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LEGAL AID CENTER
■ ■ ■ ■ of Southern Nevada

June 25, 2020

Via Email Only

Elizabeth Brown
Clerk of the Supreme Court
Nevada Supreme Court
201 South Carson Street
Carson City, NV 89701
nvscclerk@nvcourts.nv.gov

FILED

JUN 26 2020

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

Re: Rule 41(e) Amendment

In re Amendment of Rule 41(e) of the Nevada Rules of Civil Procedure,
ADKT 0560

Dear Ms. Brown:

We welcome the opportunity to comment on the proposed amendment to Nevada Rule of Civil Procedure 41(e) in light of the unprecedented challenges brought about by the COVID-19 pandemic. We applaud the Court and the committee's efforts in recognizing the problem and acting swiftly to address it.

Legal Aid Center's mission is to preserve access to justice, and to provide quality legal counsel, advice and representation for individuals who are unable to protect their rights because they cannot afford an attorney. Our comments are therefore focused on the impact the proposed rule change may have on the multitude of unrepresented parties navigating the legal system without the assistance of counsel and for consumers whom we represent in various cases.

We support changes to Rule 41(e) that would allow the district courts flexibility in extending the time in which litigants have to bring a case to trial for periods where it was impossible, impracticable, or futile. We think that the better approach is to adopt the California rules' computation of time as noted in paragraph 11 of the petition.¹ To address concerns that those changes might not be enough, we would suggest that the Court include a comment further fleshing out how the district court should interpret the change in response to the challenges brought about by the

¹"In computing the time within which an action must be brought to trial pursuant to this article, there shall be excluded the time during which any of the following conditions existed: . . .
(c) Bringing the action to trial, for any other reason, was impossible, impracticable, or futile." Cal. Code Civ. Proc. § 583.340(c).

"If the time within which an action must be brought to trial pursuant to this article is tolled or otherwise extended pursuant to statute with the result that at the end of the period of tolling or extension less than six months remains within which the action must be brought to trial, the action shall not be dismissed pursuant to this article if the action is brought to trial within six months after the end of the period of tolling or extension." Cal. Code Civ. Proc. § 583.350.

RECEIVED
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ELIZABETH A. BROWN
CLERK OF SUPREME COURT
CHIEF DEPUTY CLERK

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pandemic.

Justice delayed for our clients, as for any other litigant, is justice denied. Nevada's hallmark for moving cases to trial as quickly as is practical is the long-standing five-year deadline contained in Rule 41(e). To remove the deadline would likely encourage slow-walking of cases to trial and may delay the prosecution of cases for many years, possibly even a decade. Further, inaction by a plaintiff against a consumer is likely to harm the most vulnerable defendants by creating anxiety and uncertainty about when, or if, their cases will ever move forward.

Thus, to include in Rule 41(e) language that requires the exclusion of time during which it was impossible, impracticable, or futile to bring the case to trial, seems to strike the right balance between providing flexibility and encouraging the parties to move their cases to conclusion. This change would address the immediate purpose for the requested change without abandoning a long-standing practice in Nevada that serves to encourage prompt resolution and keeps the court's docket clear, all of which benefits litigants. Changes based on the California rule should therefore be adopted.

I will attend the public hearing from our office to provide oral comments and to answer any questions from the justices.

Thank you for your consideration of our comments.

Very Truly Yours,

**LEGAL AID CENTER OF
SOUTHERN NEVADA, INC.**

A handwritten signature in black ink, appearing to read 'PJ Goatz', written over a horizontal line.

Peter J. Goatz, Esq.