is on the party attacking or resisting the decision to show that the final decision is invalid pursuant to subsection 3.

3. The court shall not substitute its judgment for that of the agency as to the weight of evidence on a question of fact. The court may remand or affirm the final decision or set it aside in whole or in part if substantial rights of the petitioner have been prejudiced because the final decision of the agency is:

- (a) In violation of constitutional or statutory provisions;
- (b) In excess of the statutory authority of the agency;
- (c) Made upon unlawful procedure;
- (d) Affected by other error of law;
- (e) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) Arbitrary or capricious or characterized by abuse of discretion.

(Added to NRS by 1989, 1650)

NRS 233B.150 Appeal from final judgment of district court. An aggrieved party may obtain a review of any final judgment of the district court by appeal to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution. The appeal shall be taken as in other civil cases.

(Added to NRS by 1967, 811; A 2013, 1768)

NRS 485.010 Short title. This chapter may be cited as the Motor Vehicle Insurance and Financial Responsibility Act.
[21:127:1949]—(NRS A 1995, 2734)

NRS 485.035 "Judgment" defined. "Judgment" means any judgment which shall have become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle for damages, including damages for care and loss of services because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages.

(Added to NRS by 1957, 722)

INSURANCE REQUIRED

NRS 485.185 Insurance for payment of tort liabilities arising from maintenance or use of motor vehicle: Coverage to be obtained from insurance company duly licensed and approved; minimum thresholds of coverage. Every owner of a motor vehicle which is registered or required to be registered in this State shall continuously provide, while the motor vehicle is present or registered in this State, insurance provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State:

1. In the amount of \$15,000 for bodily injury to or death of one person in any one accident;
 2. Subject to the limit for one person, in the amount of \$30,000 for bodily injury to or death of two or more persons in any one accident; and
 3. In the amount of \$10,000 for injury to or destruction of property of others in any one accident,
- for the payment of tort liabilities arising from the maintenance or use of the motor vehicle.
(Added to NRS by 1979, 1820; A 1981, 1862; 1987, 1090; 1993, 2484; 1995, 2734; 2007, 2049)

NRS 485.186 Operator's policy of liability insurance: Use in lieu of owner's policy of liability insurance; requirements for issuance; required statements; operation of motor vehicle by person other than insured; required and excluded coverages; applicability.

1. Except as otherwise provided in subsection 7, any natural person may satisfy the requirements of NRS 485.185 by obtaining, in lieu of an owner's policy of liability insurance, an operator's policy of liability insurance which meets the requirements of this section and NRS 485.3091.

2. An operator's policy of liability insurance may only be issued to a person if:

- (a) The number of motor vehicles that the person owns is greater than the number of persons in his or her household who possess a driver's license; and
- (b) Each person in his or her household who possesses a driver's license is covered by an operator's policy of liability insurance.

3. An operator's policy of liability insurance must state, in addition to the requirements of NRS 485.3091, that:

(a) The insurer is only liable under the policy for liability incurred by the insured while the named insured is the operator of a motor vehicle or while a motor vehicle owned by the insured is not being operated by any person;

(b) The policy does not provide coverage for any vicarious liability imposed on the owner of the motor vehicle as a result of the operation by another person of a motor vehicle owned by the insured or for any liability imposed by NRS 41.440 or 483.300; and

(c) The coverage provided by the policy may not meet the requirements of the financial responsibility laws of other states,

→ unless such extended coverage is expressly included in the policy. No operator's policy of liability insurance may be delivered or issued for delivery in this State unless the insured has signed an endorsement stating that he or she has read and understood the policy and its limitations.

4. An owner of a motor vehicle which is registered or required to be registered in this State and who holds an operator's policy of liability insurance shall not permit another person to operate the motor vehicle if the owner knows or should have known that the person does not have liability insurance to cover the person's own operation of that motor vehicle.

5. An operator's policy of liability insurance must not provide coverage for damages incurred while a person other than the named insured is operating a motor vehicle.

6. An operator's policy of liability insurance must provide coverage for liability incurred by the insured while a motor vehicle owned by the insured is not being operated by any person.

7. This section does not apply to a lessor, dealer, manufacturer, rebuilder or distributor of a motor vehicle, an owner of a fleet, a common, contract or private motor carrier or any other employer who owns a motor vehicle for use in his or her business.

(Added to NRS by 1987, 1088; A 2001 Special Session, 252)

NRS 485.187 Unlawful acts; fines and penalties; exceptions.

1. Except as otherwise provided in subsection 5, the owner of a motor vehicle shall not:

(a) Operate the motor vehicle, if it is registered or required to be registered in this State, without having insurance as required by NRS 485.185.

(b) Operate or knowingly permit the operation of the motor vehicle without having evidence of insurance of the operator or the vehicle in the vehicle.

(c) Fail or refuse to surrender, upon demand, to a peace officer or to an authorized representative of the Department the evidence of insurance.

(d) Knowingly permit the operation of the motor vehicle in violation of subsection 3 of NRS 485.186.

2. A person shall not operate the motor vehicle of another person unless the person who will operate the motor vehicle:

(a) First ensures that the required evidence of insurance is present in the motor vehicle; or

(b) Has his or her own evidence of insurance which covers that person as the operator of the motor vehicle.

3. Except as otherwise provided in subsection 4, any person who violates subsection 1 or 2 is guilty of a misdemeanor. Except as otherwise provided in this subsection, in addition to any other penalty, a person sentenced pursuant to this subsection shall be punished by a fine of not less than \$600 nor more than \$1,000 for each violation. The fine must be reduced to \$100 for the first violation if the person obtains a motor vehicle liability policy by the time of sentencing, unless:

- (a) The person has registered the vehicle as part of a fleet of vehicles pursuant to subsection 5 of NRS 482.215; or
- (b) The person has been issued a certificate of self-insurance pursuant to NRS 485.380.

4. A court:

(a) Shall not find a person guilty or fine a person for a violation of paragraph (a), (b) or (c) of subsection 1 or for a violation of subsection 2 if the person presents evidence to the court that the insurance required by NRS 485.185 was in effect at the time demand was made for it.

(b) Except as otherwise provided in paragraph (a), may impose a fine of not more than \$1,000 for a violation of paragraph (a), (b) or (c) of subsection 1, and suspend the balance of the fine on the condition that the person presents proof to the court each month for 12 months that the insurance required by NRS 485.185 is currently in effect.

5. The provisions of paragraphs (b) and (c) of subsection 1 do not apply if the motor vehicle in question displays a valid permit issued by the Department pursuant to subsection 1 or 2 of NRS 482.3955, or NRS 482.396 or 482.3965 authorizing the movement or operation of that vehicle within the State for a limited time.

(Added to NRS by 1987, 1089; A 1987, 1443; 1989, 1844; 1993, 157, 1443, 2485, 2492; 1995, 576, 2357, 2735; 1997, 662; 1999, 2727; 2001, 922)

SECURITY FOLLOWING ACCIDENT

NRS 485.190 Department to determine amount of security required; hearing; suspension of license and registration; procedure regarding erroneous information.

1. If, 20 days after the receipt of a report of an accident involving a motor vehicle within this State which has resulted in bodily injury or death, or damage to the property of any one person in excess of \$750, the Department does not have on file evidence satisfactory to it that the person who would otherwise be required to file security under subsection 2 has been released from liability, has been finally adjudicated not to be liable or has executed an acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, the Department shall upon request set the matter for a hearing as provided in NRS 485.191.

2. The Department shall, immediately after a determination adverse to an operator or owner is made in a hearing pursuant to NRS 485.191, suspend the license of each operator and all registrations of each owner of a motor vehicle involved in such an accident, and, if the operator is a nonresident, the privilege of operating a motor vehicle within this State, and, if the owner is a nonresident, the privilege of the use within this State of any motor vehicle owned by him or her, unless the operator or owner, or both, immediately deposit security in the sum so determined by the Department at the hearing. If erroneous information is given to the Department with respect to the matters set forth in paragraph (a), (b) or (c) of subsection 1 of NRS 485.200, the Department shall take appropriate action as provided in this section after it receives correct information with respect to those matters.

[Part 4:127:1949; 1943 NCL § 4439.04]—(NRS A 1961, 139; 1965, 264, 1275; 1973, 1545; 1981, 1862; 1987, 1090; 1993, 2486; 1999, 3579; 2007, 2050)

NRS 485.191 Right to hearing; notice; request for hearing; waiver.

1. Any operator or owner of a motor vehicle who was involved in an accident and who is not exempt from the requirements of depositing security by the provisions of NRS 485.200, is entitled to a hearing before the Director or a representative of the Director before a determination of the amount of security required pursuant to NRS 485.190, and before the suspension of his or her operator's license or registration as provided in subsection 2 of NRS 485.190. The hearing must be held in the county of residence of the operator. If the operator and owner reside in different counties and the hearing would involve both of them, the hearing must be held in the county which will be the most convenient for the summoning of witnesses.

2. The owner or operator must be given at least 30 days' notice of the hearing in writing with a brief explanation of the proceedings to be taken against the owner or operator and the possible consequences of a determination adverse to the owner or operator.

3. If the operator or owner desires a hearing, the owner or operator shall, within 15 days, notify the Department in writing of such intention. If the owner or operator does not send this notice within the 15 days, he or she waives his or her right to a hearing, except that, the Director may for good cause shown permit the owner a later opportunity for a hearing.

(Added to NRS by 1973, 1544; A 1981, 1863; 1987, 1091; 1999, 3580)

NRS 485.193 Scope of hearing. The hearing must be held to determine:

1. Whether or not there is a reasonable possibility that a judgment may be rendered against the owner or operator as a result of the accident in which the owner or operator was involved if the issue is brought before a court of competent jurisdiction; and

2. The amount of security that may be required of the operator or owner to satisfy any judgment for damages that may be rendered against the owner or operator.

(Added to NRS by 1973, 1544; A 1981, 85)

NRS 485.195 Powers of officer conducting hearing. The Director or a representative of the Director may certify to all official acts and issue subpoenas for attendance of witnesses and the production of books and papers.

(Added to NRS by 1973, 1544; A 1981, 85)

NRS 485.197 Enforcement of subpoenas issued by Director.

1. The district court in and for the county in which any hearing may be held shall have the power to compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the Director.

2. In case of the refusal of any witness to attend or testify or produce any papers required by such subpoena the Director may report to the district court in and for the county in which the hearing is pending by petition, setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) That the witness has been subpoenaed in the manner prescribed in this chapter;

(c) That the witness has failed and refused to attend or produce the papers required by subpoena before the Director in the cause or proceeding named in the subpoena, or has refused to answer questions propounded to the witness in the course of such hearing,

→ and asking an order of the court compelling the witness to attend and testify or produce the books or papers before the Director.

3. The court, upon petition of the Director, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days from the date of the order, and then and there show cause why the witness has not attended or testified or produced the books or papers before the Director. A certified copy of the order shall be served upon the witness. If it shall appear to the court that the subpoena

was regularly issued by the Director, the court shall thereupon enter an order that the witness appear before the Director at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order the witness shall be dealt with as for contempt of court.

(Added to NRS by 1973, 1545)

NRS 485.200 Exceptions to requirements as to security and suspension of license and registration.

1. The requirements as to security and suspension in NRS 485.190 to 485.300, inclusive, do not apply:
 - (a) To the operator or owner if the operator or owner had in effect at the time of the accident a motor vehicle liability policy with respect to the motor vehicle involved in the accident;
 - (b) To the operator if there was in effect at the time of the accident a motor vehicle liability policy with respect to his or her operation of any motor vehicle;
 - (c) To the operator or owner if the liability for damages of the operator or owner resulting from the accident is, in the judgment of the Department, covered by any other form of liability insurance policy or a bond;
 - (d) To any person qualifying as a self-insurer pursuant to NRS 485.380, or to any person operating a motor vehicle for the self-insured;
 - (e) To the operator or the owner of a motor vehicle involved in an accident wherein no injury or damage was caused to the person or property of anyone other than the operator or owner;
 - (f) To the operator or the owner of a motor vehicle legally parked at the time of the accident;
 - (g) To the owner of a motor vehicle if at the time of the accident the vehicle was being operated without the owner's permission, express or implied, or was parked by a person who had been operating the motor vehicle without permission; or
 - (h) If, before the date that the Department would otherwise suspend the license and registration or nonresident's operating privilege pursuant to NRS 485.190, there is filed with the Department evidence satisfactory to it that the person who would otherwise have to file security has been released from liability or has received a determination in his or her favor at a hearing conducted pursuant to NRS 485.191, or has been finally adjudicated not to be liable or has executed an acknowledged written agreement providing for the payment of an agreed amount in installments, with respect to all claims for injuries or damages resulting from the accident.

2. An owner who is not the operator of the motor vehicle is not exempt from the requirements as to security and suspension in NRS 485.190 to 485.300, inclusive, if the owner holds a motor vehicle liability policy which provides coverage only when the owner is operating the motor vehicle and, at the time of the accident, another person is operating the motor vehicle with the express or implied permission of the owner.

[Part 4:127:1949; 1943 NCL § 4439.04] + [5:127:1949; 1943 NCL § 4439.05]—(NRS A 1961, 140; 1973, 836, 1546; 1979, 1515; 1981, 1863; 1987, 1091; 1995, 2736; 1999, 3580)

NRS 485.210 Requirements as to policy or bond. For the purposes of NRS 485.200, a policy or bond is not effective unless:

1. The policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than \$15,000 because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, to a limit of not less than \$30,000 because of bodily injury to or death of two or more persons in any one accident and, if the accident has resulted in injury to or destruction of property, to a limit of not less than \$10,000 because of injury to or destruction of property of others in any one accident; and

2. The insurance company or surety company issuing that policy or bond is authorized to do business in this State or, if the company is not authorized to do business in this State, unless it executes a power of attorney authorizing the Director to accept service on its behalf of notice or process in any action upon that policy or bond arising out of an accident.

[Part 4:127:1949; 1943 NCL § 4439.04]—(NRS A 1961, 141; 1963, 220; 1969, 177; 1981, 628; 1985, 1958; 1987, 1092; 1995, 2737)

NRS 485.220 Form and amount of security.

1. The security required pursuant to NRS 485.190 to 485.300, inclusive, must be in such a form and amount as the Department may require, but in no case in excess of the limits specified in NRS 485.210 in reference to the acceptable limits of a policy or bond.

2. The person depositing the security shall specify in writing the person or persons on whose behalf the deposit is made and, at any time while the deposit is in the custody of the Department or the State Treasurer, the person depositing it may, in writing, amend the specification of the person or persons on whose behalf the deposit is made to include an additional person or persons, but a single deposit of security is applicable only on behalf of persons required to furnish security because of the same accident.

[Part 8:127:1949; 1943 NCL § 4439.08]—(NRS A 1961, 141; 1981, 1128; 1995, 2737; 1999, 3581)

NRS 485.230 Duration of suspension; requirements for reinstatement.

1. The license, all registrations and the nonresident's operating privilege suspended as provided in NRS 485.190 must remain so suspended and may not be renewed nor may any license or registration be issued to any such person until:

- (a) The person deposits or there is deposited on his or her behalf the security required under NRS 485.190;
- (b) Two years have elapsed following the date of the accident and evidence satisfactory to the Department has been filed with it that during that period no action for damages arising out of the accident has been instituted; or
- (c) Evidence satisfactory to the Department has been filed with it of a release from liability, or a final adjudication of nonliability, or an acknowledged written agreement, in accordance with NRS 485.190.

2. Upon any default in the payment of any installment under any acknowledged written agreement, and upon notice of the default, the Department shall suspend the license and all registrations or the nonresident's operating privilege of the person defaulting, which may not be restored until:

(a) The person deposits and thereafter maintains security as required under NRS 485.190 in such an amount as the Department may then determine; or

(b) One year has elapsed following the date of default, or 2 years following the date of the accident, whichever is greater, and during that period no action upon the agreement has been instituted in a court in this State.

3. Proof of financial responsibility, as set forth in NRS 485.307, is an additional requirement for reinstatement of the operator's license and registrations under this section. The person shall maintain proof of financial responsibility for 3 years after the date of reinstatement of the license in accordance with the provisions of this chapter. If the person fails to do so the Department shall suspend the license and registrations.

[6:127:1949; 1943 NCL § 4439.06]—(NRS A 1957, 721; 1961, 141; 1981, 1864; 1985, 1175; 1999, 3581)

NRS 485.240 Application to nonresidents, unlicensed drivers, unregistered motor vehicles and accidents in other states.

1. If the operator or the owner of a motor vehicle involved in an accident within this State has no license or registration, or is a nonresident, the operator or owner must not be allowed a license or registration until the operator or owner has complied with the requirements of NRS 485.190 to 485.300, inclusive, to the same extent that would be necessary if, at the time of the accident, the operator or owner had held a license and registration.

2. When a nonresident's operating privilege is suspended pursuant to NRS 485.190 or 485.230, the Department shall transmit a certified copy of the record of that action to the officer in charge of the issuance of licenses and registration certificates in the state in which the nonresident resides, if the law of that state provides for action in relation thereto similar to that provided for in subsection 3.

3. Upon receipt of a certification that the operating privilege of a resident of this State has been suspended or revoked in any other state pursuant to a law providing for its suspension or revocation for failure to deposit security for the payment of judgments arising out of a motor vehicle accident, under circumstances which would require the Department to suspend a nonresident's operating privilege had the accident occurred in this State, the Department shall suspend the license of the resident if the resident was the operator, and all of his or her registrations if the resident was the owner of a motor vehicle involved in that accident. The suspension must continue until the resident furnishes evidence of compliance with the law of the other state relating to the deposit of that security.

[7:127:1949; 1943 NCL § 4439.07]—(NRS A 1957, 722; 1961, 142; 1981, 1128; 1995, 2737; 1999, 3582)

NRS 485.250 Authority of Department to reduce amount of security. The Department may reduce the amount of security ordered in any case within 6 months after the date of the accident if, in its judgment, the amount ordered is excessive. In case the security originally ordered has been deposited, the excess deposited over the reduced amount ordered must be returned to the depositor or his or her personal representative forthwith, notwithstanding the provisions of NRS 485.270.

[Part 8:127:1949; 1943 NCL § 4439.08]—(NRS A 1961, 143; 1999, 3582)

NRS 485.260 Custody of security. Security deposited pursuant to the requirements of NRS 485.190 to 485.300, inclusive, must be placed by the Department in the custody of the State Treasurer.

[Part 9:127:1949; A 1955, 192]—(NRS A 1961, 143; 1981, 1129; 1995, 2738; 1999, 3583)

NRS 485.270 Disposition of security. Security deposited in compliance with the requirements of this chapter is applicable only to the payment of a judgment or judgments rendered against the person or persons on whose behalf the deposit was made for damages arising out of the accident in question in an action at law, begun not later than 2 years after the date of the accident or within 1 year after the date of deposit of any security under NRS 485.230, whichever period is longer, or to the payment in settlement, agreed to by the depositor, of a claim or claims arising out of the accident.

[Part 9:127:1949; A 1955, 192]—(NRS A 1957, 722; 1981, 1865)

NRS 485.280 Return of deposit. A deposit or any balance thereof must be returned to the depositor or his or her personal representative:

1. When evidence satisfactory to the Department has been filed with it that there has been a release from liability, a final adjudication of nonliability or an acknowledged agreement, in accordance with paragraph (h) of subsection 1 of NRS 485.200; or

2. If 2 years after the date of the accident or 1 year after the date of deposit of any security under NRS 485.230, whichever period is longer, the Department is given reasonable evidence that there is no action pending and no judgment rendered in such an action left unpaid.

[Part 9:127:1949; A 1955, 192]—(NRS A 1961, 143; 1981, 1865; 1987, 1093; 1999, 3583)

NRS 485.290 Transfers of deposits to State Highway Fund; procedure for payment of claimants after transfer.

1. In cases where a return to a depositor or his or her personal representative is authorized and warranted under NRS 485.280 but the address or present whereabouts of the depositor is unknown and cannot be readily ascertained by the Department, the security deposited may, 90 days after its return would be authorized by NRS 485.280, be transferred from the custody of the State Treasurer to the State Highway Fund for the general use of the Department of Transportation upon the written and certified request of the Department.

2. The request made by the Department must state the names of the parties, the dates and a concise statement of the facts involved and must be forwarded in duplicate to the State Controller and the State Treasurer.

3. The State Controller and the State Treasurer are directed to transfer the amounts of security deposits from the custody of the State Treasurer to the State Highway Fund to effectuate the purposes of this section upon being satisfied that the provisions of this chapter have been complied with.

4. If the depositor of the security or his or her rightful heirs or legatees, within 5 years after the transfer of the deposit to the State Highway Fund, present a verified claim to the Department and make proof of the validity of the claim, the Department, if it is satisfied as to the validity of the claim, may determine the amount thereby found to be due and certify it to the State Controller who shall draw a warrant therefor on the State Treasurer, who shall pay the warrant out of the State Highway Fund.

5. If the Department denies the validity of the claim, the claimant, upon notice to the Attorney General, has a right to appeal to the First Judicial District Court of the State of Nevada, in and for Carson City, and present proof of the validity of the claim. If, after hearing, the court is satisfied the claimant is rightfully entitled to the deposit, the court shall enter a decree that the money be paid to the claimant. The decree must be certified to the State Board of Examiners, stating the amount thereby found to be due, and the State Board of Examiners shall allow the amount and certify it to the State Controller who shall draw a warrant therefor on the State Treasurer, who shall pay the warrant out of the State Highway Fund.

6. The amounts in the custody of the State Treasurer on March 19, 1955, falling under the provisions of this section, may be transferred to the State Highway Fund, after the expiration of 90 days from March 19, 1955, in accordance with the provisions of this section.

[Part 9:127:1949; A 1955, 192]—(NRS A 1961, 143; 1971, 231; 1979, 1815; 1999, 3583)

NRS 485.300 Matters not to be evidence in civil suits. Any action taken by the department pursuant to NRS 485.190 to 485.300, inclusive, the findings, if any, of the department upon which the action is based and the security filed pursuant to NRS 485.190 to 485.300, inclusive, are privileged against disclosure at the trial of any action at law to recover damages.

[10:127:1949; 1943 NCL § 4439.10]—(NRS A 1961, 144; 1971, 809; 1981, 1129; 1995, 2738; 1999, 3584)

NONPAYMENT OF JUDGMENT

NRS 485.301 Judgment creditor authorized to report nonpayment of judgment entered as result of motor vehicle accident; Department to transmit copy of judgment to nonresident's state.

1. Whenever any person fails within 60 days to satisfy any judgment that was entered as a result of an accident involving a motor vehicle, the judgment creditor or the judgment creditor's attorney may forward to the Department immediately after the expiration of the 60 days a certified copy of the judgment.

2. If the defendant named in any certified copy of a judgment that was entered as a result of an accident involving a motor vehicle and reported to the Department is a nonresident, the Department shall transmit a certified copy of the judgment to the officer in charge of the issuance of licenses and registration certificates of the state in which the defendant is a resident.

(Added to NRS by 1957, 723; A 1961, 144; 1983, 266; 1999, 3584; 2007, 2050)

NRS 485.302 Suspension for nonpayment of judgment; exceptions.

1. The Department shall, upon the receipt of a certified copy of a judgment, suspend the license, all registrations and any nonresident's operating privilege of any person against whom the judgment was rendered, except as otherwise provided in this section and in NRS 485.305.

2. If the judgment creditor consents in writing, in such a form as the Department may prescribe, that the judgment debtor be allowed a license and registration or nonresident's operating privilege, it may be allowed by the Department until the consent is revoked in writing, notwithstanding default in the payment of the judgment or of any installments thereof prescribed in NRS 485.305, if the judgment debtor furnishes proof of financial responsibility as provided in NRS 485.307. The debtor shall maintain proof of financial responsibility for 3 years after the date of reinstatement of the license pursuant to the provisions of this chapter. If the debtor fails to do so, the Department shall suspend the license and registrations of the debtor.

(Added to NRS by 1957, 723; A 1961, 144; 1985, 1176; 1995, 2738; 1999, 3584)

NEVADA RULES OF APPELLATE PROCEDURE

Effective July 1, 1978

Including Amendments Received Through February 1, 2016

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APPENDIX OF FORMS

Form

- Docketing Statement—Civil Appeals.
- Docketing Statement—Criminal Appeals.
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2. Case Appeal Statement.
3. Transcript Request Form.
4. Affidavit and Order to Accompany Motion for Leave to Appeal in Forma Pauperis.
5. Request for Rough Draft Transcript of Proceeding in the District Court.
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9. Certificate of Compliance.
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11. Request for Rough Draft Transcript of Child Custody Proceeding in the District Court.
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13. Child Custody Fast Track Response.
14. Certificate of No Transcript Request.
15. Notice of Completion and Delivery of Transcript.
16. Certificate of Compliance Pursuant to Rules 40 and 40A.

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.

As amended, eff. Sept. 1, 1996; July 1, 2003; July 1, 2009; Jan. 20, 2015.

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 a motion to change the place of trial has expired or 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 paper on which the motion was heard in the district court, and, if the appellant or respondent demands a transcript of any proceedings had in the district court. The district court shall require its 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 court, it stands submitted without further briefs or oral argument unless the 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 mortgage or lien that determines the right to redeem and directs an accounting.

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

Paragraph (5) deleted eff. July 18, 1988. As amended, eff. July 1, 2009; Jan. 20, 2015.

RULE 3B. CRIMINAL ACTIONS: RULES OF PRACTICE AND EVIDENCE

Appeals from district court determinations in criminal actions shall be governed by these Rules and 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 postconviction criminal appeals except those matters specifically excluded by Rule 3C.

As amended, eff. Sept. 1, 1996; July 1, 2009; Jan. 20, 2015.

RULE 3C. FAST TRACK APPEALS

(a) Applicability.

(1) This Rule applies to appeals from a district court judgment or order in a postconviction proceeding involving the State or the defendant.

(2) The Supreme Court shall apply this Rule to a postconviction proceeding in which the appeal is taken from a judgment or order of the district court.

(3) Unless the court orders otherwise, this Rule shall not be subject to this Rule if the appeal is taken from a judgment or order of the district court.

(A) the appeal shall be taken from a judgment or order of the district court in a case involving a conviction or imprisonment in the district court without the possibility of parole.

(B) the appeal is taken from a judgment or order of the district court; or

(C) the appeal is taken from a judgment or order of the district court.

(b) Responsibilities.

(1) **Definition.** For purposes of this Rule, "counsel" means the attorney for the appellant or postconviction defendant in the underlying proceeding.

(2) **Responsibilities.** The appellant or postconviction defendant shall, through counsel, prepare and file a notice of appeal, rough draft and fast track statement, and a rough draft transcript for the case. The appellant or postconviction defendant shall also prepare and file a rough draft transcript for the case. The appellant or postconviction defendant shall also prepare and file a rough draft transcript for the case.

(3) **Withdrawal.** To withdraw the appeal, the appellant or postconviction defendant shall file a motion to withdraw the appeal. The motion shall be considered by the court. The court shall consider the motion to withdraw the appeal. The court shall consider the motion to withdraw the appeal.

(c) **Notice of Appeal.** The appellant or postconviction defendant shall file a notice of appeal from a district court judgment or order. The notice of appeal shall be filed by the appellant or postconviction defendant.

(d) **Rough Draft Transcript.** The appellant or postconviction defendant shall prepare a rough draft transcript of the proceedings. The rough draft transcript shall be prepared by the appellant or postconviction defendant.

(e) **Format.** For purposes of this Rule, a rough draft transcript shall be prepared by the appellant or postconviction defendant.

NEVADA RULES OF APPELLATE PROCEDURE

Effective July 1, 1973

Including Amendments Received Through February 1, 2016

I. APPLICABILITY OF RULES

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Suspension of Rules.

II. APPEALS FROM JUDGMENTS AND ORDERS OF DISTRICT COURTS

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APPENDIX OF FORMS

Form

- Docketing Statement—Civil Appeals.
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1. Notice of Appeal to the Supreme Court from a Judgment or Order of a District Court.
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 4. Affidavit and Order to Accompany Motion for Leave to Appeal in Forma Pauperis.
 5. Request for Rough Draft Transcript of Proceeding in the District Court.
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 9. Certificate of Compliance.
 10. Settlement Statement.
 11. Request for Rough Draft Transcript of Child Custody Proceeding in the District Court.
 12. Child Custody Fast Track Statement.
 13. Child Custody Fast Track Response.
 14. Certificate of No Transcript Request.
 15. Notice of Completion and Delivery of Transcript.
 16. Certificate of Compliance Pursuant to Rules 40 and 40A.

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, reloca-

tion 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 time for requesting transcripts under Rule 9 and filing briefs under Rule 31 may be reinstated during an 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 the 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.

Added, eff. Feb. 26, 1997. As amended, eff. Jan. 29, 2000; Oct. 17, 2000; Sept. 24, 2002; Apr. 18, 2006; Jan. 20, 2008.

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) All direct appeals, post-conviction appeals and writ petitions in death penalty cases;

(3) Cases involving ballot or election questions;

(4) Cases involving judicial discipline;

(5) Cases involving attorney admission, suspension, discipline, disability, reinstatement, and readmission;

(6) Cases involving the approval of preparation of service plans;

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

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

(9) Administrative agency, water, or public utilities;

(10) Cases originating in the federal courts;

(11) Appeals from original arbitration;

(12) Cases involving rights or NRS Chapter 4;

(13) Matters raising a question of first impression involving Nevada constitution or code;

(14) Matters raising a question of statewide public importance where there is an inconsistency of opinion between the Court of Appeals or conflict between published opinions.

(b) **Cases Assigned to the Court of Appeals.** The Court of Appeals shall hear and decide matters assigned to it by the following case categories:

(1) All post-conviction cases and cases involving offenses that are a category A or B appeal from a judgment of guilty, guilty but mentally ill, or not guilty by reason of insanity; direct appeals from the Court of Appeals that challenge only the sufficiency of the evidence from a judgment of conviction that does not involve a category A or category B appeal;

(2) Appeals from a judgment involving attorney fees, and costs, and expenses;

(3) Appeals in statutory cases of the Nevada Revised Statutes.

RULE 21. WRITS OF HABEAS CORPUS, WRITS OF HABEAS AD ADJUDICATION AND OTHER WRITS

(a) **Mandamus or Prohibition and Filing.**

(1) **Filing and Service.** A petition for writ of mandamus or prohibition shall be filed with the clerk of the Supreme Court.

(2) The petition shall be served on the respondent and the board or officer and the petition shall be filed with the clerk of the Court of Appeals.

(3) The petition shall be assigned to the Court of Appeals either by virtue of

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

(10) Cases originating in business court;

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

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

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

(14) 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. The following case categories are presumptively assigned to the Court of Appeals;

(1) All post-conviction 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;

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

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

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

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

(6) Appeals challenging venue;

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

(8) Pretrial writ proceedings challenging discovery orders, or orders resolving motions in limine;

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

(10) Appeals arising from the foreclosure mediation program.

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

(d) 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. 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."

Added, eff. Jan. 20, 2015.

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)(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) the relief sought;

(B) the issues presented;

NEVADA RULES OF COURT

RULES OF CIVIL PROCEDURE FOR THE NEVADA DISTRICT COURTS

Effective January 1, 1953

Including Amendments Received Through February 1, 2016

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2.	One Form of Action.	25.	Substitution of Parties.
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4.	Process.	27.	Depositions Before Action or Pending Appeal.
5.	Service and Filing of Pleadings and Other Papers.	28.	Persons Before Whom Depositions May Be Taken.
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7.	Pleadings Allowed; Form of Motions.	31.	Depositions Upon Written Questions.
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8.	General Rules of Pleading.	33.	Interrogatories to Parties.
9.	Pleading Special Matters.	34.	Producing Documents, Electronically Stored Information, and Tangible Things, or Entering Onto Land, for Inspection and Other Purposes.
10.	Form of Pleadings.	35.	Physical and Mental Examination of Persons.
11.	Signing of Pleadings.	36.	Requests for Admission.
12.	Defenses and Objections—When and How Presented—by Pleading or Motion—Motion for Judgment on Pleadings.	37.	Failure to Make Disclosure or Cooperate in Discovery; Sanctions.
13.	Counterclaim and Cross-Claim.	VI. TRIALS	
14.	Third-Party Practice.	38.	Jury Trial of Right.
15.	Amended and Supplemental Pleadings.	39.	Trial by Jury or by the Court.
16.	Pretrial Conferences; Scheduling; Management.	40.	Assignment of Cases for Trial.
16.1.	Mandatory Pre-Trial Discovery Requirements.	41.	Dismissal of Actions.
16.1.	Mandatory Pre-Trial Discovery Requirements.	42.	Consolidation; Separate Trials.
16.2.	Mandatory Prejudgment Discovery Requirements in Divorce, Annulment, Separate Maintenance, or Dissolution of Domestic Partnership Matters.	43.	Evidence.
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19.	Joinder of Persons Needed for Just Adjudication.	50.	Judgment as a Matter of Law in Jury Trials; Alternative Motion for New Trial; Conditional Rulings.
20.	Permissive Joinder of Parties.	51.	Instructions to Jury; Objections; Preserving a Claim of Error.
21.	Misjoinder and Non-Joinder of Parties.	52.	Findings by the Court; Judgment on Partial Findings.
22.	Interpleader.	53.	Masters.
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23.1.	Derivative Actions by Shareholders.	54.	Judgments; Attorney Fees.
		55.	Default.
		56.	Summary Judgment.
		57.	Declaratory Judgments.

place are material and shall be considered like all other averments of material matter.

(g) **Special Damage.** When items of special damage are claimed, they shall be specifically stated.

As amended, eff. Jan. 1, 2005.

RULE 10. FORM OF PLEADINGS

(a) **Caption; Names of Parties.** Every pleading shall contain a caption setting forth the name of the court and county, the title of the action, the file number, and a designation as in Rule 7(a). In the complaint the title of the action shall include the names of all the parties, but in other pleadings it is sufficient to state the name of the first party on each side with an appropriate indication of other parties. A party whose name is not known may be designated by any name, and when the true name is discovered, the pleading may be amended accordingly.

ADVISORY COMMITTEE'S NOTE

The federal rule is revised to include the name of the county with the name of the court, and to add provision for suing a party whose name is not known.

(b) **Paragraphs; Separate Statements.** All averments of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances; and a paragraph may be referred to by number in all succeeding pleadings. Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth.

(c) **Adoption by Reference; Exhibits.** Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in any motion. A copy of any written instrument which is an exhibit to a pleading is a part thereof for all purposes.

As amended, eff. Jan. 1, 2005.

RULE 11. SIGNING OF PLEADINGS

(a) **Signature.** Every pleading, written motion, and other paper shall be signed by at least one attorney of record in the attorney's individual name, or, if the party is not represented by an attorney, shall be signed by the party. Each paper shall state the signer's address and telephone number, if any. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. An unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.

(b) **Representations to Court.** By presenting to the court (whether by signing, filing, submitting, or

later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,—

(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

(c) **Sanctions.** If, after notice and a reasonable opportunity to respond, the court determines that subdivision (b) has been violated, the court may subject to the conditions stated below, impose an appropriate sanction upon the attorneys, law firms, or parties that have violated subdivision (b) or are responsible for the violation.

(1) How initiated.

(A) **By Motion.** A motion for sanctions under this rule shall be made separately from other motions or requests and shall describe the specific conduct alleged to violate subdivision (b). It shall be served as provided in Rule 5, but shall not be filed with or presented to the court unless, within 21 days after service of the motion (or such other period as the court may prescribe), the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected. If warranted, the court may award to the party prevailing on the motion the reasonable expenses and attorney's fees incurred in presenting or opposing the motion. Absent exceptional circumstances, a law firm shall be held jointly responsible for violations committed by its partners, associates, and employees.

(B) **On Court's Initiative.** On its own initiative, the court may enter an order describing the specific conduct that appears to violate subdivision (b) and directing an attorney, law firm, or party to show cause why it has not violated subdivision (b) with respect thereto.

(2) **Nature of Sanction; Limitations.** A sanction imposed for violation of this rule shall be limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated. Subject to the limitations in subpar-

agraphs (A) and include, directing to pay a per motion and war order directing all of the reasonable expenses incurred

(A) Monetary against a request subdivision (b).

(B) Monetary the court's in order to show or settlement the party who sanctioned.

(3) **Order.** W shall describe the a violation of this sanction imposed

(d) **Applicability** through (c) of this discovery requests that are subject to and 26 through 3 discovery are governed
As amended, eff. Feb

RULE 12. DEFENSE WHEN AN PLEADING JUDGMENT

(a) When Presented

(1) A defendant days after being complaint, unless when service of 4(e)(3).

(2) A party cross-claim against thereto within plaintiff shall serve answer within 2 or, if a reply is required after service of wise directs.

(3) The State sion thereof, an commission member political subdivision file an answer within 45 days after the

(4) The service rule alters these different time is

(A) if the court its dispositive

graphs (A) and (B), the sanction may consist of, or include, directives of a nonmonetary nature, an order to pay a penalty into court, or, if imposed on condition and warranted for effective deterrence, an order directing payment to the movant of some or all of the reasonable attorney's fees and other expenses incurred as a direct result of the violation.

(A) Monetary sanctions may not be awarded against a represented party for a violation of subdivision (b)(2).

(B) Monetary sanctions may not be awarded on the court's initiative unless the court issues its order to show cause before a voluntary dismissal or settlement of the claims made by or against the party which is, or whose attorneys are, to be sanctioned.

(3) **Order.** When imposing sanctions, the court shall describe the conduct determined to constitute violation of this rule and explain the basis for the sanction imposed.

(4) **Applicability to Discovery.** Subdivisions (a) through (c) of this rule do not apply to disclosures and discovery requests, responses, objections, and motions that are subject to the provisions of Rules 16.1, 16.2, 26 through 37. Sanctions for refusal to make discovery are governed by Rules 26(g) and 37.

Amended, eff. Feb. 11, 1986; Jan. 1, 2005; July 1, 2008.

RULE 12. DEFENSES AND OBJECTIONS—WHEN AND HOW PRESENTED—BY PLEADING OR MOTION—MOTION FOR JUDGMENT ON PLEADINGS

(a) When Presented.

(1) A defendant shall serve an answer within 20 days after being served with the summons and complaint, unless otherwise provided by statute when service of process is made pursuant to Rule 4(e)(3).

(2) A party served with a pleading stating a cross-claim against that party shall serve an answer thereto within 20 days after being served. The plaintiff shall serve a reply to a counterclaim in the answer within 20 days after service of the answer. If a reply is ordered by the court, within 20 days after service of the order, unless the order otherwise directs.

(3) The State of Nevada or any political subdivision thereof, and any officer, employee, board or commission member of the State of Nevada or political subdivision, and any state legislator shall file an answer or other responsive pleading within 20 days after their respective dates of service.

(4) The service of a motion permitted under this rule alters these periods of time as follows, unless a different time is fixed by order of the court:

(A) if the court denies the motion or postpones its disposition until the trial on the merits, a

responsive pleading shall be served within 10 days after notice of the court's action;

(B) if the court grants a motion for a more definite statement, a responsive pleading shall be served within 10 days after service of the more definite statement.

ADVISORY COMMITTEE'S NOTE

The federal rule, allowing 20 days to answer, is adopted in preference to the 10–20–30 day provisions of present state law. This also applies to answer or default after service by publication. The first sentence of the federal rule is revised to provide for answer within 20 days unless otherwise provided by statute, rather than unless the court directs otherwise, and to refer specifically to subsec. (3) of Rule 4(e). When service is made pursuant to a special statute under Rule 4(e)(3), and that statute prescribes the time within which to answer, such provision will apply rather than the 20 day rule. However, the general statutes governing service are superseded in their entirety by Rule 4, and the 20 day period applies. The fourth sentence of the federal rule, pertaining to answer by the United States, is deleted.

(b) **How Presented.** Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: (1) lack of jurisdiction over the subject matter, (2) lack of jurisdiction over the person, (3) insufficiency of process, (4) insufficiency of service of process, (5) failure to state a claim upon which relief can be granted, (6) failure to join a party under Rule 19. A motion making any of these defenses shall be made before pleading if a further pleading is permitted. No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or motion. If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, the adverse party may assert at the trial any defense in law or fact to that claim for relief. If, on a motion asserting the defense numbered (5) to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.

As amended, eff. Sept. 27, 1971.

ADVISORY COMMITTEE'S NOTE

The federal rule is revised so that the defense of lack of jurisdiction over the subject matter may be made by motion, only if it appears on the face of the pleading. This preserves the rule of *McKim v. District Court*, 33 Nev. 33, 110 Pac. 4 (1910). The federal defense of improper venue is deleted, since

NEVADA RULES OF COURT

RULES OF CIVIL PROCEDURE FOR THE NEVADA DISTRICT COURTS

Effective January 1, 1953

Including Amendments Received Through February 1, 2016

I. SCOPE OF RULES—ONE FORM OF ACTION

Rule

1. Scope of Rules.
2. One Form of Action.

II. COMMENCEMENT OF ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS, AND ORDERS

3. Commencement of Action.
4. Process.
5. Service and Filing of Pleadings and Other Papers.
6. Time.

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- 16.1. Mandatory Pre-Trial Discovery Requirements.
- 16.1. Mandatory Pre-Trial Discovery Requirements.
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- 16.205. Mandatory Prejudgment Discovery Requirements in Paternity or Custody Matters.
- 16.21. Postjudgment Discovery in Domestic Relations Matters.
- 16.215. Child Witnesses.
- 16.3. Discovery Commissioners.

IV. PARTIES

17. Parties Plaintiff and Defendant; Capacity.
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19. Joinder of Persons Needed for Just Adjudication.
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23. Class Actions.
- 23.1. Derivative Actions by Shareholders.

Rule

- 23.2. Actions Relating to Unincorporated Associations.
24. Intervention.
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V. DEPOSITIONS AND DISCOVERY

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27. Depositions Before Action or Pending Appeal.
28. Persons Before Whom Depositions May Be Taken.
29. Stipulations Regarding Discovery Procedure.
30. Depositions by Oral Examination.
31. Depositions Upon Written Questions.
32. Use of Depositions in Court Proceedings.
33. Interrogatories to Parties.
34. Producing Documents, Electronically Stored Information, and Tangible Things, or Entering Onto Land, for Inspection and Other Purposes.
35. Physical and Mental Examination of Persons.
36. Requests for Admission.
37. Failure to Make Disclosure or Cooperate in Discovery; Sanctions.

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38. Jury Trial of Right.
39. Trial by Jury or by the Court.
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42. Consolidation; Separate Trials.
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44. Proof of Official Record.
- 44.1. Determination of Foreign Law.
45. Subpoena.
46. Exceptions Unnecessary.
47. Jurors.
48. Juries of Less Than Eight.
49. Special Verdicts and Interrogatories.
50. Judgment as a Matter of Law in Jury Trials; Alternative Motion for New Trial; Conditional Rulings.
51. Instructions to Jury; Objections; Preserving a Claim of Error.
52. Findings by the Court; Judgment on Partial Findings.
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57. Declaratory Judgments.

ADVISORY COMMITTEE'S NOTE

(b) When it is admitted by the pleading or examination of a party, that the party has possession or control of any money or other thing capable of delivery, which, being the subject of litigation, is held by the party as trustee for another party, or which belongs or is due to another party, the court may order the same, upon motion, to be deposited in court, or deposited in an interest-bearing account or invested in an interest-bearing instrument, or delivered to such party, upon such conditions as may be just, subject to the further direction of the court.

ADVISORY COMMITTEE'S NOTE

A new subdivision is inserted to set forth the provisions of NCL § 8748.
As amended, eff. Jan. 1, 2005.

RULE 68. OFFERS OF JUDGMENT

(c) Joint Unapportioned Offers.

(3) Offers to Multiple Plaintiffs. An offer made to multiple plaintiffs will invoke the penalties of this rule only if (A) the damages claimed by all the offeree plaintiffs are solely derivative, such as that the damages claimed by some offerees are entirely derivative of an injury to the others or that the damages claimed by all offerees are derivative

(h) **Offers After Determination of Liability.** When the liability of one party to another has been determined by verdict, order or judgment, but the

RULE 69. EXECUTIVE

(b) **Service of Notice of Execution.** Prior to the service of written notice of execution, a writ of execution must be made in accordance with the provisions of the Code of Civil Procedure. *As amended, eff. Sept. 27*

**RULE 70. JUDGM
VESTING TITL**

If a judgment direct
ance of land or to deli

**RULES 72 TO 76
PLACED BY N
LATE PROCEI
1973.**

Readopted without ame

RULE 77. DISTRI

(b) Trials and I
All trials upon the
court and so far as c
except private trial

amount or extent of the liability remains to be determined by further proceedings, the party adjudged liable may make an offer of judgment, which shall have the same effect as an offer made before trial if it is served within a reasonable time not less than 10 days prior to the commencement of hearings to determine the amount or extent of liability.

Replaced, eff. Oct. 27, 1998. Readopted without amendment, eff. Jan. 1, 2005.

RULE 69. EXECUTION

(a) **In General.** Process to enforce a judgment for the payment of money shall be a writ of execution, unless the court directs otherwise. The procedure on execution, in proceedings supplementary to and in aid of a judgment, and in proceedings on and in aid of execution shall be in accordance with the practice and procedure of the State. In aid of the judgment or execution, the judgment creditor or a successor in interest when that interest appears of record, may obtain discovery from any person, including the judgment debtor, in the manner provided in these rules.

(b) **Service of Notice of Entry Required Prior to Execution.** Prior to execution upon a judgment, service of written notice of entry of the judgment must be made in accordance with Rule 58(e).

As amended, eff. Sept. 27, 1971; Jan. 1, 2005.

RULE 70. JUDGMENT FOR SPECIFIC ACTS; VESTING TITLE

If a judgment directs a party to execute a conveyance of land or to deliver deeds or other documents or

to perform any other specific act and the party fails to comply within the time specified, the court may direct the act to be done at the cost of the disobedient party by some other person appointed by the court and the act when so done has like effect as if done by the party. On application of the party entitled to performance, the clerk shall issue a writ of attachment or sequestration against the property of the disobedient party to compel obedience to the judgment. The court may also in proper cases adjudge the party in contempt. If real or personal property is within the State, the court in lieu of directing a conveyance thereof may enter a judgment divesting the title of any party and vesting it in others and such judgment has the effect of a conveyance executed in due form of law. When any order or judgment is for the delivery of possession, the party in whose favor it is entered is entitled to a writ of execution or assistance upon application to the clerk.

Readopted without amendment, eff. Jan. 1, 2005.

RULE 71. PROCESS IN BEHALF OF AND AGAINST PERSONS NOT PARTIES

When an order is made in favor of a person who is not a party to the action, that person may enforce obedience to the order by the same process as if the person were a party; and, when obedience to an order may be lawfully enforced against a person who is not a party, that person is liable to the same process for enforcing obedience to the order as if a party.

As amended, eff. Jan. 1, 2005.

IX

APPEALS

RULES 72 TO 76A. ABROGATED AND REPLACED BY NEVADA RULES OF APPELLATE PROCEDURE, EFFECTIVE JULY 1, 1973.

Readopted without amendment, eff. Jan. 1, 2005.

X

DISTRICT COURTS AND CLERKS

RULE 77. DISTRICT COURTS AND CLERKS

(a) **District Courts Always Open.** The district courts shall be deemed always open for the purpose of filing any pleading or other proper paper, of issuing and returning mesne and final process, and of making and directing all interlocutory motions, orders, and rules.

(b) **Trials and Hearings; Orders in Chambers.** All trials upon the merits shall be conducted in open court and so far as convenient in a regular court room, except private trial may be had as provided by statute.

All other acts or proceedings may be done or conducted by a judge in chambers, without the attendance of the clerk or other court officials and at any place either within or without the district; but no hearing, other than one ex parte, shall be conducted outside the district without the consent of all parties affected thereby.

ADVISORY COMMITTEE'S NOTE

The federal rule is revised to permit private trial as provided by statute.

NEVADA SHORT TRIAL RULES

Effective July 6, 2000

Including Amendments Received Through February 1, 2016

Order Adopting Rules Governing Alternative Dispute Resolution and Nevada Mediation Rules and Amending the Nevada Arbitration Rules and Nevada Short Trial Rules.

I. SCOPE OF RULES

Rule

1. The Short Trial Program.
2. Short Trial Commissioner.
3. Presiding Judge.

II. PARTICIPATION IN AND REMOVAL FROM THE SHORT TRIAL PROGRAM

4. Matters Subject to the Short Trial Program.
5. Removal of Cases Subject to Mandatory Participation in the Short Trial Program.

III. PLEADINGS AND MOTIONS; DISCOVERY AND PRETRIAL PROCEDURE

6. Filing and Service of Documents.
7. Motions; Rulings to Be Written and Filed.
8. Mandatory Discovery and Settlement Conference.
9. Pretrial Memorandum.
10. Pretrial Conference.
11. Settlement Before Trial.

IV. TRIALS

12. Calendaring.
13. Continuances.
14. Location of Trial.
15. Depositions, Interrogatories and Admissions.

Rule

16. Documentary Evidence.
17. Evidentiary Objections.
18. Evidentiary Booklets.
19. Expert Witnesses.
20. Reporting of Testimony.
21. Time Limits for Conduct of Trial.
22. Size of Jury.
23. Juror Selection and Voir Dire.
24. Opening Charge to Jury.
25. Jury Instructions.

V. JUDGMENT

26. Entry of Judgment.
27. Attorney's Fees, Presiding Judge's Fees and Costs.
28. Fees for Presiding Judge.
29. Costs for Presiding Judge.
30. Deposits; Failure to Pay.
31. Allocation of Fees and Costs.
32. Binding Short Trial.

VI. APPEALS

33. Direct Appeal of Final Judgment.

VII. GENERAL PROVISIONS

34. Support Personnel.
35. Citations to Rules.

VIII. FORMS

1. Judgment on Short Trial Jury Verdict.

ORDER ADOPTING RULES GOVERNING ALTERNATIVE DISPUTE RESOLUTION AND NEVADA MEDIATION RULES AND AMENDING THE NEVADA ARBITRATION RULES AND NEVADA SHORT TRIAL RULES

WHEREAS, on June 7, 2000, this court adopted the Nevada Short Trial Rules implementing the short trial program and allowing parties to participate in the program by mutual consent; and

WHEREAS, the Supreme Court Advisory Committee on the Short Trial Rules filed a report with this court on September 17, 2003, proposing amendments to the Nevada Short Trial Rules that would mandate a short trial in certain cases; and

WHEREAS, the Advisory Committee also recommended amendments to the Nevada Arbitration Rules

and the adoption of two new sets of rules: Rules Governing Alternative Dispute Resolution and Nevada Mediation Rules; and

WHEREAS, the Judges of the Eighth Judicial District Court have also petitioned this court to amend the Nevada Arbitration Rules; and

WHEREAS, this court held a public hearing on these matters and accepted public comment on the proposed amendments to this court's rules; and

WHEREAS, this court subsequently referred draft rule amendments to the Short Trial Review Committee to analyze and critique a modified short trial program; and

WHEREAS, the Review Committee submitted its report to this court on October 25, 2004, assessing the draft rules and prospective mandatory program; and

WHEREAS, it appears to this court that amendment of the Nevada Arbitration Rules and Nevada Short

Rule 2. Short trial commissioner.

Each judicial district may appoint a short trial commissioner to administer the short trial program. Any commissioner so appointed has the responsibilities and powers conferred by these rules and by any local rules. The short trial commissioner may be an administrator commissioner, alternative dispute resolution commissioner, discovery commissioner, special master, or other qualified and licensed Nevada attorney appointed by the court. The appointment shall be made in accordance with local rules. In districts where there is no commissioner, the district court shall, by local rule, designate a person to perform the duties of the commissioner set forth in these rules. *Added, eff. Jan. 1, 2005.*

Rule 3. Presiding judge.

A short trial may be conducted by either a district judge or a pro tempore judge.

(a) **Assignment of presiding judge.** No later than 10 days after a case enters the short trial program, the commissioner shall assign a short trial judge to preside over the case. The presiding judge shall be selected by one of the following methods:

(1) **By stipulation.** The parties, within 15 days of the date a case enters the short trial program, may stipulate to have a particular short trial judge serve as the presiding judge. The judge must be selected from the panel of short trial judges and the parties must consent to the assignment. Except that the parties may also stipulate to have a particular district judge serve as presiding judge, provided that the district judge also consents to serve as such.

(2) **Random selection.** Absent a timely stipulation under subdivision (a)(1) of this rule, the commissioner shall randomly select the names of 3 judicial panelists and send the same to the parties. Each party may strike one name within 10 days, and the commissioner shall select the judge from the remaining name(s). For purposes of this rule, if several parties are represented by one attorney, they shall be considered as one party.

(b) **Panel of short trial judges.** The commissioner shall maintain a list of judges available to hear short trial jury trials. The list shall include all qualified district judges and pro tempore judges for the judicial district.

(c) **Pro tempore judges.** Pro tempore judges shall be selected and trained by a committee composed of the chief judge of the judicial district or the chief judge's designee, the commissioner, and a representative of the Alternative Dispute Resolution (ADR) Committee of the State Bar of Nevada. The selection committee shall seek to create a diverse group of qualified pro tempore judges. A pro tempore judge

may be added to or removed from the panel of short trial judges pursuant to procedures adopted by each of the district courts. A pro tempore judge shall, however, meet the following minimum qualifications:

(1) Be an active member of the State Bar of Nevada;

(2) Have the equivalent of 10 years of civil trial experience or, in the alternative, be a retired jurist, or presently acting short trial pro tempore judge with a civil background;

(3) Fulfill at least 3 hours of accredited continuing legal education annually as deemed appropriate by the commissioner. Failure to do so may constitute grounds for temporary suspension or removal from the panel of short trial judges.

(d) **Authority.** While presiding over a case that is in the short trial program, the pro tempore judge shall have all the powers and authority of a district court judge except with respect to the final judgment. A final judgment is one that finally resolves all claims against all parties to the action and leaves nothing for the pro tempore judge's future consideration except for post-judgment issues such as attorney's fees and costs.

(1) Not later than 10 days after the rendering of a jury verdict in a jury trial or upon a decision by the presiding judge in a trial to the bench, the judge pro tempore shall submit to the district court judge to whom the case is assigned a proposed judgment.

(2) The judge pro tempore shall provide written notice of the proposed judgment to the parties. Any objections to the proposed judgment shall be filed within 10 days after the written notice of the proposed judgment is served on the parties, and any responses to such objections shall be filed within 5 days after such objections are served.

(3) After reviewing the proposed judgment and any objection to the proposed judgment, the district court shall:

(A) Approve the proposed judgment, in whole or in part; or

(B) Reject the proposed judgment, in whole or in part, and order such relief as may be appropriate.

(4) A proposed judgment from a judge pro tempore is not effective until expressly approved by the district court as evidenced by the signature of the district court judge.

Added as Rule 17 in Subpart B of Part V of the Supreme Court Rules, eff. July 7, 2000. Readopted as amended and renumbered Rule 3 of the Nevada Short Trial Rules, eff. Jan. 1, 2005. Amended eff. April 7, 2008. Amended eff. March 9, 2012.

NEVADA SHORT TRIAL RULES

Effective July 6, 2000

Including Amendments Received Through February 1, 2016

Order Adopting Rules Governing Alternative Dispute Resolution and Nevada Mediation Rules and Amending the Nevada Arbitration Rules and Nevada Short Trial Rules.

I. SCOPE OF RULES

Rule

1. The Short Trial Program.
2. Short Trial Commissioner.
3. Presiding Judge.

II. PARTICIPATION IN AND REMOVAL FROM THE SHORT TRIAL PROGRAM

4. Matters Subject to the Short Trial Program.
5. Removal of Cases Subject to Mandatory Participation in the Short Trial Program.

III. PLEADINGS AND MOTIONS; DISCOVERY AND PRETRIAL PROCEDURE

6. Filing and Service of Documents.
7. Motions; Rulings to Be Written and Filed.
8. Mandatory Discovery and Settlement Conference.
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26. Entry of Judgment.
27. Attorney's Fees, Presiding Judge's Fees and Costs.
28. Fees for Presiding Judge.
29. Costs for Presiding Judge.
30. Deposits; Failure to Pay.
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VI. APPEALS

33. Direct Appeal of Final Judgment.

VII. GENERAL PROVISIONS

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VIII. FORMS

1. Judgment on Short Trial Jury Verdict.

ORDER ADOPTING RULES GOVERNING ALTERNATIVE DISPUTE RESOLUTION AND NEVADA MEDIATION RULES AND AMENDING THE NEVADA ARBITRATION RULES AND NEVADA SHORT TRIAL RULES

WHEREAS, on June 7, 2000, this court adopted the Nevada Short Trial Rules implementing the short trial program and allowing parties to participate in the program by mutual consent; and

WHEREAS, the Supreme Court Advisory Committee on the Short Trial Rules filed a report with this court on September 17, 2003, proposing amendments to the Nevada Short Trial Rules that would mandate a short trial in certain cases; and

WHEREAS, the Advisory Committee also recommended amendments to the Nevada Arbitration Rules

and the adoption of two new sets of rules: Rules Governing Alternative Dispute Resolution and Nevada Mediation Rules; and

WHEREAS, the Judges of the Eighth Judicial District Court have also petitioned this court to amend the Nevada Arbitration Rules; and

WHEREAS, this court held a public hearing on these matters and accepted public comment on the proposed amendments to this court's rules; and

WHEREAS, this court subsequently referred draft rule amendments to the Short Trial Review Committee to analyze and critique a modified short trial program; and

WHEREAS, the Review Committee submitted its report to this court on October 25, 2004, assessing the draft rules and prospective mandatory program; and

WHEREAS, it appears to this court that amendment of the Nevada Arbitration Rules and Nevada Short

simply not allowed under the Nevada Rules of Evidence and must be disregarded.

Added, eff. Jan. 1, 2005.

Rule 25. Jury instructions.

Standard jury instructions should be taken from the Nevada Pattern Civil Jury Instruction Booklet unless a particular instruction has been disapproved by the Nevada Supreme Court. Any proposed or agreed to additions to the jury instructions shall be included in

the pretrial memorandum and ruled on by the presiding judge at the pretrial conference. All stipulated and proposed instructions must be presented to the presiding judge prior to trial under Rule 10. The presiding judge shall encourage limited jury instructions.

Added as Rule 12 in Subpart B of Part V of the Supreme Court Rules, eff. July 7, 2000. Readopted as amended and renumbered Rule 25 of the Nevada Short Trial Rules, eff. Jan. 1, 2005.

V

JUDGMENT

Rule 26. Entry of judgment.

Judgment shall be entered upon the short trial jury verdict form in a jury trial or upon a decision by the presiding judge in a trial to the bench, and the judgment, including any costs or attorney's fees, shall be filed with the clerk. A decision of at least 3 of the 4 jurors is necessary to render a verdict for a 4-member jury, at least 5 of the 6 jurors for a 6-member jury, and at least 6 of the 8 jurors for an 8-member jury. A judgment arising out of the short trial program may not exceed \$50,000 per plaintiff exclusive of attorney's fees, costs and prejudgment interest, unless otherwise stipulated to by the parties. Jurors shall not be notified of this limitation. Where cases not subject to mandatory arbitration were brought into the short trial program, the parties may establish a different ceiling of recovery by stipulation.

Added as Rule 9 in Subpart B of Part V of the Supreme Court Rules, eff. July 7, 2000. Readopted as amended and renumbered Rule 26 of the Nevada Short Trial Rules, eff. Jan. 1, 2005. As amended, eff. Mar. 14, 2007.

Rule 27. Attorney's fees, presiding judge's fees and costs.

(a) Attorney's fees, costs and interest for cases removed from the short trial program. In cases removed from the short trial program pursuant to Rule 5, attorney's fees, costs and interest shall be allowed as follows:

(1) The prevailing party at the trial following removal from the short trial program is entitled to all recoverable fees, costs, and interest pursuant to statute or N.R.C.P. 68.

(2) Exclusive of any award of fees and costs under subdivision (a)(1), a party is entitled to a separate award of reasonable attorney's fees and costs as set forth in paragraphs (A) and (B) below. If both parties demanded removal from the short trial program, the provisions of N.A.R. 20(B)(2) apply in lieu of (A) and (B) below.

(A) Where the party who demanded removal from the short trial program fails to obtain a judgment that exceeds the arbitration award by at least

20 percent of the award, the nondemanding party is entitled to its reasonable attorney's fees and costs associated with the proceedings following removal from the short trial program.

(B) Where the party who demanded removal from the short trial program fails to obtain a judgment that reduces by at least 20 percent the amount for which that party is liable under the arbitration award, the nondemanding party is entitled to its attorney's fees and costs associated with the proceedings following removal from the short trial program.

(b) Attorney's fees, presiding judge's fees, costs and interest following short trial. Attorney's fees, presiding judge's fees and costs shall be allowed following a short trial as follows:

(1) The prevailing party at the short trial is entitled to all recoverable fees, costs and interest pursuant to statute or N.R.C.P. 68.

(2) Exclusive of any award of fees and costs under subdivision (b)(1), a party is entitled to a separate award of fees and costs as set forth in N.A.R. 20(B)(2) in cases that enter the short trial program upon a request for trial de novo.

(3) The prevailing party at the short trial is also entitled to recover any fees and costs the party paid to the presiding judge.

(4) An award of fees under subsections (1) or (2) of this rule may not exceed a total of \$3,000, unless the parties otherwise stipulate or the attorney's compensation is governed by a written agreement between the parties allowing a greater award.

(5) Recovery of expert witness fees is limited to \$500 per expert unless the parties stipulate to a higher amount.

Added as Rule 15 in Subpart B of Part V of the Supreme Court Rules, eff. July 7, 2000. Readopted as amended and renumbered Rule 27 of the Nevada Short Trial Rules, eff. Jan. 1, 2005. Amended eff. Mar. 25, 2005, governing proceedings commenced after Jan. 1, 2005. Amended April 7, 2008; Aug. 17, 2009.

Rule 28. Fee

(a) Allowable itemized bill with maximum per item.

(b) Itemized bill for judge pro tem. Itemized bill with maximum per item. In a bench trial of the case from which the costs are to be recovered, which shall indicate the amount and adjust the

(c) Payment of parties unless otherwise stipulated. Regarding the request for the date that the itemized bill is filed, which shall indicate the date that the itemized bill is filed. If the costs are to be recovered, the costs are to be recovered from the date that the itemized bill is filed.

(d) Exception to the rule. Parties to the case are exempted from the rule, no fees for any party to the case. *Added as Rule 18 of the Supreme Court Rules, eff. Jan. 1, 2005. Amended April 7, 2008. Amended*

Rule 29. Costs

(a) Allowable costs. Allowed to recover the pro tempore judge's action within the reasonable by the pro

- (1) Reasonable
- (2) Reasonable
- (3) Reasonable
- (4) Reasonable
- (5) Reasonable
- (6) Reasonable
- (7) Reasonable
- (8) Reasonable

(b) Itemized bill for the presiding judge. Itemized bill of costs for judgment in a bench trial of removal of the

LAWS OF THE STATE OF NEVADA

Passed at the

FORTY-EIGHTH SESSION OF THE LEGISLATURE

1957

Senate Bill No. 1—Senator Johnson

CHAPTER 1

AN ACT creating a legislative fund.

[Approved January 23, 1957]

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. For the purpose of paying the salaries, mileage, and the postage and stationery allowances of members of the 1957 Nevada legislature, the salaries of the attaches, and the incidental expenses of the respective houses thereof, and the unpaid expenses incurred by the 1956 special session of the Nevada legislature, the state treasurer is hereby authorized and required to set apart, from any money now in the general fund not otherwise appropriated, the sum of \$150,000, which shall constitute the legislative fund.

SEC. 2. The state controller is hereby authorized and required to draw his warrants on the legislative fund in favor of the members and employees of the senate and assembly for per diem, mileage, stationery allowances, compensation, and incidental expenses of the respective houses, when properly certified in accordance with law, and the state treasurer is hereby authorized and required to pay the same.

SEC. 3. Any unexpended portion of the legislative fund shall revert to the general fund on December 31, 1959.

SEC. 4. This act shall become effective upon passage and approval.

Senate Bill No. 2—Committee on Judiciary

CHAPTER 2

AN ACT to revise the laws and statutes of the State of Nevada of a general or public nature; to adopt and enact such revised laws and statutes, to be known as the Nevada Revised Statutes, as the law of the State of Nevada; to repeal all prior laws and statutes of a general, public and permanent nature; providing penalties; and other matters relating thereto.

[Approved January 25, 1957]

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. Enactment of Nevada Revised Statutes. The Nevada Revised Statutes, being the statute laws set forth after section 9 of this act, are hereby adopted and enacted as law of the State of Nevada.

PREFATORY NOTE

datory statutes passed at the recent session of the Nevada are printed in the Statutes of Nevada in the form pre-Chapter 164, Statutes of Nevada 1957. In accordance with ns of that Act, the words, phrases, or provisions stricken uated from the former law by the adoption of the amend-losed between brackets [], and all the new words, phrases, s inserted into or added to the law by the passage of the are printed in *ITALICS*.

It, therefore, in order to ascertain the correct meaning, interpretation of the law as changed by the amendatory uld omit the words, phrases, or provisions within brackets, read and interpret, as part of the new statute, the words, provisions printed in italics. The matter in brackets has d for the sole purpose of enabling the reader to discern the changes made in the former law, and to compare it as enacted.

also be noted that when matter deleted comprises more ragraph, an opening bracket is used at the beginning of uph, but the closing or final bracket is placed only at the nal paragraph of the series of paragraphs that has been

J. A. MCCARTHY,
State Printer.

paragraph. The duration of such proof shall be for 3 years from the date of reinstatement of the license and shall be in accordance with the provisions of this chapter.

Sec. 3. NRS 485.240 is hereby amended to read as follows:
485.240 1. In case the operator or the owner of a motor vehicle involved in an accident within this state has no license or registration, or is a nonresident, he shall not be allowed a license or registration until he has complied with the requirements of NRS 485.150 to 485.300, inclusive, to the same extent that would be necessary if, at the time of the accident, he had held a license and registration.

2. When a nonresident's operating privilege is suspended pursuant to NRS 485.190 or 485.230, the commissioner shall transmit a certified copy of the record of such action to the official in charge of the issuance of licenses and registration certificates in the state in which such nonresident resides, if the law of such other state provides for action in relation thereto similar to that provided for in subsection 3.

3. Upon receipt of such certification that the operating privilege of a resident of this state has been suspended or revoked in any such other state pursuant to a law providing for its suspension or revocation for failure to deposit security for the payment of judgments arising out of a motor vehicle accident, under circumstances which would require the commissioner to suspend a nonresident's operating privilege had the accident occurred in this state, the commissioner shall suspend the license of such resident if he was the operator, and all of his registrations if he was the owner of a motor vehicle involved in such accident. Such suspension shall continue until such resident furnishes evidence of his compliance with the law of such other state relating to the deposit of such security.

Sec. 4. NRS 485.270 is hereby amended to read as follows:
485.270 Such security shall be applicable only to the payment of a judgment or judgments rendered against the person or persons on whose behalf the deposit was made for damages arising out of the accident in question in an action at law, begun not later than 1 year after the date of such accident or within 1 year after the date of deposit of any security under subsection 3 of NRS 485.280 [], or to the payment in settlement, agreed to by the depositor, of a claim or claims arising out of such accident.

Sec. 5. Chapter 485 of NRS is hereby amended by adding thereto the provisions set forth as sections 6 to 27, inclusive, of this act.

Sec. 6. "Judgment" means any judgment which shall have become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle for damages, including damages for care and loss of services because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages.

Sec. 7. "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring

subsequent to the effective date of such proof arising out of the ownership, maintenance or use of a motor vehicle, in the amount of \$5,000 because of bodily injury to or death of one person in any one accident, and, subject to such limit for one person, in the amount of \$10,000 because of bodily injury to or death of two or more persons in any one accident, and in the amount of \$1,000 because of injury to or destruction of property of others in any one accident.

Sec. 8. The commissioner shall upon request furnish any person a certified abstract of the operating record of any person subject to the provisions of this chapter, which abstract shall also fully designate the motor vehicles, if any, registered in the name of such person, and, if there shall be no record of any conviction of such person of violating any law relating to the operation of a motor vehicle or of any injury or damage caused by such person, the commissioner shall so certify.

Sec. 9. 1. Whenever any person fails within 60 days to satisfy any judgment, upon the written request of the judgment creditor or his attorney, the clerk of the court or the judge of a court which has no clerk in which any such judgment is rendered within this state, shall forward to the commissioner immediately after the expiration of such 60 days a certified copy of such judgment.

2. If the defendant named in any certified copy of a judgment reported to the commissioner is a nonresident, the commissioner shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the state of which the defendant is a resident.

Sec. 10. 1. The commissioner, upon the receipt of a certified copy of a judgment, shall forthwith suspend the license and registration of any nonresident's operating privilege of any person against whom such judgment was rendered, except as hereinafter otherwise provided in this section and in section 13.

2. If the judgment creditor consents in writing, in such form as the commissioner may prescribe, that the judgment debtor be allowed a license and registration or nonresident's operating privilege, the same may be allowed by the commissioner, in his discretion, for 6 months from the date of such consent and thereafter until such consent is revoked in writing notwithstanding default in the payment of such judgment, or of any installments thereof prescribed in section 13, provided the judgment debtor furnishes proof of financial responsibility.

Sec. 11. 1. Such license, registration and nonresident's operating privilege shall remain so suspended and shall not be renewed, nor shall any such license or registration be thereafter issued in the name of such person, including any such person not previously licensed, unless and until every such judgment is stayed, satisfied in full or to the extent hereinafter provided and until the person gives proof of financial responsibility subject to the exemptions stated in sections 10 and 13.

2. A discharge in bankruptcy following the rendering of any such judgment shall not relieve the judgment debtor from any of the requirements of sections 9 to 26, inclusive.

LAWS OF THE STATE OF NEVADA
Passed at the
FIFTY-FIRST SESSION OF THE LEGISLATURE
1961

Senate Bill No. 1—Senator Settelmeyer

CHAPTER 1

AN ACT creating the 1961 legislative fund and making an appropriation therefor.

[Approved January 17, 1961]

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

SECTION 1. For the purpose of paying the salaries, mileage, and the postage and stationery allowances of members of the 1961 Nevada legislature, the salaries of the attachés, and the incidental expenses of the respective houses thereof, there is hereby appropriated from the general fund in the state treasury the sum of \$200,000, which sum shall constitute the 1961 legislative fund.

Sec. 2. The state controller is hereby authorized and required to draw his warrants on the 1961 legislative fund in favor of the members and employees of the senate and assembly for per diem, mileage, stationery allowances, compensation and incidental expenses of the respective houses, when properly certified in accordance with law, and the state treasurer is hereby authorized and required to pay the same.

Sec. 3. Any unexpended portion of the 1961 legislative fund shall revert to the general fund on December 31, 1962.

Sec. 4. This act shall become effective upon passage and approval.

Senate Bill No. 9—Senator Whitacre

CHAPTER 2

AN ACT authorizing Lyon County, Nevada, to erect and furnish an addition to the county hospital at Yerington; concerning the issuance of bonds for such purpose in not to exceed the aggregate principal amount of \$100,000 and the levy of taxes in connection therewith; prescribing other details concerning such bonds and such taxes; and concerning other matters properly relating thereto.

[Approved January 19, 1961]

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

SECTION 1. The board of county commissioners of Lyon County, State of Nevada, is hereby authorized and empowered to erect and

1. If the [commissioner] denies the validity of the claim, the claimant, upon notice to the attorney general, has a right to appeal to the First Judicial District Court of the State of Nevada, in and for the County of Ormsby, and present his proof of the validity of the claim. If, after hearing, the court is satisfied the claimant is rightfully entitled to the deposit, the court shall enter a decree that the money be paid to him. The decree shall be certified to the state board of examiners, stating the amount thereby found to be due, and the state board of examiners shall allow the same and certify it to the state controller, who shall draw his warrant therefor on the state treasurer, who shall pay the same out of the state highway fund.

2. If the [commissioner] denies the validity of the claim, the claimant, upon notice to the attorney general, has a right to appeal to the First Judicial District Court of the State of Nevada, in and for the County of Ormsby, and present his proof of the validity of the claim. If, after hearing, the court is satisfied the claimant is rightfully entitled to the deposit, the court shall enter a decree that the money be paid to him. The decree shall be certified to the state board of examiners, stating the amount thereby found to be due, and the state board of examiners shall allow the same and certify it to the state controller, who shall draw his warrant therefor on the state treasurer, who shall pay the same out of the state highway fund.

3. The amounts in the custody of the state treasurer on March 19, 1955, falling under the provisions of this section, may be transferred to the state highway fund, after the expiration of 90 days from March 19, 1955, in accordance with the provisions of this section.

Sec. 48. NRS 485.300 is hereby amended to read as follows:

485.300 Neither the report required by NRS 485.150 to 485.180, inclusive, the action taken by the [commissioner] pursuant to NRS 485.150 to 485.300, inclusive, the findings, if any, of the [commissioner] division upon which such action is based, nor the security filed as provided in NRS 485.150 to 485.300, inclusive, shall be referred to in any way, nor be any evidence of the negligence or due care of either party, at the trial of any action at law to recover damages.

Sec. 49. NRS 485.301 is hereby amended to read as follows:

485.301 1. Whenever any person fails within 60 days to satisfy any judgment, upon the written request of the judgment creditor or his attorney, the clerk of the court, or the judge of a court which has no clerk, in which any such judgment is rendered within this state shall forward to the [commissioner] division immediately after the expiration of such 60 days a certified copy of such judgment.

2. If the defendant named in any certified copy of a judgment reported to the [commissioner] division is a nonresident, the [commissioner] division shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the state of which the defendant is a resident.

Sec. 50. NRS 485.302 is hereby amended to read as follows:

485.302 1. The [commissioner] division, upon the receipt of a certified copy of a judgment, shall forthwith suspend the license and registration and any nonresident's operating privilege of any person against whom such judgment was rendered, except as hereinafter otherwise provided in this section and in NRS 485.305.

2. If the judgment creditor consents in writing, in such form as the [commissioner] division may prescribe, that the judgment debtor be allowed a license and registration or nonresident's operating privilege, the same may be allowed by the [commissioner] division, in

1. If the [commissioner] denies the validity of the claim, the claimant, upon notice to the attorney general, has a right to appeal to the First Judicial District Court of the State of Nevada, in and for the County of Ormsby, and present his proof of the validity of the claim. If, after hearing, the court is satisfied the claimant is rightfully entitled to the deposit, the court shall enter a decree that the money be paid to him. The decree shall be certified to the state board of examiners, stating the amount thereby found to be due, and the state board of examiners shall allow the same and certify it to the state controller, who shall draw his warrant therefor on the state treasurer, who shall pay the same out of the state highway fund.

Sec. 51. NRS 485.305 is hereby amended to read as follows:

485.305 1. A judgment debtor upon due notice to the judgment creditor may apply to the court in which such judgment was rendered for the privilege of paying such judgment in installments and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order and fix the amounts and times of payment of the installments.

2. The [commissioner] division shall not suspend a license, registration or a nonresident's operating privilege, and shall restore any license, registration or nonresident's operating privilege suspended following nonpayment of a judgment, when the judgment debtor gives proof of financial responsibility and obtains such an order permitting the payment of such judgment in installments, and while the payment of any such installment is not in default.

3. If the judgment debtor fails to pay any installment as specified by such order, then upon notice of such default, the [commissioner] division shall forthwith suspend the license, registration or nonresident's operating privilege of the judgment debtor until such judgment is satisfied, as provided in this chapter.

Sec. 52. NRS 485.306 is hereby amended to read as follows:

485.306 1. Whenever the [commissioner] division, under any law of this state, suspends or revokes the license of any person upon receiving a record of a conviction or a forfeiture of bail, the [commissioner] division shall also suspend the registration for all motor vehicles registered in the name of such person, except that he shall not suspend such registration, unless otherwise required by law, if such person has previously given or shall immediately give and thereafter maintain proof of financial responsibility with respect to all motor vehicles registered by such person.

2. Such license and registration shall remain suspended or revoked and shall not at any time thereafter be renewed, nor shall any license be thereafter issued to such person, nor shall any motor vehicle be thereafter registered in the name of such person until permitted under the motor vehicle laws of this state and not then unless and until he shall give and thereafter maintain proof of financial responsibility.

3. If a person is not licensed, but by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for any offense requiring the suspension or revocation of a license, or for operating a motor vehicle upon the highways without being licensed to do so, or for operating an unregistered motor vehicle upon the highways, no license shall be thereafter issued to such person and no motor vehicle shall continue to be registered or thereafter be registered in the name of such person until he shall give and thereafter maintain proof of financial responsibility.

4. Whenever the [commissioner] division suspends or revokes a

↓1983 Statutes of Nevada, Page 266 (Chapter 96, AB 180)↓

Sec. 11. NRS 178.548 is hereby amended to read as follows:

178.548 [1. The county clerk shall record in the bail bond register the information contained in the notices which are filed with him pursuant to NRS 178.544 and 178.546 and shall obtain and record the necessary information relating to all bail bonds filed in the district court of the county.

2. No bail bond may be filed in any case file unless it has been registered by the county clerk and the registration number assigned to such bond in the bail bond register is recorded on the face of the bond.

3.] The county clerk, *the justice of the peace or the clerk of the justice's court, if there is one, or the clerk of the supreme court* shall notify the district attorney of the appropriate county, in writing promptly upon the receipt of information indicating that a bail bond has been forfeited.

Sec. 12. NRS 239.300 is hereby amended to read as follows:

239.300 Any person who:

1. Steals, embezzles, corrupts, alters, withdraws, falsifies or avoids any record, process, charter, gift, grant, conveyance, bond or contract;

2. Knowingly or willfully, takes off, discharges or conceals any issue, forfeited recognizance or other forfeiture;

3. Forges, defaces or falsifies any document or instrument recorded [,] *or filed in any court*, or any registered acknowledgment or certificate; or

4. [Alters,] *Steals, alters*, defaces or falsifies any minute, document, book or any proceedings of or belonging to any public office within this state,

shall be punished by imprisonment in the state prison for not less than 1 year nor more than 10 years, or by a fine of not more than \$10,000, or by both fine and imprisonment.

Sec. 13. NRS 485.301 is hereby amended to read as follows:

485.301 1. Whenever any person fails within 60 days to satisfy any judgment, [upon the written request of] the judgment creditor or his attorney [, the clerk of the court, or the judge of a court which has no clerk, in which any such judgment is rendered within this state shall] *may forward to the division immediately after the expiration of [such] the 60 days a certified copy of [such] the judgment.*

2. If the defendant named in any certified copy of a judgment reported to the division is a nonresident, the division shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the state [of] *in* which the defendant is a resident.

↓1985 Statutes of Nevada, Page 1176 (Chapter 416, AB 318)↓

period no action for damages arising out of the accident has been instituted; or

(c) Evidence satisfactory to the division has been filed with it of a release from liability, or a final adjudication of nonliability, or [a duly] *an* acknowledged written agreement, in accordance with NRS 485.190.

2. Upon any default in the payment of any installment under any [duly] acknowledged written agreement, and upon notice of the default, the division shall suspend the license and [registration] *all registrations* or *the* nonresident's operating privilege of the person defaulting, which may not be restored until:

(a) The person deposits and thereafter maintains security as required under NRS 485.190 in such *an* amount as the division may then determine; or

(b) One year has elapsed following the date of default, or 2 years following the date of the accident, whichever is greater, and during that period no action upon the agreement has been instituted in a court in this state.

3. Proof of financial responsibility, as set forth in NRS 485.307, is an additional requirement for reinstatement of the operator's license and [motor vehicle] registrations under this section. He shall maintain proof of financial responsibility for 3 years [from] *after* the date of reinstatement of the license in accordance with the provisions of this chapter. [and if] *If* he fails to do so the *division shall suspend the license and registrations*. [must again be suspended.]

Sec. 6. NRS 485.302 is hereby amended to read as follows:

485.302 1. The division, upon the receipt of a certified copy of a judgment, shall forthwith suspend the license [and registration], *all registrations* and any nonresident's operating privilege of any person against whom [such] *the* judgment was rendered, except as [hereinafter] otherwise provided in this section and in NRS 485.305.

2. If the judgment creditor consents in writing, in such *a* form as the division may prescribe, that the judgment debtor be allowed a license and registration or nonresident's operating privilege, [the same] *it* may be allowed by the division [, in its discretion,] for 6 months [from] *after* the date of [such] *the* consent and thereafter until [such] *the* consent is revoked in writing notwithstanding default in the payment of [such] *the* judgment, or of any installments thereof prescribed in NRS 485.305, [provided] *if* the judgment debtor furnishes proof of financial responsibility [.] *as provided in NRS 485.307. The debtor shall maintain proof of financial responsibility for 3 years after the date of reinstatement of the license in accordance with the provisions of this chapter. If he fails to do so the division shall suspend the license and registrations.*

↓1995 Statutes of Nevada, Page 2738 (Chapter 715, SB 322)↓

The suspension must continue until the resident furnishes evidence of his compliance with the law of the other state relating to the deposit of such security.

Sec. 23. NRS 485.260 is hereby amended to read as follows:

485.260 Security deposited ~~in compliance with~~ *pursuant to* the requirements of NRS ~~485.185~~ *485.190* to 485.300, inclusive, must be placed by the division in the custody of the state treasurer.

Sec. 24. NRS 485.300 is hereby amended to read as follows:

485.300 Any action taken by the division pursuant to NRS ~~485.185~~ *485.190* to 485.300, inclusive, the findings, if any, of the division upon which the action is based ~~and~~ and the security filed ~~as provided in NRS 485.185~~ *pursuant to NRS 485.190* to 485.300, inclusive, are privileged against disclosure at the trial of any action at law to recover damages.

Sec. 25. NRS 485.302 is hereby amended to read as follows:

485.302 1. The division, upon the receipt of a certified copy of a judgment, shall ~~forthwith~~ suspend the license, all registrations and any nonresident's operating privilege of any person against whom the judgment was rendered, except as otherwise provided in this section and in NRS 485.305.

2. If the judgment creditor consents in writing, in such a form as the division may prescribe, that the judgment debtor be allowed a license and registration or nonresident's operating privilege, it may be allowed by the division ~~for 6 months after the date of the consent and thereafter~~ until the consent is revoked in writing, notwithstanding default in the payment of the judgment ~~or~~ or of any installments thereof prescribed in NRS 485.305, if the judgment debtor furnishes proof of financial responsibility as provided in NRS 485.307. The debtor shall maintain proof of financial responsibility for 3 years after the date of reinstatement of the license ~~in accordance with~~ *pursuant to* the provisions of this chapter. If he fails to do so, the division shall suspend ~~the~~ *his* license and registrations.

↓1999 Statutes of Nevada, Page 3584 (Chapter 639, AB 679)↓

and for Carson City, and present his proof of the validity of the claim. If, after hearing, the court is satisfied the claimant is rightfully entitled to the deposit, the court shall enter a decree that the money be paid to him. The decree must be certified to the state board of examiners, stating the amount thereby found to be due, and the state board of examiners shall allow the amount and certify it to the state controller who shall draw his warrant therefor on the state treasurer, who shall pay the warrant out of the state highway fund.

6. The amounts in the custody of the state treasurer on March 19, 1955, falling under the provisions of this section, may be transferred to the state highway fund, after the expiration of 90 days from March 19, 1955, in accordance with the provisions of this section.

Sec. 29. NRS 485.300 is hereby amended to read as follows:

485.300 Any action taken by the ~~{division}~~ *motor vehicles branch of the department* pursuant to NRS 485.190 to 485.300, inclusive, the findings, if any, of the ~~{division}~~ *motor vehicles branch of the department* upon which the action is based and the security filed pursuant to NRS 485.190 to 485.300, inclusive, are privileged against disclosure at the trial of any action at law to recover damages.

Sec. 30. NRS 485.301 is hereby amended to read as follows:

485.301 1. Whenever any person fails within 60 days to satisfy any judgment, the judgment creditor or his attorney may forward to the ~~{division}~~ *motor vehicles branch of the department* immediately after the expiration of the 60 days a certified copy of the judgment.

2. If the defendant named in any certified copy of a judgment reported to the ~~{division}~~ *motor vehicles branch of the department* is a nonresident, the ~~{division}~~ *motor vehicles branch of the department* shall transmit a certified copy of the judgment to the ~~{official}~~ *officer* in charge of the issuance of licenses and registration certificates of the state in which the defendant is a resident.

Sec. 31. NRS 485.302 is hereby amended to read as follows:

485.302 1. The ~~{division}~~ *motor vehicles branch of the department shall*, upon the receipt of a certified copy of a judgment, ~~{shall}~~ suspend the license, all registrations and any nonresident's operating privilege of any person against whom the judgment was rendered, except as otherwise provided in this section and in NRS 485.305.

2. If the judgment creditor consents in writing, in such a form as the ~~{division}~~ *motor vehicles branch of the department* may prescribe, that the judgment debtor be allowed a license and registration or nonresident's operating privilege, it may be allowed by the ~~{division}~~ *motor vehicles branch of the department* until the consent is revoked in writing, notwithstanding default in the payment of the judgment or of any installments thereof prescribed in NRS 485.305, if the judgment debtor furnishes proof of financial responsibility as provided in NRS 485.307. The debtor shall maintain proof of financial responsibility for 3 years after the date of reinstatement of the license pursuant to the provisions of this chapter. If he fails to do so, the ~~{division}~~ *motor vehicles branch of the department* shall suspend his license and registrations.

↓2007 Statutes of Nevada, Page 2050 (Chapter 433, AB 497)↓

1. In the amount of \$15,000 for bodily injury to or death of one person in any one accident;
 2. Subject to the limit for one person, in the amount of \$30,000 for bodily injury to or death of two or more persons in any one accident; and
 3. In the amount of \$10,000 for injury to or destruction of property of others in any one accident,
- for the payment of tort liabilities arising from the maintenance or use of the motor vehicle.

Sec. 8. NRS 485.190 is hereby amended to read as follows:

485.190 1. If 20 days after the receipt of a report of an accident involving a motor vehicle within this State which has resulted in bodily injury or death, or damage to the property of any one person in excess of \$750, the Department does not have on file evidence satisfactory to it that the person who would otherwise be required to file security under subsection 2 ~~of this section~~ has been released from liability, has been finally adjudicated not to be liable or has executed an acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, the Department shall upon request set the matter for a hearing as provided in NRS 485.191.

2. The Department shall ~~at any time~~, **immediately** after a determination adverse to an operator or owner **is made in a hearing** pursuant to NRS 485.191, suspend the license of each operator and all registrations of each owner of a motor vehicle involved in such an accident, and, if the operator is a nonresident, the privilege of operating a motor vehicle within this State, and, if the owner is a nonresident, the privilege of the use within this State of any motor vehicle owned by him, unless the operator or owner, or both, **immediately** deposit security in the sum so determined by the Department ~~Notice of such a suspension must be sent by the Department to the operator and owner not less than 10 days before the effective date of the suspension and must state the amount required as security.~~ **at the hearing.** If erroneous information is given to the Department with respect to the matters set forth in paragraph (a), (b) or (c) of subsection 1 of NRS 485.200, the Department shall take appropriate action as provided in this section after it receives correct information with respect to those matters.

→ Sec. 9. NRS 485.301 is hereby amended to read as follows:

485.301 1. Whenever any person fails within 60 days to satisfy any judgment ~~that was entered as a result of an accident involving a motor vehicle~~, the judgment creditor or his attorney may forward to the Department immediately after the expiration of the 60 days a certified copy of the judgment.

2. If the defendant named in any certified copy of a judgment **that was entered as a result of an accident involving a motor vehicle** and reported to the Department is a nonresident, the Department shall transmit a certified copy of the judgment to the officer in charge of the issuance of licenses and registration certificates of the state in which the defendant is a resident.

↓2015 Statutes of Nevada, Page 1651↓

longer, the Department is given reasonable evidence that there is no action pending and no judgment rendered in such an action left unpaid.

Sec. 56. NRS 485.301 is hereby amended to read as follows:

485.301 1. Whenever any person fails within 60 days to satisfy any judgment that was entered as a result of ~~{an accident}~~ *a crash* involving a motor vehicle, the judgment creditor or the judgment creditor's attorney may forward to the Department immediately after the expiration of the 60 days a certified copy of the judgment.

2. If the defendant named in any certified copy of a judgment that was entered as a result of ~~{an accident}~~ *a crash* involving a motor vehicle and reported to the Department is a nonresident, the Department shall transmit a certified copy of the judgment to the officer in charge of the issuance of licenses and registration certificates of the state in which the defendant is a resident.

Sec. 57. NRS 485.304 is hereby amended to read as follows:

485.304 Judgments must for the purpose of this chapter only, be deemed satisfied:

1. When \$15,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one ~~{accident}~~ *crash*;

2. When, subject to the limit of \$15,000 because of bodily injury to or death of one person, the sum of \$30,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one ~~{accident}~~ *crash*; or

3. When \$10,000 has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one ~~{accident}~~ *crash*,

↪ but payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle ~~{accident}~~ *crash* must be credited in reduction of the amounts provided for in this section.

Sec. 58. NRS 485.307 is hereby amended to read as follows:

485.307 1. Proof of financial responsibility, when required pursuant to this title, may be given by filing:

(a) A certificate of financial responsibility as provided in NRS 485.308 or 485.309; or

(b) A certificate of self-insurance, as provided in NRS 485.380, supplemented by an agreement by the self-insurer that, with respect to ~~{accidents}~~ *crashes* occurring while the certificate is in force, the self-insurer will pay the same judgments and in the same amounts that an insurer would have been obligated to pay under an owner's policy of liability insurance if it had issued such a policy to the self-insurer.

2. Whenever the Department restores a license, permit or privilege of driving a vehicle in this State which has been revoked, no motor vehicle may be or continue to be registered in the name of the person whose license, permit or privilege was revoked unless proof of financial responsibility is furnished by that person.

Sec. 59. NRS 485.309 is hereby amended to read as follows:

485.309 1. The nonresident owner of a motor vehicle not registered in this State or a nonresident operator of a motor vehicle may give proof of financial responsibility by filing with the Department a written certificate of an insurance carrier authorized to transact business:



CERTIFICATE

By Authority Of THE UNITED STATES OF AMERICA Legally Binding Document

By the Authority Vested By Part 5 of the United States Code § 552(a) and Part 1 of the Code of Regulations § 51 the attached document has been duly **INCORPORATED BY REFERENCE** and shall be considered legally binding upon all citizens and residents of the United States of America. **HEED THIS NOTICE:** Criminal penalties may apply for noncompliance.



Document Name: NCUTLO: Uniform Vehicle Code and Model Ordinance

CFR Section(s): 41 CFR 50-204.75

Standards Body: National Committee on Uniform Traffic Laws and Ordinances



Official Incorporator:

THE EXECUTIVE DIRECTOR
OFFICE OF THE FEDERAL REGISTER
WASHINGTON, D.C.

UNIFORM VEHICLE CODE
AND
MODEL TRAFFIC ORDINANCE



Revised—1968

NATIONAL COMMITTEE
ON
UNIFORM TRAFFIC LAWS AND ORDINANCES

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UNIFORM VEHICLE CODE

Revised—1968

FOREWORD

This volume contains the 1968 revised editions of the *Uniform Vehicle Code* and *Model Traffic Ordinance*. Although published together, these are two separate documents and each has its own Foreword, Table of Contents and Index.

Earlier editions of the Code and Ordinance were published in separate booklets and republished each time they were revised.¹ Under the new format, future revisions will be published in a pocket supplement to be used with this book.

THE UNIFORM VEHICLE CODE

The *Uniform Vehicle Code* is a specimen set of motor vehicle laws, designed and advanced as a comprehensive guide or standard for state motor vehicle and traffic laws. It is not based on theory; it is based on actual experience under various state laws throughout the nation. It reflects the need for uniformity in traffic regulation throughout the United States and, to this end, serves as a reliable, contemporary guide for use by state legislatures.

Since its inception, the Code has been reviewed periodically and revised where warranted by new developments in state and federal laws and by practical experience. However, changes are not made lightly or in any hope of any easy panacea but only on a clear preponderance of evidence of need and practicality. This edition of the Code reflects changes made following such a review in 1968.

Nature of Code Provisions

The Code does not purport to cover every conceivable legal provision applicable to motor vehicles and traffic, nor is it a mere compendium of all imaginable laws and regulations. Provisions that offer a sound legal framework within which effective high-

¹ The Code and Ordinance were first published in 1926 and 1928, respectively, and have been revised and republished at two- to six-year intervals since then. A complete history of these documents is published in the *Uniform Vehicle Code: Rules of the Road with Statutory Annotations*, National Committee on Uniform Traffic Laws and Ordinances (1967 and Supp.).

§ 7-302—Meaning of “proof of financial responsibility for the future”

The term “proof of financial responsibility for the future” as used in this chapter shall mean: Proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a vehicle of a type subject to registration under the laws of this State, in the amount of \$10,000 because of bodily injury to or death of one person in any one accident, and, subject to said limit for one person, in the amount of \$20,000 because of bodily injury to or death of two or more persons in any one accident, and in the amount of \$5,000 because of injury to or destruction of property of others in any one accident. Wherever used in this chapter the terms “proof of financial responsibility” or “proof” shall be synonymous with the term “proof of financial responsibility for the future.” (AMOUNTS INCREASED, 1956.)

§ 7-303—Meaning of “judgment” and “state”

The following words and phrases when used in this chapter shall, for the purpose of this article, have the meanings respectively ascribed to them in this section.

(a) The term “judgment” shall mean: Any judgment which shall have become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any vehicle of a type subject to registration under the laws of this State, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages.

(b) The term “state” shall mean: Any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any province of Canada. (REVISED, 1968.)

FINANCIAL RESPONSIBILITY

§ 7-311

as owner unless he shall give and thereafter maintain proof of financial responsibility for the future.

§ 7-307—Action in respect to nonresidents

Whenever the department suspends or revokes a nonresident's operating privilege by reason of a conviction or forfeiture of bail, such privilege shall remain so suspended or revoked unless such person shall have previously given or shall immediately give and thereafter maintain proof of financial responsibility for the future.

§ 7-308—When courts to report nonpayment of judgments

Whenever any person fails within 30 days to satisfy any judgment, then upon the written request of the judgment creditor or his attorney it shall be the duty of the clerk of the court, or of the judge of a court which has no clerk, in which any such judgment is rendered within this State to forward to the department immediately upon such request a certified copy of such judgment.

§ 7-309—Further action with respect to nonresidents

If the defendant named in any certified copy of a judgment reported to the department is a nonresident, the department shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registrations of the state of which the defendant is a resident.

§ 7-310—Suspension for nonpayment of judgments

The department upon receipt of a certified copy of a judgment and a certificate of facts relative to such judgment, on a form provided by the department, shall forthwith suspend the license and registration and any nonresident's operating privilege of any person against whom such judgment was rendered, except as hereinafter otherwise provided in this chapter.

§ 7-311—Exception in relation to government vehicles

The provisions of § 7-310 shall not apply with respect to any such judgment arising out of an accident caused by the ownership or operation, with permission, of a vehicle owned or leased to the

IN THE
SUPREME COURT OF NEVADA

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Apr 12 2016 08:47 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

GENEVA M. SIMMONS, an individual,
Appellant,

vs.

JESUS MANUEL BRIONES, an individual,
Respondent.

Appeal from the Eighth Judicial District Court, Clark County, Nevada
Honorable Judge Rob Bare, Case No. A-14-706955-J

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IN THE SUPREME COURT OF THE STATE OF NEVADA

GENEVA M. SIMMONS,
individually,

Appellant,

vs.

JESUS MANUEL BRIONES,

Respondent.

Supreme Court No. 69060
District Court No. A-14-706955-J
**APPELLANT GENEVA M.
SIMMONS' NRAP 26.1
DISCLOSURE**

NRAP 26.1 DISCLOSURE

Pursuant to Nevada Rule of Appellate Procedure 26.1, Appellant Geneva M. Simmons (“Ms. Simmons”) submits this Disclosure Statement:

The undersigned counsel of record certifies that the following are persons and entities as described in Nevada Rule of Appellate Procedure 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.

1. Ms. Simmons is an individual party; therefore, she has no parent corporations or corporations owning 10 percent or more stock to disclose pursuant to Nevada Rule of Appellate Procedure 26.1(a).

2. Ms. Simmons has been represented by the following law firms in both this action and the district court action: Bailey ♦ Kennedy and GEICO Staff Counsel, formerly known as the Law Office of Katherine M. Barker.

3. Ms. Simmons is not using a pseudonym for the purposes of this appeal.

DATED this 11th day of April, 2016.

BAILEY ♦ KENNEDY

By: /s/ Sarah E. Harmon
DENNIS L. KENNEDY
SARAH E. HARMON
AMANDA L. STEVENS

-And-

ERIC A. DALY
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SIMMONS

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I. JURISDICTIONAL STATEMENT

The Nevada Supreme Court has jurisdiction over this matter pursuant to Nevada Rule of Appellate Procedure 3A(b)(1), NRS 2.090(1), and NRS 233B.150.

On August 15, 2014, an Administrative Law Judge (“ALJ”) for the Nevada Department of Motor Vehicles (“DMV”) issued an Order of Dismissal, Findings of Fact, Conclusions of Law, and Decision, which dismissed and rescinded the suspension of Respondent Jesus Briones’ (“Mr. Briones”) driving and registration privileges. (1 Appellant’s App. 32, at AA203:7-8.) Appellant Geneva M. Simmons (“Ms. Simmons”) appealed this Decision, pursuant to NRS 233B.130, by filing a Petition for Judicial Review in the Eighth Judicial District Court, Clark County, Nevada, on September 12, 2014. (*Id.* at 33, at AA204-AA0210.)

On October 8, 2015, the Eighth Judicial District Court entered an Order Denying Petition for Judicial Review. (2 Appellant’s App. 42, at AA0278-AA0279.) Notice of Entry of this Order was filed and served on November 2, 2015. (*Id.* at 44, at AA0283-AA0287.) This Order was a final judgment, as it fully resolved all claims of all parties in the case.

Ms. Simmons’ timely filed a Notice of Appeal on October 22, 2015 –14 days following the entry of the Order Denying Petition for Judicial Review. (*Id.* at 43, at AA0280-AA0282.)

II. ROUTING STATEMENT

This case involves an appeal of an administrative agency decision which does not relate to tax, water, or public utilities commission determinations.

1 Therefore, pursuant to Nevada Rule of Appellate Procedure 17(b)(4), this
2 appeal is presumptively assigned to the Nevada Court of Appeals. However,
3 the primary issue on appeal is an issue of first impression and is a matter of
4 statewide importance. Therefore, Ms. Simmons believes that the matter should
5 be retained by the Supreme Court. NRAP 17(a)(14).

6 Specifically, the primary issue on appeal concerns whether NRS 485.035,
7 NRS 485.301(1), and NRS 485.302(1) (collectively, the “Unsatisfied Judgment
8 Statutes”) apply to judgments for costs and fees awarded to a prevailing
9 defendant in an action for personal injuries and property damages arising out of
10 the use of a motor vehicle in a motor vehicle accident.¹ (1 Appellant’s App. 25,
11 at AA0117; Tab 32, at AA0197:16-18, AA0198:12-17, AA0203:7-11; Tab 39,
12 at AA0221:24, AA0222:6-9, AA0228:1-AA0232:2; 2 Appellant’s App. 42, at
13 AA0278:17-22.) This issue is of statewide importance, because it concerns the
14 scope of the statutory scheme which allows the DMV to suspend a person’s
15 driving privileges for the non-payment of civil judgments.

16 **III. STATEMENT OF ISSUES PRESENTED FOR REVIEW**

17 1. Did the ALJ err in determining that the Unsatisfied Judgment
18 Statutes were ambiguous?

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22 ¹ Effective January 1, 2016, NRS 485.301(1) was amended to refer to
23 judgments rendered as a result of motor vehicle “crashes” versus “accidents.”
24 2015 Statutes of Nevada 1651, § 56(1) (78th Sess.). For the purposes of this
appeal, Ms. Simmons will refer to motor vehicle “accidents,” as that was the
governing language at all relevant times during the events which are the subject
of this appeal.

2. Did the ALJ and the district court err by engaging in an analysis of the legislative intent of the Unsatisfied Judgment Statutes based solely on their personal interpretations of the purpose of the Statutes?

3. Did the ALJ err in concluding that Ms. Simmons' judgment for costs and fees was not a "judgment" within the meaning of the Unsatisfied Judgment Statutes?

4. Did the ALJ err in concluding that the jury's Verdict for Mr. Briones was a "judgment" within the meaning of the Unsatisfied Judgment Statutes?

5. Did the ALJ err in dismissing and rescinding the suspension of Mr. Briones' driving privileges and vehicle registration?

6. Did the district court err in concluding that Ms. Simmons' judgment for costs and fees was not a "judgment" within the meaning of the Unsatisfied Judgment Statutes?

7. Did the district court err in denying Ms. Simmons' Petition for Judicial Review?

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IV. STATEMENT OF THE CASE

On August 20, 2010, a traffic accident occurred between Ms. Simmons and Mr. Briones. (1 Appellant's App. 1, at AA0001-AA0006.) On August 1, 2011, Mr. Briones commenced litigation against Ms. Simmons for negligence in the Eighth Judicial District Court, Clark County, Nevada (Case No. A-11-645923-C). (*Id.* at Tab 2, at AA0007-AA0012.) The case was diverted into the court-annexed arbitration program, and Arbitrator Pat J. Fitzgibbons was appointed to the action. (*Id.* at 4, at AA0017:18-19; Tab 14, at AA0046:18-19; Tab 19, at AA0086:3-4.) On April 13, 2012, Ms. Simmons served an Offer of Judgment in the amount of \$2,750.00, but Mr. Briones did not accept the Offer. (*Id.* at 5, at AA0020-AA0022; Tab 14, at AA0046:19-22.) On July 19, 2012, Arbitrator Fitzgibbons found Mr. Briones to be 50-percent comparatively negligent and awarded him \$4,207.50. (*Id.* at 6, at AA0023-AA0024.)

On August 14, 2012, Mr. Briones filed a Request for Trial de Novo. (*Id.* at 8, at AA0028-AA0030.) The district court action was diverted to the Short-Trial Program, and Judge Pro Tempore Steven Burris was appointed to the action. (*Id.* at 10, at AA0033:16-21.) On January 28, 2013, Judge Pro Tempore Burris voluntarily recused himself from the action, and Judge Pro Tempore Kevin Diamond was subsequently appointed. (*Id.* at 11, at AA0037:20-26; Tab 12, at AA0040:16-21.)

On May 31, 2013, a jury rendered a Verdict in favor of Mr. Briones, but the jury also found Mr. Briones to be 50-percent liable for the traffic accident. (*Id.* at 13, at AA0044-AA0045.) Because the Verdict for Mr. Briones failed to exceed Ms. Simmons' Offer of Judgment or the Arbitration Award, Ms.

1 Simmons moved for costs and fees pursuant to Nevada Rule of Civil Procedure
2 (“NRCPP”) 68, Nevada Arbitration Rule (“NAR”) 20, and Nevada Short Trial
3 Rule (“NSTR”) 27. (*Id.* at 14, at AA0046:18-AA0047:21.)

4 On June 27, 2013, Judge Pro Tempore Diamond entered an Order and
5 Judgment granting attorney’s fees and costs to Ms. Simmons, and Notice of
6 Entry of this Order was filed on July 1, 2013. (*Id.* at 21, at AA0103-AA0105;
7 Tab 22, at AA0106-AA0110.) On July 24, 2013, a net judgment in the amount
8 of \$3,500.05 was entered for Ms. Simmons, and Notice of Entry was filed on
9 August 7, 2013 (the “Simmons Judgment”). (*Id.* at 23, at AA0111-AA0112;
10 Tab 24, at AA0113-AA0116.)

11 On September 4, 2013, Ms. Simmons, through her counsel, forwarded
12 the Simmons Judgment to the DMV and requested that Mr. Briones’ driving
13 privileges be suspended until he satisfied the Judgment. (*Id.* at 25, at AA0117.)
14 On January 27, 2014, the DMV informed Mr. Briones that his driving privileges
15 and vehicle registration would be suspended on March 1, 2014, if he did not
16 begin making payments on the Simmons Judgment. (*Id.* at 26, at AA0118.) On
17 February 25, 2014, Mr. Briones requested a hearing to contest the basis for the
18 suspension. (*Id.* at 27, at AA0119.)

19 On August 15, 2014, an ALJ for the DMV dismissed and rescinded the
20 suspension of Mr. Briones’ driving privileges and registration. (*Id.* at 32, at
21 AA0203:7-8.) Therefore, on September 12, 2014, Ms. Simmons filed a Petition
22 for Judicial Review in the Eighth Judicial District Court, Clark County, Nevada
23 (Case No. A-14-706955-J). (*Id.* at 33, at AA0204-AA0210.)

24 ///

1 On October 8, 2015, the Honorable Judge Rob Bare entered an Order
2 Denying the Petition for Judicial Review, and Notice of Entry of this Order was
3 filed on November 2, 2015. (*Id.* at 42, at AA0278-AA0279; 2 Appellant’s App.
4 44, at AA0283-AA0287.) On October 22, 2015, Ms. Simmons filed a Notice of
5 Appeal from the Order Denying Petition for Judicial Review. (2 Appellant’s
6 App. 43, at AA0280-AA0282.)

7 V. STATEMENT OF THE FACTS

8 A. The Motor Vehicle Accident.

9 On August 20, 2010, a motor vehicle accident occurred between Ms.
10 Simmons and Mr. Briones in the parking lot of the Main Street Station. (1
11 Appellant’s App. 1, at AA0001, AA0003, AA0005.) Ms. Simmons was parked
12 in a west-facing, handicapped, parking spot. (*Id.* at AA0001, AA0003.) She
13 looked both directions, did not see any hazards, and began backing out of the
14 parking spot. (*Id.* at AA0001.) At that same moment, Mr. Briones was driving
15 north “at a fast rate” through the parking lot in an exit/entry lane. (*Id.* at
16 AA0001, AA0005.)

17 As Ms. Simmons was backing out, Mr. Briones was driving past her
18 parking spot, and she collided with the rear of his car. (*Id.* at AA0001-
19 AA0002.) No traffic citations were issued to either Mr. Briones or Ms.
20 Simmons. (*Id.* at AA0002.)

21 B. The Arbitration.

22 On August 1, 2011, Mr. Briones filed a Complaint against Ms. Simmons,
23 alleging negligence. (*Id.* at 2, at ¶¶ 4-11.) On October 31, 2011, Ms. Simmons
24 alleged the affirmative defenses of contributory and comparative negligence,

1 among others. (*Id.* at 3, at AA0014:7-10.) The action was diverted to the
2 mandatory, court-annexed arbitration program. (*Id.* at 4, at AA0017-AA0019;
3 Tab 14, at AA0046:18-19; Tab 19, at AA0086:3-4.)

4 On April 13, 2012, Ms. Simmons served Mr. Briones with an Offer of
5 Judgment in the amount of \$2,750, inclusive of all costs, prejudgment interest,
6 and attorney’s fees. (*Id.* at 5, at AA0020:21-26.) However, Mr. Briones
7 rejected the Offer. (*Id.* at 14, at AA0046:19-22.)

8 An Arbitration Hearing was held on July 11, 2012, and on July 19, 2012,
9 the arbitrator found in favor of Mr. Briones, awarding him \$3,915.00 in medical
10 expenses and \$4,500.00 in pain and suffering, for a total award of \$8,415.00.
11 (*Id.* at 6, at AA0023:13-16; Tab 7, at AA0025:12.) However, the arbitrator also
12 found Mr. Briones to be 50-percent comparatively negligent. (*Id.* at 6, at
13 AA0023:17.) Specifically, the arbitrator found that neither Ms. Simmons nor
14 Mr. Briones saw the other’s vehicle until after the accident occurred, and either
15 of them “could have avoided th[e] accident if they had been paying proper
16 attention to their surroundings.” (*Id.* at 7, at AA0026:10-15.) Accordingly, the
17 arbitrator reduced Mr. Briones’ award to \$4,207.50. (*Id.* at 6, at AA0023:17-
18 18.)

19 **C. The Trial De Novo.**

20 On August 14, 2012, Mr. Briones requested a trial de novo, and on
21 September 11, 2012, Ms. Simmons filed a demand for a jury trial. (*Id.* at 8, at
22 AA0028-AA0030; Tab 9, at AA0031-AA0032.) The case was then diverted to
23 the Short-Trial Program. (*Id.* at 10, at AA0033:18-21.)

24 ///

1 On May 31, 2013, a jury found in favor of Mr. Briones and awarded him
2 \$2,043.00 for medical expenses and \$1,250.00 for pain and suffering, or
3 \$3,293.00 in total damages. (*Id.* at 13, at AA0044:14-20.) However, the jury
4 also found Mr. Briones to be 50-percent liable for the accident. (*Id.* at
5 AA0045:1-3.) As a result, the award to Mr. Briones was reduced to \$1,646.50.
6 (*Id.* at 14, at AA0047:1; Tab 19, at AA0086:12-14.)

7 The Verdict for Mr. Briones was less than Ms. Simmons' Offer of
8 Judgment, and also failed to exceed the Arbitration Award by 20 percent. (*Id.*
9 at 5, at AA0020-AA0022; Tab 6, at AA0023-AA0024; Tab 13, at AA0044-
10 AA0045.) Therefore, on June 5, 2013, Ms. Simmons moved for attorney's fees
11 and costs pursuant to NRCP 68, NAR 20(B)(2)(a), and NSTR 27(b)(1). (*Id.* at
12 14, at AA0046:18-AA0047:21; Tab 15, at AA0063-AA0065.) Pursuant to
13 NSTR 27(b)(1) and NRS 18.010(2)(a), Mr. Briones also sought to recover his
14 attorney's fees, costs, and expenses incurred in the action. (*Id.* at 16, at
15 AA0066-AA0069; Tab 18, at AA0077:20-AA0078:22; Tab 19, at AA0086:20-
16 AA0087:22.) Ms. Simmons opposed both Mr. Briones' request for attorney's
17 fees and his Memorandum of Costs and moved to re-tax. (*Id.* at 17, at AA0070-
18 AA0075; Tab 20, at AA0097-AA0102.)

19 On June 27, 2013, the Judge Pro Tempore for the Short-Trial action
20 denied Mr. Briones' Motion for Attorney's Fees and Costs and, as a result,
21 granted Ms. Simmons' Motion to Re-Tax Costs. (*Id.* at 21, at AA0104:1-3.)
22 The Judge Pro Tempore also granted Ms. Simmons' Motion for Attorney's Fees
23 and Costs, in part, and awarded her \$3,000.00 in attorney's fees and \$2,146.55
24 in costs. (*Id.* at AA0104:4-8.) Specifically, the Judge Pro Tempore held that

1 “at the very least,” Ms. Simmons was “entitled to a fees and costs award
2 pursuant to NAR 20 and NSTR 27.” (*Id.* at AA0104:9-11.) Thus, the Judge
3 Pro Tempore entered a judgment in favor of Ms. Simmons and against Mr.
4 Briones in the amount of \$5,146.55. (*Id.* at AA0105:1-6; Tab 22, at AA0106-
5 AA0110.)

6 On July 24, 2013, the jury’s award of \$1,646.50 was offset against Ms.
7 Simmons’ judgment for costs and fees in the amount of \$5,146.55, and a net
8 judgment (the Simmons Judgment) was entered in favor of Ms. Simmons in the
9 amount of \$3,500.05, plus post-judgment interest. (*Id.* at 23, at AA0111-
10 AA0112; Tab 24, at AA0113-AA0116.) The Simmons Judgment further
11 ordered, adjudged, and decreed that Mr. Briones was to “recover[] nothing of
12 and from” Ms. Simmons. (*Id.* at 23, at AA0112:10; Tab 24, at AA0113-
13 AA0116.)

14 **D. The DMV Proceeding.**

15 On September 4, 2013, counsel for Ms. Simmons forwarded a copy of
16 the Simmons Judgment to the DMV. (*Id.* at 25, at AA0117.) Counsel for Ms.
17 Simmons represented that the Judgment remained unsatisfied and requested that
18 the DMV “take the necessary steps to suspend the driving privileges of [Mr.
19 Briones] until such time as the financial obligations are met.” (*Id.*)

20 On January 27, 2014, the DMV informed Mr. Briones that it had been
21 notified that he had not been “making payments on a judgment that resulted
22 from an accident.” (*Id.* at 26, at AA0118.) As a result, Mr. Briones’ “driving
23 privilege[s] and vehicle registration w[ould] be suspended” on March 1, 2014.
24 (*Id.*)

1 On February 25, 2014, counsel for Mr. Briones requested a hearing
2 before the DMV. (*Id.* at 27, at AA0119.) Mr. Briones asserted that he was
3 contesting the suspension because he “was never an uninsured driver.” (*Id.*)

4 On April 9, 2014, a hearing was held before DMV Administrative Law
5 Judge Thomas D. Sutherland. (*Id.* at 28, at AA0120:1, 6-7.) The ALJ indicated
6 that he believed that NRS 485.302 only applied to “judgments by an injured
7 party[;] a person who has actually been injured.” (*Id.* at AA0121:19-22,
8 AA0125:22-AA0126:1.) The ALJ also indicated that he “assumed” that the
9 definition of “judgment” in NRS 485.035 “might be a little bit ambiguous,”
10 although he failed to state the basis for this assumption. (*Id.* at AA0124:15-
11 AA0125:20.)

12 During this hearing, counsel for Ms. Simmons pointed out the inequality
13 of the ALJ’s interpretation of NRS 485.302. (*Id.* at AA0123:16-17.) Mr.
14 Briones and Ms. Simmons were equally liable for the accident; however, under
15 the ALJ’s reasoning, only Ms. Simmons’ license could be suspended for the
16 non-payment of a judgment entered in the underlying action because Mr.
17 Briones was the allegedly injured party. (*Id.* at AA0123:14-17.) Counsel for
18 Ms. Simmons asserted that such a reading of NRS 485.302 was contrary to the
19 express terms of the statute, and that nothing “in the language of the statute . . .
20 calls for such a narrow construction.” (*Id.* at AA0123:20-27, at AA0126:18-
21 20.)

22 Counsel for Mr. Briones, on the other hand, asserted that Mr. Briones’
23 license did not qualify for suspension because the intent of the statute was “to
24 deter people from essentially driving without insurance . . . and causing injuries

1 to people.” (*Id.* at AA0126:23-26.) Mr. Briones’ counsel asserted that [Mr.
2 Briones] caused no injuries to [Ms. Simmons.]” (*Id.* at AA0126:27.)

3 The administrative hearing was ultimately continued so that the DMV
4 could discuss the ALJ’s interpretation of the Unsatisfied Judgment Statutes with
5 counsel and decide whether or not to proceed with the suspension of Mr.
6 Briones’ license. (*Id.* at AA0131:10-20.) On April 18, 2014, the hearing
7 resumed, and the DMV announced its decision to proceed with the suspension
8 of Mr. Briones’ license. (*Id.* at 29, at AA0136:1, AA0137:20-AA0138:6.) The
9 DMV also stated that it was not taking any position as to the interpretation of
10 NRS 485.302. (*Id.* at AA0138:18-28.)

11 At the April 18, 2014 hearing, the ALJ reiterated his “concerns about
12 whether or not [NRS 485.302] actually even applied to this case because of the
13 fact that the judgment was really not a judgment against a[n] at[-]fault party for
14 damages or . . . injuries arising from the accident itself.” (*Id.* at AA0136:24-
15 28.) In response, counsel for Ms. Simmons pointed out that the jury actually
16 found Mr. Briones to be 50-percent liable. (*Id.* at AA0140:3-21.) Because it
17 was clear that the ALJ’s factual knowledge was incomplete and arose solely
18 from the terms of the Simmons Judgment, both parties were permitted to
19 submit a brief to the ALJ regarding the underlying facts and the application of
20 NRS 485.302. (*Id.* at AA0142:18-27, AA0145:3-AA0146:4.)

21 Thereafter, both Mr. Briones and Ms. Simmons submitted briefs to the
22 ALJ. (*Id.* at 30, at AA0152-AA0188; Tab 31, at AA0190-AA0196.) They
23 both represented that the arbitrator and the jury in the Short-Trial action found
24 Mr. Briones to be 50-percent liable for the car accident. (*Id.* at 30, at

1 AA0152:26-27, AA0153:7; Tab 31, at AA0191:12-13, 19-20.) In fact, Mr.
2 Briones stated that he filed a Request for Trial de Novo because he “felt that it
3 was improper for the arbitrator to find him at fault.” (*Id.* at AA0153:1-2.)

4 Without engaging in any statutory interpretation or providing any legal
5 support for his theory, Mr. Briones’ brief to the ALJ also asserted that NRS
6 485.302 was “clearly designed to create disincentives for people operating
7 motor vehicles without liability insurance; [t]he legislation is **not** designed for
8 insurance companies who represent defendants in civil cases to have the
9 coercive power of the state to suspend his driver’s license when the jury
10 verdict does not exceed the arbitration award in a civil lawsuit.” (*Id.* at 30, at
11 AA0153:25-AA0154:2 (emphasis in original).) Ms. Simmons’ brief, on the
12 other hand, asserted that legislative intent was irrelevant for the purposes of
13 assessing the propriety of suspending Mr. Briones’ license, because the
14 Unsatisfied Judgment Statutes are unambiguous. (*Id.* at 31, at AA0193:3-
15 AA0194:18 & n.1.) Specifically, Ms. Simmons argued that the Statutes clearly
16 and unambiguously require the suspension of driving privileges due to the non-
17 payment of **any judgment** entered as a result of a car accident. (*Id.* at
18 AA0194:1-18.)

19 On August 15, 2014, the ALJ issued his Order of Dismissal, Findings of
20 Fact, Conclusions of Law and Decision. (*Id.* at 32, at AA0197-AA0203.) The
21 Order reiterated the ALJ’s concern “that the Judgment upon which Mr. Daly[,
22 counsel for Ms. Simmons,] was requesting a suspension of [Mr.] Briones[’]
23 license appeared to be a Judgment for attorney’s fees and costs, and not for any
24 damages for any personal property or physical injuries sustained by Mr. Daly’s

1 client, Geneva M. Simmons.” (*Id.* at AA0198:13-16.) Moreover, in his
2 Findings of Fact and Conclusions of Law, the ALJ recognized that both the
3 arbitrator and the jury in the Short-Trial action determined that Mr. Briones
4 was 50-percent liable for the car accident. (*Id.* at AA0200:10-11, 15-16.)

5 Despite the fact that no judgment was ever entered in favor of Mr.
6 Briones in the underlying negligence action, the ALJ concluded that District
7 Court “Judge Cory recognize[d the jury’s Verdict for Plaintiff as] a judgment
8 when he state[d] in his Order of Judgment that [Mr.] Briones failed to obtain a
9 ‘judgment’ that exceeded 20 percent of the arbitration award.” (*Id.* at
10 AA0202:1-5.) The ALJ further held that this “Verdict is the judgment which
11 was based ‘upon a cause of action arising out of the ownership, maintenance or
12 use of any motor vehicle for damages.’” (*Id.* at AA0202:5-7.) Finally, based
13 on the above Conclusions of Law, the ALJ held that the suspension of Mr.
14 Briones’ driving privileges and vehicle registration was inappropriate, and he
15 dismissed and rescinded the suspension. (*Id.* at AA0203:7-11.)

16 **E. The Petition for Judicial Review.**

17 On September 12, 2014, Ms. Simmons filed a Petition for Judicial
18 Review. (*Id.* at 33, at AA0204-AA0210.) Ms. Simmons asserted that the
19 decision of the ALJ violated statutory provisions, was affected by an error of
20 law, was clearly erroneous based on the substantial evidence in the record, was
21 arbitrary and capricious, and was characterized by an abuse of discretion. (*Id.*
22 at AA206:4-9.) Specifically, she claimed that the ALJ erred in deciding that the
23 Simmons Judgment was not entered as a result of a motor vehicle accident and

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1 “was not a judgment within the meaning of NRS 485.302(1).” (*Id.* at
2 AA0206:12-18.)

3 On September 17, 2014, counsel for Mr. Briones sent a “Rule 11” letter
4 to counsel for Ms. Simmons relating to the Petition for Judicial Review. (*Id.* at
5 34, at AA0211.) Counsel for Mr. Briones claimed that the Petition for Judicial
6 Review was a “frivolous and vexatious pleading filed for no other purpose than
7 to harass” Mr. Briones, and he asserted that the ALJ’s ruling was “the only
8 correct ruling under the law.” (*Id.*) In response, counsel for Ms. Simmons
9 requested the basis for Mr. Briones’ position, but no response was received.
10 (*Id.* at 35, at AA0212.)

11 In her Opening Brief in support of the Petition for Judicial Review, Ms.
12 Simmons asserted that, as the prevailing party in the underlying negligence
13 action, the Simmons Judgment fell within the scope of the Unsatisfied
14 Judgment Statutes. (*Id.* at 39, at AA0228:5-13.) Moreover, Ms. Simmons
15 argued that if the ALJ’s position was correct, NRS 485.302(1) would only
16 apply when a cause of action for personal injury or property damages arising
17 from a car accident resulted in a judgment for the plaintiff. (*Id.* at AA0230:1-
18 5.) However, no statutory language or rule of statutory construction
19 necessitates such a narrow interpretation of the statute. (*Id.* at AA0230:5-6.)

20 Mr. Briones “Opening Brief” in response to the Petition for Judicial
21 Review, on the other hand, asserted that “[t]he plain language of [NRS] Chapter
22 485 . . . require[s] liability insurance to compensate people who are injured or
23 whose property has been damaged by someone negligently operating a motor
24 vehicle, [and i]t [wa]s not designed for insurance companies to suspend

1 someone's license for a civil judgment for attorney's fees because the injured
2 [p]laintiff did not exceed the arbitration award at trial." (2 Appellant's App. at
3 40, at AA0248:9-13 (emphasis in original).) Mr. Briones further asserted that
4 Ms. Simmons was defended by in-house counsel for her insurer, Government
5 Employees Insurance Company ("GEICO"), and that "[i]t [wa]s highly
6 improper for the insurance company to submit a letter to the [DMV] to suspend
7 and revoke someone's driving privileges for failing to pay this type of
8 judgment." (*Id.* at AA0248:23-28.) Finally, Mr. Briones moved for sanctions
9 pursuant to NRCP 11, claiming that the Petition for Judicial Review was a
10 "frivolous and vexatious pleading." (*Id.* at AA0249:4-AA0250:15.)

11 In her Reply, Ms. Simmons asserted that the Simmons Judgment fell
12 within the plain and unambiguous scope of NRS 485.301(1) because of the
13 following, undisputed facts:

- 14 1. This case arises from a disputed[-]liability
15 motor vehicle accident;
- 16 2. The arbitrator and the jury found [Mr. Briones]
17 fifty percent (50%) at fault;
- 18 3. A net judgment was entered in favor of [Ms.
19 Simmons] . . . ;
- 20 4. But for the fact that [Mr. Briones] was 50% at
21 fault as a result of his operation of a motor
22 vehicle[,] the [Simmons] Judgment would not
23 have been entered in favor of [Ms. Simmons];
24 [and]
5. The [Simmons] Judgment against [Mr. Briones]
remains unsatisfied[.]

23 (*Id.* at 41, at AA0265:15-27, AA0266:11-16, 24-26.) Further, Ms. Simmons
24 pointed out that Mr. Briones failed to provide any authority for his proposition

1 that an insurance company could not request the suspension of an individual's
2 driver's license pursuant to NRS 485.301 – particularly when the insurer's staff
3 counsel was representing Ms. Simmons in the action. (*Id.* at AA0267:8-15.)

4 On October 8, 2015, the Eighth Judicial District Court denied Ms.
5 Simmons' Petition for Judicial Review. (*Id.* at 42, at AA0278-AA0279; Tab
6 44, at AA0283-AA0287.) The district court found that the purpose of "NRS
7 Chapter 485 is to require liability insurance to compensate people who are
8 injured or whose property has been damaged by someone negligently operating
9 a motor vehicle[,] and it does not pertain to a judgment for attorney's fees
10 because the plaintiff did not exceed the arbitration award at trial." (*Id.* at 42, at
11 AA0278:17-20.) The court also denied Mr. Briones' Motion for Sanctions,
12 finding that the Petition for Judicial Review was not brought in bad faith. (*Id.*
13 at AA0279:1-2.)

14 Ms. Simmons subsequently commenced this appeal on October 22,
15 2015. (*Id.* at 43, at AA0280-AA0282.)

16 VI. SUMMARY OF THE ARGUMENT

17 The Unsatisfied Judgment Statutes are unambiguous statutes which
18 should be interpreted through application of their plain and ordinary meaning.
19 Neither of the parties has alleged that the Statutes are ambiguous, and the ALJ
20 failed to articulate why he "assumed" that NRS 485.035 was ambiguous. (1
21 Appellant's App. 28, at AA0124:15-125:21.) Therefore, it was clear legal error
22 for the ALJ and the district court to look beyond the express terms of the
23 Statutes in order to discern legislative intent.

24 ///

1 Under the plain and ordinary meaning of the Unsatisfied Judgment
2 Statutes, Mr. Briones' license should have been suspended for non-payment of
3 the Simmons Judgment. Specifically, the parties were in a motor vehicle
4 accident. (*Id.* at 1, at AA0001-AA0006.) Mr. Briones commenced an action
5 for personal injuries and property damage arising from the ownership,
6 maintenance, and use of a motor vehicle. (*Id.* at 2, at AA0007-AA0012.) The
7 jury found Mr. Briones to be 50-percent liable for the accident. (*Id.* at 13, at
8 AA0045:1-3.) The jury's award to Mr. Briones was less than Ms. Simmons'
9 Offer of Judgment and the Arbitration Award. (*Id.* at 5, at AA0020-AA0022;
10 Tab 6, at AA0023-AA0024; Tab 13, at AA0044-AA0045.) Therefore, the court
11 determined that Ms. Simmons was the prevailing party and awarded her costs
12 and fees. (*Id.* at 21, at AA0103-AA0105; Tab 22, at AA0106-AA0110.) The
13 award to Ms. Simmons was in excess of the award to Mr. Briones; therefore, a
14 judgment was entered in favor of Ms. Simmons. (*Id.* at 23, at AA0111-
15 AA0112; Tab 24, at AA0113-AA0116.) Mr. Briones failed to pay the Simmons
16 Judgment. (*Id.* at 25, at AA0117.)

17 Under these facts, a negligent driver has failed to satisfy the only
18 judgment entered in an action for personal injuries and property damages
19 arising from the use of a motor vehicle that resulted in a car accident. Based on
20 these facts, the Simmons Judgment falls squarely within the scope of the
21 Unsatisfied Judgment Statutes. Therefore, the ALJ and district court erred in
22 arbitrarily and capriciously dismissing and rescinding the suspension of Mr.
23 Briones' license and registration for failure to satisfy the Simmons Judgment.
24 (*Id.* at 32, at AA0197-AA0203.)

1 Even if the Unsatisfied Judgment Statutes are held to be ambiguous, Mr.
2 Briones, the ALJ, and the district court erred in construing the Statutes based on
3 nothing more than their personal opinions as to the Legislature’s intent. If they
4 had engaged in a proper statutory interpretation analysis, it would have been
5 clear that the “interpretations” offered by Mr. Briones, the ALJ, and the district
6 court were completely unsupported by legislative history, the public policy and
7 purpose of the Unsatisfied Judgment Statutes, and an analysis of NRS Chapter
8 485 as a whole.

9 In fact, if they had engaged in an analysis of the interpretation and
10 application of similar statutory schemes in other jurisdictions, it would have
11 demonstrated that the public policy and purpose of the Unsatisfied Judgment
12 Statutes — along with the public policies and purposes of NRCP 68 and NAR
13 20(B)(2)(a) — can only be served if judgment debtors found to be at fault for
14 motor vehicle accidents are at risk of losing their license, registration, and
15 driving privileges if they fail to satisfy judgments for attorney’s fees and costs
16 entered in personal injury actions arising from car accidents. Therefore, the
17 ALJ’s decision and the Eighth Judicial District Court’s denial of Ms. Simmons’
18 Petition for Judicial Review are errors of law that should be reversed.

19 VII. STANDARD OF REVIEW

20 This appeal arises from the denial of a Petition for Judicial Review of an
21 administrative decision. (1 Appellant’s App. 33, at AA0204-AA0210.)
22 ““When reviewing a district court’s denial of a petition for judicial review of an
23 agency decision, this court engages in the same analysis as the district court.””
24 *Taylor v. Dep’t of Health & Human Servs.*, 129 Nev. Adv. Op. 99, 314 P.3d

1 949, 951 (2013) (quoting *Rio All Suite Hotel & Casino v. Phillips*, 126 Nev.
2 346, 349, 240 P.3d 2, 4 (2010)). Specifically, this Court must “review the
3 evidence presented to the agency in order to determine whether the agency’s
4 decision was arbitrary or capricious and was thus an abuse of the agency’s
5 discretion.” *United Exposition Serv. Co. v. State Indus. Ins. Sys.*, 109 Nev. 421,
6 423, 851 P.2d 423, 424 (1993)); *see also Cramer v. State, Dep’t of Motor*
7 *Vehicles*, 126 Nev. 388, 391-92, 240 P.3d 8, 10 (2010).

8 Pursuant to NRS 233B.135(3), an administrative decision can be
9 remanded or set aside, in whole or in part, if “substantial rights of the petitioner
10 have been prejudiced.” Ms. Simmons asserts that the ALJ’s administrative
11 decision should be remanded or set aside because it is “[i]n violation of
12 constitutional or statutory provisions,” clearly erroneous in light of the
13 evidence, “[a]ffected by other error of law,” arbitrary and capricious, and/or an
14 abuse of discretion. NRS 233B.135(3)(a), (d)-(f).

15 “It is well recognized that this court, in reviewing an administrative
16 agency decision, will not substitute its judgment of the evidence for that of the
17 administrative agency.” *United Exposition Servs. Co.*, 109 Nev. at 423-24, 851
18 P.2d at 424. “[H]owever, questions of law are reviewed de novo.” *Taylor v.*
19 *State, Dep’t of Health & Human Servs.*, 129 Nev. Adv. Op. 99, 314 P.3d 949,
20 951 (2013); *Bob Allyn Masonry v. Murphy*, 124 Nev. 279, 282, 183 P.3d 126,
21 128 (2008).

22 The issues on appeal concern the statutory interpretation of the
23 Unsatisfied Judgment Statutes. Issues of statutory interpretation are reviewed
24 de novo. *Barney v. Mt. Rose Heating & Air Conditioning*, 124 Nev. 821, 825,

192 P.3d 730, 733 (2008); *see also Cramer v. State, Dep’t of Motor Vehicles*, 126 Nev. 388, 392, 240 P.3d 8, 10 (2010) (“When reviewing questions of law, including issues of statutory interpretation, this court applies de novo review.”). Generally, this Court will only defer to an administrative agency’s interpretation of a statute when the interpretation “is within the language of the statute.” *Collins Disc. Liquors & Vending v. State*, 106 Nev. 766, 768, 802 P.2d 4, 5 (1990); *see also Harris Assocs. v. Clark Cnty. Sch. Dist.*, 119 Nev. 638, 642 n.3, 81 P.3d 532, 534 n.3 (2003) (“[Q]uestions of statutory construction are purely legal issues to be “reviewed without any deference whatsoever to the conclusions of the agency.””) (quoting *Dep’t of Motor Vehicles & Pub. Safety v. Jones-West Ford, Inc.*, 114 Nev. 766, 773, 962 P.2d 624, 629 (1998)) (quoting *Manke Truck Lines, Inc. v. Pub. Serv. Comm’n of Nev.*, 109 Nev. 1034, 1036-37, 862 P.2d 1201, 1203 (1993)).

VIII. ARGUMENT

A. The ALJ and the District Court Erred in Examining the Legislative Intent of the Unambiguous Unsatisfied Judgment Statutes, and Mr. Briones’ Driving Privileges Should Have Been Suspended Due to Non-Payment of the Simmons Judgment.

1. The Plain and Unambiguous Text of the Unsatisfied Judgment Statutes.

Pursuant to NRS 485.301(1), “[w]henver *any person* fails within 60 days to satisfy *any judgment* that was entered *as a result of an accident involving a motor vehicle*, the judgment creditor or the judgment creditor’s attorney may forward to the Department immediately after the expiration of the 60 days a certified copy of the judgment.” (Emphasis added.) Upon receipt of

1 the certified copy of the judgment, the DMV must “suspend the license [and] all
2 registrations . . . of **any person** against whom the judgment was rendered”

3 NRS 485.302(1) (emphasis added). For the purposes of these statutes:

4 “Judgment” means **any judgment** which shall have
5 become final by expiration without appeal of the time
6 within which an appeal might have been perfected, or
7 by final affirmation on appeal rendered by a court of
8 competent jurisdiction of any state or of the United
9 States, **upon a cause of action arising out of the
ownership, maintenance, or use of any motor vehicle
for damages, including** damages for care and loss of
services because of injury to or destruction of
property, including the loss of use thereof, or upon a
cause of action on an agreement of settlement for such
damages.

10
11 NRS 485.035 (emphasis added).

12 “It is well established that when the language of a statute is plain and
13 unambiguous, a court should give that language its ordinary meaning and not go
14 beyond it.” *Banegas v. State Indus. Ins. Sys.*, 117 Nev. 222, 225, 19 P.3d 245,
15 247 (2001); *see also W. Sur. Co. v. ADCO Credit, Inc.*, 127 Nev. Adv. Op. 8,
16 251 P.3d 714, 716 (2011) (“With regard to statutory interpretation, if a statute is
17 clear and unambiguous, this court gives effect to the plain and ordinary
18 meaning of the statute’s language, and we do not resort to the rules of statutory
19 construction.”); *Cramer v. State, Dep’t of Motor Vehicles*, 126 Nev. 388, 392,
20 240 P.3d 8, 10 (2010) (“If a statute is facially clear, this court will not go
21 beyond the plain language to determine legislative intent.”); *In re Orpheus*
22 *Trust*, 124 Nev. 170, 174, 179 P.3d 562, 565 (2008) (“When the language of a
23 statute is unambiguous, courts are not permitted to look beyond the statute itself
24 when determining its meaning.”). The plain meaning of a statute is generally

1 ascertained by “examining the context and language of the statute as a whole.”
2 *Karcher Firestopping v. Meadow Valley Contractors, Inc.*, 125 Nev. 111, 113,
3 204 P.3d 1262, 1263 (2009).

4 Under the plain meaning of the Unsatisfied Judgment Statutes, the DMV
5 must, upon receipt of a certified copy of a judgment from a judgment creditor or
6 his attorney, suspend the license and registration of any person who has failed,
7 within 60 days of entry, to satisfy a final judgment entered in an action for
8 personal injury or property damages, where the action arises out of the
9 ownership, maintenance, or use of a motor vehicle and is the result of a car
10 accident. NRS 485.035, 485.301(1), 485.302(1). Because the Unsatisfied
11 Judgment Statutes are facially clear and unambiguous, the ALJ and the district
12 court erred in looking beyond the plain language of the Statutes and opining on
13 legislative intent.

14 2. No Ambiguous Terms or Phrases Have Been Identified.

15 Neither Ms. Simmons nor Mr. Briones ever asserted — in either the
16 DMV proceedings or on the Petition for Judicial Review — that the Unsatisfied
17 Judgment Statutes were ambiguous. Moreover, no ambiguous term or phrase
18 was ever identified by Ms. Simmons, Mr. Briones, the ALJ, or the district court.
19 Rather, in one of the administrative hearings, after reading the terms of NRS
20 485.035, the ALJ stated that he “assume[d that the statute] might be a little bit
21 ambiguous.” (1 Appellant’s App. 28, at AA0124:15-AA0125:21.)

22 Based on a close reading of the Unsatisfied Judgment Statutes, the only
23 terms or phrases which might, on first reflection, appear ambiguous are the

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1 phrases “arising out of” or “as a result of.” However, both of these phrases
2 have generally accepted, plain and ordinary definitions under the law.

3 While this Court has held that the phrase “arising out of” can be
4 ambiguous in the context of analyzing coverage under an insurance policy,
5 *Rivera v. Nev. Med. Liab. Ins. Co.*, 107 Nev. 450, 452-53, 814 P.2d 71, 72
6 (1991), it also construed the phrase as “requir[ing] only a general causal
7 connection.” *Id.* at 453, 814 P.2d at 72. This interpretation of “arising out of”
8 is consistent with the interpretation of a majority of other jurisdictions that have
9 considered the issue. “[T]he general consensus [is] that the phrase ‘arising out
10 of’ should be given a broad reading such as ‘originating from’ or ‘growing out
11 of’ or ‘flowing from’ or ‘done in connection with’ – that is, it requires some
12 causal connection to the injuries suffered, but does not require proximate cause
13 in the legal sense.” *Fed. Ins. Co. v. Tri-State Ins. Co.*, 157 F.3d 800, 804 (10th
14 Cir. 1998); *see also N. Assurance Co. of Am. v. EDP Floors, Inc.*, 533 A.2d,
15 682, 688 (Md. 1987) (holding that “[t]he words ‘arising out of’ must be
16 afforded their common understanding, namely, to mean originating from,
17 growing out of, flowing from, or the like”); *Red Ball Motor Freight, Inc. v.*
18 *Emp’rs Mut. Liab. Ins. Co. of Wis.*, 189 F.2d 374, 378 (5th Cir. 1951) (holding
19 that “arising out of” is much broader than “caused by” and is “ordinarily
20 understood to mean ‘originating from,’ having its origin in,’ ‘growing out of’ or
21 ‘flowing from’”); *Mfrs. Cas. Ins. Co. v. Goodville Mut. Cas. Co.*, 170 A.2d 571,
22 573 (Pa. 1961) (holding that “[b]ut for’ causation, i.e., a cause and result
23 relationship, is enough . . .”).

24 ///

1 Similarly, “Webster’s dictionary defines ‘result’ as “to proceed or arise
2 as a consequence, effect, or conclusion.”” *Pension Trust Fund for Operating*
3 *Eng’rs v. Fed. Ins. Co.*, 307 F.3d 944, 952 (9th Cir. 2002). Therefore, the Ninth
4 Circuit has held that the phrase “as a result of” should be construed consistently
5 with the phrase “arising out of” – i.e., “require[ing] only a slight causal
6 connection.” *Id.*; see also *Kuhn v. Ret. Bd.*, 343 P.3d 316, 320 (Utah Ct. App.
7 2015) (holding that “[t]he plain meaning of ‘as a result’ is ‘consequently,’ or
8 ‘something that is caused by something else that happened or was done
9 before’”) (internal citation omitted).

10 Under the plain and ordinary meaning of the phrases “arising out of” and
11 “as a result of,” the Unsatisfied Judgment Statutes apply to any judgments
12 which originate from, grow out of, or are otherwise causally connected to the
13 ownership, maintenance, or use of a motor vehicle and/or a motor vehicle
14 accident. The Simmons Judgment clearly originates from, grows out of, and/or
15 is causally connected to the car accident with Mr. Briones. As a result of the
16 car accident, for which Mr. Briones was found to be 50-percent liable, (1
17 Appellant’s App. 13, at AA0045:1-3), an action was commenced for personal
18 and property damages relating to the accident, and Ms. Simmons, as the
19 prevailing party, was awarded costs and fees. (*Id.* at 21, at AA0104:4-8; Tab
20 22, at AA0106-AA0110; Tab 23, at AA0112:7-10; Tab 24, at AA0113-
21 AA0116.) Therefore, under the plain and ordinary meaning of the Unsatisfied
22 Judgment Statutes, the DMV was required to suspend Mr. Briones’ license and
23 registration for the non-payment of the Simmons Judgment. The ALJ and
24 district court erred in rescinding the suspension.

3. No Other Reasonable, Alternative Interpretation of the Unsatisfied Judgment Statutes Has Been Offered; Therefore, It Was Clear Error to Analyze Legislative Intent.

A statute is only considered to be “ambiguous” if its terms are “capable of more than one *reasonable* interpretation.” *Orion Portfolio Servs. 2, LLC v. Cnty. of Clark ex rel. Univ. Med. Ctr. of S. Nev.*, 126 Nev. 397, 402, 245 P.3d 527, 531 (2010) (emphasis added); *Stockmeier v. Psychological Review Panel*, 122 Nev. 534, 541, 135 P.3d 807, 811 (2006) (“When there are two *reasonable* interpretations of one statute, the statute is ambiguous and our resort to rules of statutory interpretation is appropriate to discern legislative intent.”) (emphasis added). Here, no reasonable, alternative interpretation has been offered by Mr. Briones, the ALJ, or the district court.

(a). Mr. Briones and the district court unreasonably assert that the Unsatisfied Judgment Statutes only apply to judgments rendered against uninsured owners and operators of motor vehicles.

Mr. Briones contends that the Unsatisfied Judgment Statutes do not apply to the Simmons Judgment because he is not an uninsured motorist who has caused injuries to Ms. Simmons or her property. (1 Appellant’s App. 27, at AA0119; Tab 28, at AA0126:23-26.) Similarly, the district court held that NRS Chapter 485 “require[s] liability insurance to compensate people who are injured or whose property has been damaged by someone negligently operating a motor vehicle” (2 Appellant’s App. 42, at AA0278:17-19.)

However, liability insurance is not even referenced in the Unsatisfied Judgment Statutes. Nothing in the statutory language limits the application of the Unsatisfied Judgment Statutes to judgments entered against uninsured

1 drivers. Therefore, based on the plain and ordinary meaning of the Statutes, the
2 alternative interpretation proposed by Mr. Briones and the district court is not
3 reasonable and analysis under the rules of statutory interpretation is not
4 warranted.

5 **(b). The ALJ unreasonably asserts that the Unsatisfied**
6 **Judgment Statutes only apply to judgments for**
7 **personal injury or property damages entered**
8 **against the tortfeasor in a motor vehicle accident.**

8 The ALJ asserts that the Unsatisfied Judgment Statutes only apply to
9 judgments against tortfeasors for personal injuries or property damages caused
10 by motor vehicle accidents. (1 Appellant’s App. 28, at AA0125:22-27; Tab 32,
11 at AA0202:1-AA0203:12.) Based on the express terms of the Unsatisfied
12 Judgment Statutes, this proposed interpretation is not reasonable.

13 First, NRS 485.301(1) and NRS 485.302(1) do not refer to any
14 “defendant,” “tortfeasor,” “negligent party,” or “wrongdoer”; rather, they refer
15 to “*any person*” who fails to satisfy a judgment and “*any person*” against
16 whom a judgment has been rendered, respectively. (Emphasis added). Based
17 on this terminology, the only reasonable interpretation is that the Unsatisfied
18 Judgment Statutes apply to *any* judgment debtor who fails to satisfy a judgment
19 entered as a result of a motor vehicle accident.

20 Second, NRS 485.301(1) and NRS 485.035 refer to “*any judgment*” and
21 are not limited to judgments for personal injury or property damages.
22 (Emphasis added). Under the express terms of NRS 485.035, it is the *action*
23 which must relate to personal injury or property damages, not the *judgment*.
24 Specifically, NRS 485.035 defines “judgment” as any final judgment rendered

1 in a *cause of action for damages* arising out of the ownership, maintenance, or
2 use of a motor vehicle; it does not refer to any *final judgment for damages*
3 rendered in an action arising out of the ownership, maintenance, or use of a
4 motor vehicle accident. Moreover, in referencing an action for damages, NRS
5 485.035 includes the phrase “*including* damages for care and loss of services
6 because of injury to or destruction of property.” (Emphasis added). The use of
7 the term “including” indicates that personal injury and property damages are not
8 the *only* type of damages that may be sought in the action arising from the
9 ownership, maintenance, or use of a motor vehicle.

10 Based upon the express terms of the Unsatisfied Judgment Statutes, it is
11 not reasonable to interpret the Statutes as being limited to judgments against
12 tortfeasors for personal injury or property damages. Therefore, the ALJ also
13 erred in engaging in statutory interpretation.

14 **B. The ALJ Erred in Holding That the Jury’s Verdict Was a**
15 **“Judgment” Rendered in a Cause of Action Arising Out of the**
Ownership, Maintenance, or Use of a Motor Vehicle.

16 The ALJ determined that the only “judgment” that could fall within the
17 scope of the Unsatisfied Judgment Statutes was the jury’s Verdict for Mr.
18 Briones. Specifically, the ALJ held that District Court Judge Kenneth C. Cory
19 “recognize[d the jury’s Verdict for Mr. Briones as] a judgment when he state[d]
20 in [the Simmons Judgment] that [Mr.] Briones failed to obtain a ‘judgment’ that
21 exceeded 20 percent of the arbitration award.” (1 Appellant’s App. 32, at
22 AA0202:1-5.) Based on this interpretation of the Simmons Judgment, the ALJ
23 concluded that the Verdict for the Plaintiff, rather than the Simmons Judgment,

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1 was the judgment “based ‘upon a cause of action arising out of the ownership,
2 maintenance or use of any motor vehicle for damages.’” (*Id.* at AA0202:5-7.)

3 The ALJ’s ruling is plain error. First, Judge Cory never recognized the
4 jury’s Verdict as a “judgment”; rather, in the Simmons Judgment, he recognized
5 that Ms. Simmons was entitled to recover her costs and fees because Mr.
6 Briones had failed to obtain a judgment (meaning, “any” judgment) that
7 exceeded the arbitration award by at least 20 percent. (*Id.* at 23, at AA0111:24-
8 25.) Moreover, pursuant to Nevada Short Trial Rule 3(d)(1), “[n]ot later than
9 10 days after the rendering of a jury verdict in a jury trial . . . , the judge pro
10 tempore shall submit to the district court judge to whom the case is assigned a
11 proposed judgment.” This Rule demonstrates that there is a distinct difference
12 between a “verdict” and a “judgment.” Furthermore, it confirms that only the
13 Order and Judgment executed by District Court Judge Kenneth C. Cory (the
14 Simmons Judgment) was a final judgment in the negligence action.

15 More importantly, it is well recognized that “[a] verdict is not a judgment
16 but only a basis for the judgment which may or may not be entered on it.”
17 *Frazier v. Allstate Ins. Co.*, 229 F. Supp. 512, 514 (E.D. Tenn. 1964) (“A
18 judgment is distinct from the verdict returned by a jury.”). “A verdict is not a
19 judgment and has no finality until a judgment thereon has been entered.”
20 *Phelps v. Parker*, 534 S.W.2d 278, 279 (Mo. Ct. App. 1976) (“[A verdict]
21 cannot be transformed into a judgment by the simple process of being so
22 labeled by the clerk, the court reporter or the plaintiffs in their notice of
23 appeal.”).

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1 Thus, the ALJ’s interpretation of the Verdict and the Simmons Judgment
2 was arbitrary and capricious, and the ALJ erred in holding that the Verdict for
3 the Plaintiff was a final judgment. The Simmons Judgment was the only
4 judgment entered in the negligence action; therefore, it is a judgment rendered
5 in a cause of action arising out of the ownership, maintenance or use of a motor
6 vehicle. As such, it falls within the express and unambiguous terms of the
7 Unsatisfied Judgment Statutes, and the ALJ erred in rescinding the suspension
8 of Mr. Briones’ license.

9 C. **Based on the Rules of Statutory Construction, the ALJ and the**
10 **District Court Erred in Determining That the Simmons**
11 **Judgment Was Not a “Judgment” Within the Meaning of the**
12 **Unsatisfied Judgment Statutes.**

13 If this Court determines that the Unsatisfied Judgment Statutes are
14 ambiguous (which they are not), the Legislature’s intent must be construed via
15 the generally recognized rules of statutory construction — not the personal
16 opinions of the ALJ and the district court. (1 Appellant’s App. 28, at
17 AA0124:15-AA0126:2 (failing to detail basis for assumption of ambiguity);
18 Tab 32, at AA0197-AA0203 (failing to find an ambiguity warranting
19 interpretation of the Statutes); 2 Appellant’s App. 42, at AA0278-AA0279
20 (failing to find ambiguity or otherwise explain statutory interpretation of
21 Unsatisfied Judgment Statutes).) “When a statute is ambiguous, the
22 Legislature’s intent is the controlling factor in statutory interpretation, and the
23 statute should be construed consistently with what reason and public policy
24 would indicate the Legislature intended.” *Banegas v. State Indus. Ins. Sys.*, 117
Nev. 222, 225, 19 P.3d 245, 247 (2001); *see also Orion Portfolio Servs. 2, LLC*

1 *v. Cnty. of Clark ex rel. Univ. Med. Ctr. of S. Nev.*, 126 Nev. 397, 402, 245 P.3d
2 527, 531 (2010) (“Where a statute’s language is ambiguous, . . . the court must
3 look to legislative history and rules of statutory interpretation to determine its
4 meaning.”). Because the ALJ and the district court failed to engage in any
5 statutory interpretation analysis of the allegedly ambiguous Unsatisfied
6 Judgment Statutes, the decision to rescind the suspension of Mr. Briones’
7 driving privileges was clear error.

8 1. The Legislative History, Background, and Spirit of the
9 Unsatisfied Judgment Statutes Fail to Support Mr. Briones’
10 the ALJ’s, or the District Court’s Interpretations of
11 Legislative Intent.

12 To ascertain legislative intent, this Court may examine “the background
13 and spirit in which the law was enacted” and the “entire subject matter and
14 policy may be involved as an interpretive aid.” *Leven v. Frey*, 123 Nev. 399,
15 405, 168 P.3d 712, 716 (2007) (internal quotations and citation committed);
16 *Pub. Emps.’ Benefits Program v. Las Vegas Metro. Police Dep’t*, 124 Nev. 138,
17 147, 179 P.3d 542, 548 (2008). The Unsatisfied Judgment Statutes were
18 adopted in 1957, before the Legislature kept written minutes of their committee
19 hearings. Therefore, there is no traditional legislative history from which the
20 legislative intent can be gleaned. However, examination of the express
21 language in the Statutes when they were enacted can be instructive as to
22 legislative intent. *Pub. Emps.’ Benefits Program*, 124 Nev. at 151, 179 P.3d at
23 551.

24 NRS 485.035 has not been amended since the statute was originally
enacted in 1957. 1957 Statutes of Nevada 722, § 6 (48th Sess.). Similarly, the

terms of the current version of NRS 485.302(1) are nearly identical to the terms of the statute as it was originally enacted, with only minor, non-substantive variations.² 1957 Statutes of Nevada 723, § 10(1) (48th Sess.). Therefore, an examination of legislative history or background of these statutes does not support Mr. Briones', the ALJ's, or the district court's interpretations.

NRS 485.301(1), on the other hand, has been amended substantively, but its amendments also fail to support Mr. Briones', the ALJ's, and the district court's interpretations. As enacted in 1957, it stated:

Whenever any person fails within 60 days to satisfy any judgment, upon the written request of the judgment creditor or his attorney, the clerk of the court or the judge of a court which has no clerk in which any such judgment is rendered within this state, shall forward to the commissioner immediately after the expiration of such 60 days a certified copy of such judgment.

1957 Statutes of Nevada 723, § 9(1) (48th Sess.). The statute was amended in 1961, 1983, and 1999, but the revisions were minor and non-substantive.³

² As enacted, NRS 485.302(1) states: "The commissioner, upon the receipt of a certified copy of a judgment, shall forthwith suspend the license and registration and any nonresident's operating privilege of any person against whom such judgment was rendered" 1957 Statutes of Nevada 723, § 10(1) (48th Sess.); 1961 Statutes of Nevada 144, § 50(1) (51st Sess.) (replacing "commissioner" with "division"); 1985 Statutes of Nevada 1176, § 6(1) (63rd Sess.) (replacing "and registration" with "all registrations," replacing "such judgment" with "the judgment," and omitting "hereinafter"); 1995 Statutes of Nevada 2738, § 25(1) (68th Sess.) (omitting "forthwith"); 1999 Statutes of Nevada 3584, § 31(1) (70th Sess.) (replacing "division" with "motor vehicle branch of the department" and moving "shall" from before "suspend" to after "department").

³ 1961 Statutes of Nevada 144, § 49(1) (51st Sess.) (replacing "commissioner" with "division"); 1983 Statutes of Nevada 266, § 13(1) (62nd Sess.) (allowing judgment creditors or their attorneys to forward unsatisfied judgments to the DMV directly, and replacing "such 60 days" and "such

1 Then, in 2007, NRS 485.301(1) was amended to specifically refer to
2 judgments “*entered as a result of an accident* involving a motor vehicle.”
3 2007 Statutes of Nevada, at 2050, § 9(1) (74th Sess.) (emphasis added).
4 However, this amendment was not a change in public policy or intent. Rather,
5 it was a clarification to ensure that the statute was construed in harmony with
6 the terms of NRS 485.035, which defines “judgments” as judgments rendered
7 in actions for personal injury or property damages arising out of the ownership,
8 maintenance, or use of a motor vehicle.

9 Because the Unsatisfied Judgment Statutes are in substantially the same
10 form as when originally enacted in 1957, at least with regard to their scope, the
11 background of the Statutes and/or their legislative history is not instructive of
12 legislative intent. Therefore, Mr. Briones, the ALJ, and the district court could
13 not have relied on this analysis to support their erroneous interpretations of the
14 Unsatisfied Judgment Statutes. The Statutes have never been narrowly
15 confined to judgments for personal injuries and property damages rendered
16 against tortfeasors, nor has their application been limited to judgments against
17 uninsured motorists.

18 2. Analysis of NRS Chapter 485 as a Whole Also Fails to
19 Support Mr. Briones’, the ALJ’s, and the District Court’s
Interpretations of Legislative Intent.

20 Legislative intent may also be “discerned by reviewing the statute or the
21 chapter as a whole.” *Banegas v. State Indus. Ins. Sys.*, 117 Nev. 222, 228, 19
22

23 judgment” with “the 60 days” and “the judgment); 1999 Statutes of Nevada
24 3584, §30(1) (70th Sess.) (replacing “division” with “motor vehicle branch of
the department).

1 P.3d 245, 249 (2001); *see also Leven v. Frey*, 123 Nev. 399, 405, 168 P.3d 712,
2 716 (2007) (holding that this Court will consider “the statute’s multiple
3 legislative provisions as a whole”). To that end, the statute at issue must be
4 interpreted “in harmony with other rules and statutes.” *Barney v. Mt. Rose*
5 *Heating & Air Conditioning*, 124 Nev. 821, 827, 192 P.3d 730, 734 (2008).
6 The title of the statute or chapter can also be instructive of legislative intent.
7 *Banegas*, 117 Nev. at 230, 19 P.3d at 250.

8 Importantly, a statute must not only be interpreted in harmony with other
9 similar or related statutes and rules, but the interpretation must also be
10 internally harmonious. “[W]ords within a statute must not be read in isolation,
11 and statutes must be construed to give meaning to all of their parts and language
12 within the context of the purpose of the legislation.” *Id.* at 229, 19 P.3d at 250.

13 Finally, a statute’s interpretation must “not render any part of the statute
14 meaningless,” or “produce absurd or unreasonable results.” *Orion Portfolio*
15 *Servs. 2, LLC v. Cnty. of Clark ex rel. Univ. Med. Ctr. of S. Nev.*, 126 Nev. 397,
16 403, 245 P.3d 527, 531 (2010). Rather, a proper interpretation should “give
17 meaning to each of [the statute’s] parts, such that, when read in context, none of
18 the statutory language is rendered mere surplusage.” *Stockmeier v.*
19 *Psychological Review Panel*, 122 Nev. 534, 540, 135 P.3d 807, 810 (2006).

20 Mr. Briones’, the ALJ’s and the district court’s interpretations of the
21 Unsatisfied Judgment Statutes are not supported by any of these generally
22 accepted rules of statutory interpretation.

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(a). **Rules of statutory construction demonstrate that the Unsatisfied Judgment Statutes are not intended to be an incentive to maintain liability insurance.**

Mr. Briones asserts that the Unsatisfied Judgment Statutes are intended to apply to uninsured motorists. (1 Appellant’s App. 27 at AA0119.) Specifically, Mr. Briones argues that the Legislature’s intent for the Unsatisfied Judgment Statutes is “to deter people from essentially driving without insurance . . . and causing injury to people . . .” (*Id.* at 28, at AA0126:23-26; *see also* 2 Appellant’s App. 40, at AA0246:23-25 (stating that “[t]he legislation is clearly designed to create disincentives for people operating motor vehicles without liability insurance”). Similarly, the district court held that the purpose of “NRS Chapter 485 is to require liability insurance to compensate people who are injured or whose property has been damaged by someone negligently operating a motor vehicle.” (2 Appellant’s App. 42, at AA0278:17-19.) However, the rules of statutory construction dictate that the Unsatisfied Judgment Statutes are not merely a disincentive for uninsured motorists. Rather, the Unsatisfied Judgment Statutes are a separate and distinct way of ensuring the financial responsibility of motor vehicle drivers.

While Nevada has not yet delineated the specific public policy behind NRS 485.301 and NRS 485.302, it has recognized the public policy of NRS Chapter 485 as a whole. Specifically, in *Hartz v. Mitchell*, 107 Nev. 893, 822 P.2d 667 (1991), this Court held:

Nevada has a strong public policy interest in assuring that individuals who are injured in motor vehicle accidents have a source of indemnification. Our financial responsibility law reflects Nevada’s interest

1 in providing at least minimum levels of financial
2 protection to accident victims.

3 *Id.* at 896, 822 P.2d at 669.

4 Liability insurance is not the only source of indemnification under
5 Chapter 485. First, the short title of the Chapter is the Motor Vehicle Insurance
6 **and** Financial Responsibility Act. NRS 485.010. Second, the Chapter is
7 divided into 9 sections, and 3 of these sections are titled “Insurance Required,”
8 “Security Following Accident,” and “Nonpayment of Judgment.” The use of
9 sections suggests that these are separate and distinct forms of ensuring financial
10 responsibility among motorists.

11 In fact, a review of the statutes in the subsections reveals that Chapter
12 485 intended to provide at least 3 different sources of indemnification for
13 injured motorists. NRS 485.185 to NRS 485.187 require all motor vehicle
14 operators and owners to maintain liability insurance, and the section provides
15 for fines and penalties for the failure to maintain such insurance. Similarly,
16 NRS 485.190 to NRS 485.300 require security deposits from uninsured
17 motorists involved in car accidents and even provide for suspension of licenses
18 and registrations for the failure to deposit the required security. Because these
19 statutes already serve to ensure adequate compensation to persons suffering
20 personal injuries or property damages as a result of car accidents with uninsured
21 motorists, NRS 485.301(1) and NRS 485.302(1) would be rendered superfluous
22 if, as Mr. Briones and the district court contend, the Legislature’s intent for the
23 Unsatisfied Judgment Statutes was merely to incentivize the maintenance of
24 liability insurance.

(b). Rules of statutory construction demonstrate that Mr. Briones', the ALJ's, and the district court's interpretations of the Unsatisfied Judgment Statutes would lead to absurd results.

The ALJ determined that the legislative intent of the Unsatisfied Judgment Statutes is to assist persons suffering personal injuries or property damages as a result of car accidents to collect unsatisfied judgments rendered in the action to recover those damages. (1 Appellant's App. 28, at AA0121:19-22; Tab 29, at AA0136:24-28; Tab 32, at AA0198:13-16.) However, such an interpretation is clearly erroneous, because it would render absurd results.

Mr. Briones and Ms. Simmons were found to be *equally liable* for the car accident. (*Id.* at 13, at AA0045:1-5.) Under the ALJ's interpretation, if a judgment was rendered for Mr. Briones, and Ms. Simmons failed to satisfy the judgment, Ms. Simmons' driving privileges would be suspended merely because Mr. Briones had alleged personal injury and property damages in the negligence action. However, Mr. Briones' driving privileges were not suspended for the non-payment of the Simmons Judgment, merely because Ms. Simmons' only damages were the unnecessary fees and costs incurred as a result of Mr. Briones' failure to prevail in his negligence action. Nothing in the terms of the Unsatisfied Judgment Statutes or Chapter 485 suggests such an unbalanced and unfair interpretation of the Statutes.

Similarly absurd results are rendered by Mr. Briones' and the district court's interpretations regarding liability insurance. Specifically, if the Unsatisfied Judgment Statutes only apply to uninsured owners and operators of motor vehicles, unreasonable results are rendered when the liability insurance is

1 insufficient to compensate the injured plaintiff. For instance, an injured
2 plaintiff could seek relief under the Unsatisfied Judgment Statutes if the
3 tortfeasor was uninsured, but he or she is unable to request suspension of
4 driving privileges if the tortfeasor possesses liability insurance in an amount
5 that is insufficient to satisfy the judgment in full. Moreover, if the tortfeasor
6 possesses insurance, but the policy is not applicable because the tortfeasor is
7 deemed to have intentionally caused the car accident, the injured plaintiff would
8 be unable to request suspension of the tortfeasor's license and registration for
9 non-payment of the judgment. This result is completely contrary to the alleged
10 legislative intent asserted by Mr. Briones and the district court.

11 Not only are the results under these scenarios absurd, but they are also
12 contrary to the way other jurisdictions have interpreted and applied similar
13 unsatisfied judgment statutes. (*See* Section VIII(C)(4), *infra*.)

14 3. This Court's Statutory Interpretation Analysis Should Not
15 Defer to the ALJ's Interpretation of the Unsatisfied
Judgment Statutes.

16 “[Q]uestions of statutory construction are purely legal issues to be
17 ‘reviewed without any deference whatsoever to the conclusions of the agency.’”
18 *Dep't of Motor Vehicles & Pub. Safety v. Jones-West Ford, Inc.*, 114 Nev. 766,
19 773, 962 P.2d 624, 629 (1998) (quoting *Manke Truck Lines, Inc. v. Pub. Serv.*
20 *Comm'n of Nev.*, 109 Nev. 1034, 1036-37, 862 P.2d 1201, 1203 (1993)).
21 Courts will generally only defer to an administrative agency's interpretation of
22 a statute when the interpretation “is within the language of the statute.” *Collins*
23 *Disc. Liquors & Vending v. State*, 106 Nev. 766, 768, 802 P.2d 4, 5 (1990).

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1 The ALJ’s interpretation of the Unsatisfied Judgment Statutes should not
2 be given any deference in this appeal, as the ALJ’s interpretation is not “within
3 the language of the statute.” In *Collins*, this Court gave deference to the
4 Nevada Trade Commission’s interpretation of a sales tax exemption because the
5 legislature had specifically given the agency “the task of determining which
6 foods should be included in the definition of [the exempted category of]
7 ‘prepared food intended for immediate consumption.’” *Id.* at 768, 802 P.2d at
8 5-6.

9 Here, however, the Legislature has not given the DMV the power to
10 “create[] regulations that serve to carry out [its] legislative policy” under NRS
11 485.301 and NRS 485.302. *Id.* at 768, 802 P.2d at 5. Moreover, the Legislature
12 has not given the DMV power to define the type of judgments falling within the
13 scope of NRS 485.301(1). In fact, in this case, after the ALJ questioned the
14 Legislature’s intent for the Unsatisfied Judgment Statutes, the DMV decided to
15 *proceed* with the suspension of Mr. Briones’ driving privileges and specifically
16 chose not to take a position as to whether the ALJ’s interpretation was accurate.
17 (1 Appellant’s App. 29, at AA0138:2-6, 18-28.) Therefore, if this Court
18 determines that the Unsatisfied Judgment Statutes are ambiguous, it should
19 conduct a de novo review and give no deference to the ALJ’s interpretation.

20 4. The Interpretation and Application of Similar Statutory
21 Schemes in Other Jurisdictions Is Instructive and Persuasive
as to the Scope of the Unsatisfied Judgment Statutes.

22 Given the lack of legislative history for the Unsatisfied Judgment
23 Statutes, the purpose and public policy of the Statutes can best be ascertained
24 by analyzing the nature and scope of similar statutory schemes enacted by other

1 jurisdictions. Specifically, when the Legislature enacted the Unsatisfied
2 Judgment Statutes, the Statutes were substantially similar to corresponding
3 provisions in the Uniform Vehicle Code. This Court has recognized that when
4 Nevada adopts a uniform law, the courts should construe the uniform law to
5 interpret Nevada’s corresponding statutes, because “consideration must be
6 given to the need to promote uniformity of the law with respect to its subject
7 matter among states that enact it.” *Karcher Firestopping v. Meadow Valley*
8 *Contractors, Inc.*, 125 Nev. 111, 113, 204 P.3d 1262, 1263 (2009).

9 “In 1949, the Nevada Legislature enacted chapter 7 of the Uniform
10 Vehicle Code as Nevada’s Motor Vehicle Safety Responsibility Act, chapter
11 485 of NRS.” *Nev., Dep’t of Motor Vehicles v. Turner*, 89 Nev. 514, 516-17,
12 515 P.2d 1265, 1266 (1973). As discussed in Section VIII(C)(1), *supra*, the
13 Unsatisfied Judgment Statutes were added to the Chapter in 1957.

14 The Uniform Vehicle Code was originally published in 1926, and it has
15 formed the basis of the majority of the traffic laws in the United States.
16 Uniform Vehicle Code, Forward, at v & n.1 (1968). The Code was amended
17 approximately every two to six years, and the most recent revision was in 1968.
18 *Id.* Although Nevada adopted Chapter 7 of the Uniform Vehicle Code prior to
19 the most recent version of the Code, the relevant provisions of the 1968 version
20 of the Uniform Vehicle Code are virtually identical to Unsatisfied Judgment
21 Statutes.⁴

22 ⁴ Uniform Vehicle Code § 7-303(a) (1968), differs from NRS 485.035 in
23 that it explicitly refers to personal injuries as part of the categories of damages
24 which may be sought in the action arising from the ownership, maintenance, or
use of a motor vehicle. (Emphasis added.) Uniform Vehicle Code § 7-308
(1968), differs from the original version of NRS 485.301(1) in that it allows for

1 Because a majority of the states have adopted statutory schemes which
2 are identical or substantially similar to the Uniform Vehicle Code (and
3 Nevada’s Unsatisfied Judgment Statutes), the interpretation and application of
4 such statutes in other jurisdictions is informative to discerning the Nevada
5 Legislature’s intent.

6 (a). **The interpretation of similar unsatisfied judgment**
7 **statutes.**

8 Most states which have interpreted and construed their unsatisfied
9 judgment statutes have expressed two public policies or purposes to be served
10 by the statutes – punishment of negligent drivers and leverage for the collection
11 of damages. *Commw., Dep’t of Transp., Bureau of Traffic Safety v. Rodgers*,
12 341 A.2d 917, 920 (Pa. Commw. Ct. 1975) (holding that the purpose is to
13 “protect the public from the financial irresponsibility of those who, regardless
14 of their competency to drive, have had judgments entered against them as a
15 result of motor vehicle accidents”); *Smith v. Commw., Dep’t of Transp., Bureau*
16 *of Driver Licensing*, 892 A.2d 36, 39 (Pa. Commw. Ct. 2006) (holding that the
17 purpose of an unsatisfied judgment statute “was to both promote financial
18 responsibility of drivers and [to] aid in the collection of debts against negligent
19 owners and drivers”); *Watson v. State, Div. of Motor Vehicles*, 298 P. 481, 483
20 (Cal. 1931) (holding that unsatisfied judgment statutes are not only meant to

21
22 a judgment to be forwarded to the DMV after only 30 days of non-payment by
23 the judgment debtor. Finally, Uniform Vehicle Code § 7-310 (1968), differs
24 from the original version of NRS 485.302(1) in that it requires a “certificate of
facts relevant to such judgment” to accompany the certified copy of the
judgment when its transmitted to the DMV.

1 keep dangerous drivers off the roads, but “[i]t may [also] be thought by the
2 Legislature that such a judgment debtor, who did not do what the law required
3 of him, as declared by the judgment, to repair damage already done by him, was
4 not a fit person to be intrusted again with the responsibility of operating a motor
5 vehicle on the public ways”); *Nulter v. State Road Comm’n of W. Va.*, 193 S.E.
6 549, 552-53 (W. Va. 1937) (“Those who do not pay their debts arising from
7 their fault in the operation of a motor vehicle on the public way may be
8 classified by the Legislature as not worthy of a license to operate again.”)
9 (citation and internal quotation omitted)).

10 Because Mr. Briones was adjudged to be 50 percent liable for his car
11 accident with Ms. Simmons, the suspension of his license to obtain leverage for
12 the collection of the Simmons Judgment serves the well-recognized purpose of
13 unsatisfied judgment statutes.

14 **(b). Application of similar unsatisfied judgment**
15 **statutes.**

16 Suspension of Mr. Briones’ license and registration for nonpayment of
17 the Simmons Judgment is also in accord with the application of similar
18 statutory schemes in other jurisdictions. For instance, in *MacQuarrie v.*
19 *McLaughlin*, 294 F. Supp. 176 (D. Mass. 1969), MacQuarrie lent his car to a
20 friend who subsequently struck a car driven by Balch, causing property damage
21 to Balch’s car. *Id.* at 177. Balch obtained a judgment against both the driver
22 and MacQuarrie, and upon nonpayment of the judgment, Balch requested that
23 the Registrar of Motor Vehicles revoke MacQuarrie’s license. *Id.* at 177-78.
24 Despite the fact that MacQuarrie did not actually cause the damage to Balch’s

1 car and was not a negligent driver, the court determined that his license could
2 be revoked. *Id.* at 178-79. The court held that “[a]ctors who are relatively
3 innocent may find themselves liable not only for civil consequences where
4 strong public policy is involved, but for forfeitures against which they have no
5 opportunity to defend at all” (i.e., an owner of a motor vehicle which finds that
6 his car is subject to statutory forfeiture because he loaned the car to a friend
7 who used the car to transport illegal goods). *Id.* at 178.

8 Here, Mr. Briones was found to be 50 percent liable for the damages
9 caused in the accident. (1 Appellant’s App. 13, at AA0045:1-3.) Given that
10 Mr. Briones is less “innocent” than the driver subject to the license revocation
11 in *MacQuarrie*, the suspension of Mr. Briones’ license is warranted. To
12 suspend the license of a non-negligent driver like MacQuarrie, but find that the
13 license of an at-fault driver like Mr. Briones is not subject to suspension merely
14 because he was not a “defendant” in the underlying negligence action, or
15 because the judgment against him is solely for costs and fees, is entirely
16 unreasonable.

17 In *Wilfong v. Wilkins*, 318 S.E.2d 540 (N.C. Ct. App. 1984), Wilfong
18 owned two vehicles, a Pinto and a Camaro, and her estranged husband,
19 Carpenter, was driving the Pinto when he either negligently or intentionally
20 collided with the Camaro and damaged both vehicles. *Id.* 540-41. Wilfong
21 sued Carpenter and obtained a judgment against him for the damages, but after
22 the judgment remained unsatisfied, Wilfong requested that the Department of
23 Motor Vehicles suspend Carpenter’s driving privileges. *Id.* at 541. The
24 Commissioner of the Department of Motor Vehicles contended that suspension

1 was not warranted because Carpenter was in lawful possession of the Pinto at
2 the time of the crash and was insured under Wilfong’s insurance policy;
3 therefore, he satisfied the financial responsibility requirements under North
4 Carolina law. *Id.* at 541. However, the court held that Carpenter’s license
5 should be suspended because the financial responsibility statutes concerning
6 maintenance of liability insurance are entirely unrelated to the unsatisfied
7 judgment statute.” *Id.* at 542 (stating that the North Carolina unsatisfied
8 judgment statute was “free from ambiguity” and “require[d] no construction,
9 only adherence”).

10 *Wilfong* is instructive because it applied the unsatisfied judgment statute
11 to an intentional tortfeasor — not just a negligent actor — who was fully
12 insured at the time of the accident. It also highlights the difference between
13 unsatisfied judgment statutes and other types of financial responsibility statutes.
14 Thus, under the reasoning of *Wilfong*, the ALJ and the district court erred in
15 rescinding the suspension of Mr. Briones’ license.

16 In *Smith v. Commw., Dep’t of Transp., Bureau of Driver Licensing*, 892
17 A.2d 36 (Pa. Commw. Ct. 2006), Smith, an illegally intoxicated minor tried to
18 commit suicide by driving a car registered to his grandmother into his school’s
19 gymnasium. *Id.* at 37. At the time of the crash, Smith was covered by his
20 parents’ insurance policy. *Id.* The school was insured by Utica Mutual
21 Insurance Company (“Utica”). *Id.* Utica indemnified the school for its
22 damages and then, as a subrogee, filed an action against Smith, his father, and
23 his grandparents for negligence and negligent entrustment. *Id.* Utica
24 subsequently obtained a judgment against Smith, and after the judgment

1 remained unsatisfied, Utica requested that the Department of Transportation
2 suspend Smith’s driving privileges. *Id.* The request was granted, but on appeal
3 of the suspension, the district court rescinded the suspension. *Id.* at 37-38. The
4 district court found that the judgment “did not arise from a motor vehicle
5 accident, but instead arose from an intentional act.” *Id.* at 38. However, on
6 further appeal, the Commonwealth Court reinstated the suspension, holding that
7 “the judgment . . . clearly arose from [Smith’s] use and operation of a motor
8 vehicle, albeit in a highly emotional state, which resulted in property damage at
9 his local high school.” *Id.* at 40-41.

10 *Smith* is instructive because the judgment in that case was obtained by an
11 insurer via subrogation. Thus, contrary to the ALJ’s interpretation, the
12 Unsatisfied Judgment Statutes do not apply solely to judgments obtained by the
13 individual injured in the car accident. If an insurer can obtain a suspension of
14 driving privileges on a subrogation judgment, then the Unsatisfied Judgment
15 Statutes should also apply to the Simmons Judgment for costs and fees.

16 In *Steinberg v. Mealey*, 33 N.Y.S. 2d 650 (N.Y. App. Div. 1942),
17 Steinberg was driving a car he did not own when he was in a collision with a
18 car driven by Haas. *Id.* at 654. Haas brought an action against Steinberg and
19 received a jury verdict of \$100, plus an award of costs in the amount of \$15. *Id.*
20 The judgment was not satisfied, and Steinberg subsequently had his license
21 suspended for failure to satisfy the final judgment. *Id.* Under New York law at
22 that time, a driver’s license could be suspended for non-payment of any
23 judgment in excess of \$100.00 for personal injury or property damages. *Id.* at
24 652. The court held that the Commissioner of Motor Vehicles was required to

1 suspend Steinberg’s license under the statute, because the judgment was in
2 excess of \$100.00 when costs were taken into consideration. *Id.* at 653. The
3 court held that:

4 Since liability for costs generally is a legal
5 consequence to the entry of a judgment, a court may,
6 when authorized as in this case, render a judgment for
7 costs as part of the general judgment and as an
8 incident thereto. Even a judgment of dismissal
 usually carries with it the costs of the action and such
 a judgment will authorize the execution and sale of
 the property of the person liable therefor normally
 subject to execution for judgments.

9 *Id.*

10 Here, the costs and fees awarded to Ms. Simmons were not incidental to
11 a judgment for personal injuries or property damages. However, to interpret
12 the Unsatisfied Judgment Statutes as *only* applying to judgments for costs and
13 fees awarded in conjunction with an award for personal or property damages
14 would be unreasonable. Nothing in the express terms of the Statutes or the
15 public policy of the Statutes would necessitate such a narrow interpretation and
16 application. If a judgment of costs and fees is rendered in an action for
17 personal injuries or property damages arising from a motor vehicle accident,
18 the judgment debtor should be subject to license suspension if he fails to timely
19 pay the judgment — regardless if the judgment is the sole award of damages in
20 the case or in addition to an award of personal injury or property damage.

21 In *Tomai-Minogue v. State Farm Mut. Auto. Ins. Co.*, 770 F.2d 1228 (4th
22 Cir. 1985), Tomai-Minogue struck a parked car belonging to a State Farm
23 insured. *Id.* at 1231. At the insured’s request, Tomai-Minogue voluntarily
24 paid \$100 for the damages, and then the insured filed a claim with State Farm

1 for \$230.90. *Id.* State Farm subsequently filed a subrogation action against
2 Tomai-Minogue, and a default judgment was entered against her. *Id.* At State
3 Farm’s request, Tomai-Minogue’s license was then suspended under Virginia’s
4 Motor Vehicle Safety Responsibility Act. *Id.* The revocation of the license
5 was upheld on appeal. *Id.* at 1238.

6 Like the *Smith* case, *Tomai-Minogue* is another example of an insurer
7 (as opposed to the injured party) seeking the suspension of a license for the
8 non-payment of a judgment arising from a car accident. However, Tomai-
9 Minogue had already paid money to the injured party to satisfy the damages
10 caused in the car accident. Thus, the judgment obtained by the insurer had
11 nothing to do with punishing a negligent driver or ensuring full and complete
12 compensation for the injured party. If an insurer can seek license suspension
13 in order to recover payments made to its insureds under an insurance policy,
14 then Ms. Simmons should also be entitled to seek license suspension for the
15 nonpayment of a judgment of costs and fees rendered in the negligence action.

16 In analyzing the scope of the Unsatisfied Judgment Statutes, it is also
17 instructive to review instances in which other states have ***declined to suspend***
18 ***driving privileges*** despite the nonpayment of a judgment. For instance, courts
19 have denied the suspension of driving privileges where: (1) the car accident
20 was caused by a pedestrian throwing rocks from a bridge, as opposed to the
21 negligent operation of a car by a tortfeasor, *Commw., Dep’t of Transp., Bureau*
22 *of Driver Licensing v. Benner*, 616 A.2d 181, 182-84 (Pa. Commw. Ct. 1992);
23 (2) the judgment arose from the breach of contract for repairs to a road tractor,
24 as car repairs is not what “arising out of the maintenance of a motor vehicle”

1 refers to in unsatisfied judgment statutes, *Emmet v. Rickert*, 599 A.2d 1236,
2 1237-40 (Md. Ct. Spec. App. 1992); (3) the judgment was rendered against the
3 parent of a minor child who stole a car and crashed the stolen vehicle, as the
4 parent had no direct or indirect involvement in the car accident and the
5 accident did not involve a car the parent owned or operated, *Franklin v.*
6 *Commw., Dep't of Transp., Bureau of Driver Licensing*, 39 A.3d 453, 453-55
7 (Pa. Commw. Ct. 2012); and (4) the judgment was based on the breach of
8 rental car agreement (for returning the car in a damaged condition), *Kerns v.*
9 *Ohio Dep't of Highway Safety, Bureau of Motor Vehicles*, 587 N.E.2d 930,
10 930-32 (Ohio Ct. App. 1990).

11 Here, the Simmons Judgment does not arise from a breach of contract,
12 and the accident occurred between two drivers found to be equally at fault. (1
13 Appellant's App. 13, at AA0045:1-3.) Therefore, based on an analysis of the
14 application of unsatisfied judgment statutes in other states, Mr. Briones'
15 license and registration should have been suspended for non-payment of the
16 Simmons Judgment.

17 **D. The Public Policies of NRCP 68 and NAR 20 Are Also Served**
18 **by the Suspension of Mr. Briones' License for the Non-**
Payment of the Simmons Judgment.

19 Suspension of Mr. Briones' license would not only serve the important
20 public policy of financial responsibility statutes, but it also serves to support the
21 public policies of NRCP 68 and NAR 20. Specifically, "NAR 20(A) creates a
22 disincentive to relitigating an arbitration award." *Barmettler v. Reno Air, Inc.*,
23 114 Nev. 441, 452, 956 P.2d 1382, 1389 (1998). This is because "[i]n the event
24 of an adverse judgment at the trial de novo proceedings, the party requesting

1 trial de novo risks paying the adverse party’s attorney’s fees.” *Id.* Further, it is
2 well recognized that “[t]he purpose of NRCP 68 is to encourage settlement of
3 lawsuits before trial.” *Allianz Ins. Co. v. Gagnon*, 109 Nev. 990, 994-95, 860
4 P.2d 720, 724 (1993); *see also Bergmann v. Boyce*, 109 Nev. 670, 677-78, 856
5 P.2d 560, 565 (1993) (“An offeree must balance the uncertainty of receiving a
6 more favorable judgment against the risk of receiving a less favorable judgment
7 and being forced to pay the offeror’s costs and attorney’s fees.”); *Dillard Dep’t*
8 *Stores, Inc. v. Beckwith*, 115 Nev. 372, 382, 989 P.2d 882, 888 (1999)
9 (recognizing that the purpose of NRCP 68 is to “reward a party who makes a
10 reasonable offer and punish the party who refuses to accept such an offer”).

11 Mr. Briones chose to reject an Offer of Judgment and to request Trial De
12 Novo after receiving an Arbitration Award in his favor. (1 Appellant’s App.
13 14, at AA0046:19-22; Tab 6, at AA0023-AA0024; Tab 8, at AA0028-
14 AA0030.) As a result, Ms. Simmons was forced to incur attorney’s fees and
15 costs associated with the Short-Trial jury action. Because Mr. Briones failed to
16 obtain a judgment in excess of the Offer of Judgment or the Arbitration Award,
17 Ms. Simmons was awarded her fees and costs. (*Id.* at 23, at AA0111-AA0112.)
18 To allow Mr. Briones to escape responsibility for satisfying this judgment is
19 contrary to the important public policies served by NRCP 68 and NAR 20. It is
20 also contrary to the public policy of unsatisfied judgment statutes, as it forces
21 Ms. Simmons to initiate enforcement proceedings to collect a judgment arising
22 from a car accident. Therefore, the public policies of these rules and statutes
23 dictate that the ALJ and the district court erred in rescinding the suspension of
24 Mr. Briones’ license and registration.

IX. CONCLUSION

For the foregoing reasons, Ms. Simmons respectfully requests that this Court reverse the judgment of the district court and remand the matter to the district court with instructions to, in turn, remand the matter to the Nevada Department of Motor Vehicles Administrative Law Judge with instructions to suspend Mr. Briones' license and registration pursuant to the terms of NRS 485.302(1). *Cramer v. State, Dep't of Motor Vehicles*, 126 Nev. 388, 397, 240 P.3d 8, 13 (2010) (demonstrating that this Court can reverse a denial of a petition for judicial review and remand with instructions for the district court to, in turn, instruct the administrative agency to take specific action).

DATED this 11th day of April, 2016.

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1 I understand that I may be subject to sanctions in the event that the
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3 Rules of Appellate Procedure.

4 DATED this 11th day of April, 2016.

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CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 11th day of April, 2016, service of the foregoing **APPELLANT GENEVA M. SIMMONS' OPENING BRIEF AND APPELLANT'S APPENDIX** was made by electronic service through the Nevada Supreme Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

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