IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PROPOSED AMENDMENTS TO NRCP 16.1, 16.1(b)(1), AND 16.1(e)(1) AND (2).

ADKT 0511

FILED

JAN 06 2016

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

ORDER SCHEDULING PUBLIC HEARING AND REQUESTING PUBLIC COMMENT

On December 17, 2015, the Honorable James W. Hardesty, and the Honorable Mark Gibbons filed a petition in this court requesting that Nevada Rule of Civil Procedure (NRCP) 16.1 be amended. A copy of the petition with the proposed amendments is attached.

The Nevada Supreme Court will conduct a public hearing on the petition on Monday, January 25, 2016, at 1:30 p.m. in the Nevada Supreme Court Courtroom, 200 Lewis Avenue, 17th Floor (Regional Justice Center), Las Vegas, Nevada. The hearing will be videoconferenced to the Nevada Supreme Court Courtroom, 201 South Carson Street, Carson City, Nevada.

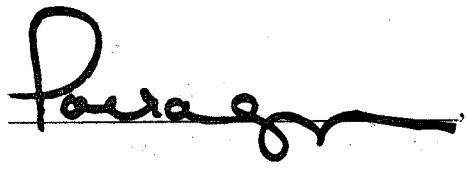
Further, this court invites written comment from the bench, bar and public regarding the proposed amendments. An original and 8 copies of written comments are to be submitted to: Tracie K. Lindeman, Clerk of the Supreme Court, 201 South Carson Street, Carson City, Nevada 89701 by 5:00 p.m., January 22, 2016. Comments must be submitted in hard-copy format. Comments submitted electronically will not be docketed. Persons interested in participating in the hearing must notify the Clerk no later than January 22, 2016.

16-00338

Hearing date: January 25, 2016, at 1:30 p.m.
Supreme Court Courtroom
200 Lewis Avenue, 17th Floor
Regional Justice Center
Las Vegas, Nevada

Comment deadline: January 22, 2016, at 5:00 p.m.
Supreme Court Clerk's Office
201 South Carson Street
Carson City, Nevada 89701

DATED this 6th day of January, 2016.

 , C.J.

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

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DEC 17 2015

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

PETITION

COMES NOW, the undersigned, who petitions this court as follows:

1. The Supreme Court has previously adopted mandatory pretrial discovery requirements pursuant to NRCP 16.1, entitled "MANDATORY PRETRIAL DISCOVERY REQUIREMENTS [Applicable to all civil cases except proceedings in the Family Division of the Second and Eighth Judicial District Courts and domestic relations cases in the judicial districts without a family division.]".

2. NRCP 16.1 presently sets forth a Drafter's Note, Amendment Effective September 30, 2012.

3. This Drafter's Note should be amended to include additional language set forth in Exhibit "A" attached hereto and incorporated herein by reference.

4. NRCP 16.1(b)(1), which discusses "Meet and Confer Requirements," and 16.1(e)(1) and (2), which discuss "Failure or Refusal to Participate in Pretrial Discovery; Sanctions," should be amended as set forth in Exhibit "A" attached hereto and incorporated herein by reference.

Wherefore, petitioner requests that this court, through public hearings, if it deems appropriate, receive additional input from district

15-38006

judges, attorneys and other interested parties regarding the proposed amendments to NRCP 16.1, 16.1(b)(1), and 16.1(e)(1) and (2).

Dated this 17th day of December, 2015.

Respectfully submitted,

JAMES W. HARDESTY, Chief Justice

MARK GIBBONS, Justice

Exhibit "A"

Proposed Supplement to Drafter's Note and Amendments to NRCP 16.1:

Supplemental Drafter's Note, Amendment Effective September 30, 2012 – A non-retained expert, including but not limited to a treating physician, who is not identified at the time the expert disclosures are due, may be subsequently disclosed in accordance with NRCP 26(e), without first moving to reopen the expert disclosure deadlines or otherwise seeking leave of court, if such disclosure is made in accordance with NRCP 16.1(a)(2)(B) and is seasonably made after the non-retained expert's opinions become known to the disclosing party.

Proposed Amendments to NRCP 16.1(b)(1) and NRCP 16.1(e)(1), (2):

(b) Meet and Confer Requirements.

(1) Attendance at Early Case Conference. Unless the case is in the court annexed arbitration program or short trial program, within 30 days after filing of an answer by the first answering defendant, and thereafter, if requested by a subsequent appearing party, the parties shall meet in person to confer and consider the nature and basis of their claims and defenses and the possibilities for a prompt settlement or resolution of the case, to make or arrange for the disclosures required by subdivision (a)(1) of this rule and to develop a discovery plan pursuant to subdivision (b)(2). The attorney for the plaintiff shall designate the time and place of each meeting which must be held in the county where the action was filed, unless the parties agree upon a different location. The attorneys may agree to continue the time for the case conference for an additional period of not more than 90 days. The court, in its discretion and for good cause shown, may also continue the time for the conference. Absent compelling and extraordinary circumstances, neither the court nor the parties may extend the time to a day more than 180 days from the filing of the answer by the first answering brief. ~~after an appearance is served by the defendant in question.~~

Unless otherwise ordered by the court or the discovery commissioner, parties to any case wherein a timely trial de novo request has been filed subsequent to an arbitration, need not hold a further in person conference, but must file a joint case conference report pursuant to subdivision (c) of this

rule within 60 days from the date of the de novo filing, said report to be prepared by the party requesting the trial de novo.

(e) Failure or Refusal to Participate in Pretrial Discovery; Sanctions.

(1) If the conference described in Rule 16.1(b) is not held within 180 days from the filing of the answer by the first answering defendant ~~after an appearance by a defendant~~, the case may be dismissed as to that defendant upon motion or on the court's own initiative, without prejudice, unless there are compelling and extraordinary circumstances for a continuance beyond this period.

(2) If the plaintiff does not file a case conference report within 240 days from the filing of the answer by the first answering defendant ~~after an appearance by a defendant~~, the case may be dismissed as to that defendant upon motion or on the court's own initiative, without prejudice.