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March 14, 2016

Hon. Ron Parraguirre  
Chief Justice, Supreme Court of Nevada  
201 South Carson Street, #300  
Carson City, NV 89701

**Re:** EDCR 5 Re-Write (ADKT 512)

Dear Justice Parraguirre:

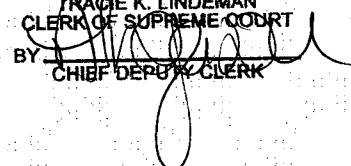
Thank you for taking the time to discuss this at Ely. As requested, below is a relayed request from Clark County Domestic Violence Commissioner William L. Croft for a slight modification to proposed EDCRs; he explained that his office had not fully reviewed before it went from the Committee to the judges and then to the Supreme Court. We've also spotted one additional typo, in case that is of help to your copy editors.

### I. THE DOMESTIC VIOLENCE PROVISION

The domestic violence provisions were substantially modified during committee review, less for substance than for clarity. They were broken into two parts: 5.105, dealing with the masters themselves, and 5.518, dealing with the process for temporary and extended orders.

**FILED**

**APR 12 2016**

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

16-11442

Hon. Ron Parraguirre

March 14, 2016

Page 2

Commissioner Croft asks to retain some provisions now set out at EDCR 5.22(j).<sup>1</sup> Specifically, he requests that the new rule set retain most of a provision from the existing rules<sup>2</sup> permitting the judge or master issuing a TPO to perform a limited independent investigation through other court resources to see if a CPS case is open, or if there is a domestic violence history.

The basic reason for that existing provision is that initial TPO applications are usually made by *pro se* litigants with a limited ability to explain either their history or the reason for the application, and the additional information assists the master or judge in determining the likelihood that whatever is put in the application does or should reach the “satisfaction of the court” threshold for issuance of a TPO, while still safeguarding against spurious or unwarranted applications.<sup>3</sup>

I was the equivalent of the “reporter” for the Committee that re-wrote EDCR 5, and have kept some notes as to what was done by the Committee and why. I believe the

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<sup>1</sup> (j) In determining whether or not to issue an ex parte TPO pursuant to NRS 33.020, the assigned district court judge or the domestic violence commissioner may take steps to verify the written information provided by the applicant. This verification may include contacting Child Protective Services to determine whether a case is under investigation by that agency and involving either party. Child Protective Services or other agencies may be requested to attend the protection order hearing. Prior domestic violence history of either party may also be researched using criminal justice resources.

<sup>2</sup> Some provisions have been moved to other subsections, and altered, such as proposed 5.518(c)(3), which solves certain inter-agency problems that have surfaced over the years by granting explicit power to “direct representatives of Child Protective Services or other agencies to attend a protection order hearing by subpoena or court order.”

<sup>3</sup> In Commissioner Croft’s words: “The . . . provision not only enhances the judicial officer’s ability to craft the appropriate orders to protect victims and minor children in domestic violence situations, but also contemplates the due process considerations of the alleged perpetrator/Adverse party.”

existing provision was deleted at the request of one of the judge members of the Committee, who had a due process concern with review of any information outside the application.

Commissioner Croft left to me where to suggest placement of such a rule, if deemed advisable to retain. Since it is impossible to re-convene the Committee at this point, I am simply doing the technical analysis he requested, while making no comments as to its advisability, and copying Presiding Judge Hoskin in case he has any response to the request.

Because a TPO may be issued by either a judge or master, it would be better to put the requested provision in 5.518 rather than 5.105. If it was to be re-added, it should probably go in 5.518(a), between the proposed (2) and (3) in the ADKT. Putting it in language compatible with the new rules, it should probably be worded something like:

The court may take steps to verify the written information provided by the applicant, including whether a Child Protective Services case involving any party is or has been opened, and whether any party has been or is a party to any other proceeding involving domestic violence.

## II. THE TYPO

The typographical omission just noticed is in 5.504. Existing text in the ADKT:

.....  
Rule 5.504 Proposed orders

Parties may supply proposed orders to the court and opposing party at least three days prior to the hearing. Proposed orders may include such findings, conclusions, and orders as the submitting believes relevant to each point in dispute in the proceedings. Unless otherwise directed by the court, a party may supply an editable electronic copy of a proposed order to the court's law clerk concurrently with the submission of the proposed order. The Presiding Judge shall direct what format is acceptable for such

Hon. Ron Parraguirre  
March 14, 2016  
Page 4

editable submissions, or make other administrative directions relating to proposed orders.

.....

Typographical omission noted/fixed in bold/italics:

.....

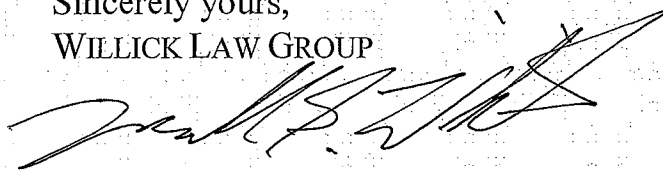
Rule 5.504 Proposed orders

Parties may supply proposed orders to the court and opposing party at least three days prior to the hearing. Proposed orders may include such findings, conclusions, and orders as the submitting *party* believes relevant to each point in dispute in the proceedings. Unless otherwise directed by the court, a party may supply an editable electronic copy of a proposed order to the court's law clerk concurrently with the submission of the proposed order. The Presiding Judge shall direct what format is acceptable for such editable submissions, or make other administrative directions relating to proposed orders.

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Of course, please let me know if you have any questions or requests, or there is anything that I might provide to assist in review or implementation of the revised EDCR 5.

Sincerely yours,  
WILICK LAW GROUP



Marshal S. Willick, Esq.

cc: Commissioner William L. Croft  
Hon. Charles J. Hoskin  
Tracie Lindeman, Clerk of the Court