

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE
AMENDMENTS TO THE DISTRICT
COURT RULES.

ADKT 0569

FILED

NOV 30 2020

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


PETITION

COMES NOW, Mark Gibbons, Associate Chief Justice of the Nevada Supreme Court, who petitions the Supreme Court on its Administrative Docket to amend District Court Rules 7, 8, 9, 10, 11, 13, 16, 18, and 22 as follows:

1. The amendments set time periods to 7 and 14 days to comply with the 2019 amendments to NRCP 6; and
2. Remove references to "he" and "his."

Accordingly, the petitioner requests that this court place this matter on its administrative docket, hold such hearings as it deem necessary, and consider the amendments of District Court Rules 7, 8, 9, 10, 11, 13, 16, 18, and 22 to incorporate the provisions set forth in the attached Exhibit A.

Respectfully submitted this 30TH day of November, 2020.


_____, A.C.J.
Gibbons

20-43333

EXHIBIT A

Rule 7. Setting of cases for trial; pretrial conferences.

1. Each judge shall fix at least one law day in each month for the setting of cases for trial on issues of fact, unless the business of ~~his~~ the his judicial district or of any county thereof requires a different arrangement.

2. Civil cases at issue upon questions of fact may be set for trial on the issues of fact on any law day, ~~5~~ 7 days' previous written notice of such motion having been given by the moving party to the opposite party or parties or, on the court's own initiative, after ~~5~~ 7 days' notice to all counsel.

Rule 8. Notice to clerk, attorneys when court will sit in county where court not in continuous session.

1. The judge who is to hold court in any county where court is not held continuously shall give the clerk of such county notice of the date and time when court will sit.

2. Immediately upon receiving such notice, the clerk shall give all the attorneys having business in the court, as shown by the calendar, and also all attorneys practicing in ~~his~~ the county, notice in writing of the date and time when court will be held.

Rule 9. Law days: Precedence of law questions; notice; continuances.

1. Each district court shall designate a day or days on which law questions shall take precedence, when at issue, and be heard without previous setting or notice, unless the court, for good cause, continues the consideration thereof.

2. The absence of an attorney or a party shall not in itself be sufficient ground for a continuance, where the opposing attorney or party, whether the moving party or not, has given at least ~~5~~ 7 days' written notice that he will call up the law question sought to be determined on a law day specified in the notice.

3. When it appears to the court that such written notice has been given, the court shall not, unless the other business of the court requires such action, further continue the matter specified in the notice except upon a showing by motion supported by affidavit or oral testimony that such continuance is in good faith reasonably necessary and is not sought merely for delay or by reason of neglect.

Rule 10. Duties of bailiff, sheriff. During the time the court remains in session the bailiff, if there is one, or the sheriff or ~~[his]~~ the sheriff's deputy in attendance pursuant to law if there is no bailiff, shall:

1. Prevent all persons from coming within the bar except officers of the court, attorneys and parties to, or jurors or witnesses in, the cause or matter being tried or heard.
2. Keep the passageway to the bar clear for ingress or egress.
3. Preserve order in the court and within the hearing of the court.
4. Attend the needs of the jury.
5. Open and close court.
6. Perform such other duties as are required by the district court judge.

Rule 11. Custody and withdrawal of papers, records and exhibits.

1. The clerk shall have custody to the records and papers of the court. ~~[He]~~ The clerk shall not permit any original record, paper or exhibit to be taken from the courtroom, judge's chambers or from ~~[his]~~ the clerk's office, except at the direction of the court or as provided by statute or these rules.

2. Papers, records or exhibits belonging to the files of the court may be temporarily withdrawn from the office and custody of the clerk for a limited time upon the special order of the judge in writing, specifying the record, paper or exhibit, and limiting the time the same may be retained. A receipt shall be given for any paper, record or exhibit so withdrawn from the files.

3. Models, diagrams and exhibits of material forming part of the evidence taken in a case may be withdrawn by order of the court in the following manner:

- (a) By stipulation of the parties.
- (b) By motion made after notice to the adverse party.
- (c) After a judgment is final, by the party introducing the same in evidence, unless the model, diagram or exhibit is obtained from the adverse party. If any model, diagram or exhibit is withdrawn under this paragraph (c) the party or attorney who withdraws the same shall file an affidavit with the clerk to the effect that the person who withdraws it is the owner of or lawfully entitled to the possession of the model, diagram or exhibit.

Withdrawal of any model, diagram or exhibit shall be on court order on such terms and conditions as the court may impose, and a receipt therefor shall be filed with the clerk.

Rule 13. Motions: Procedure for making motions; affidavits; renewal, rehearing of motions.

1. All motions shall contain a notice of motion, with due proof of the service of the same, setting the matter on the court's law day or at some other time fixed by the court or clerk.

2. A party filing a motion shall also serve and file with it a memorandum of points and authorities in support of each ground thereof. The absence of such memorandum may be construed as an admission that the motion is not meritorious and cause for its denial or as a waiver of all grounds not so supported.

3. Within ~~[10]~~ 14 days after the service of the motion, the opposing party shall serve and file ~~[his]~~ a written opposition thereto, together with a memorandum of points and authorities and supporting affidavits, if any, stating facts showing why the motion should be denied. Failure of the opposing party to serve and file ~~[his]~~ a written opposition may be construed as an admission that the motion is meritorious and a consent to granting the same.

4. The moving party may serve and file reply points and authorities within ~~[5]~~ 7 days after service of the answering points and authorities. Upon the expiration of the ~~[5]~~ 7-day period, either party may notify the calendar clerk to submit the matter for decision by filing and serving all parties with a written request for submission of the motion on a form supplied by the calendar clerk. A copy of the form shall be delivered to the calendar clerk, and proof of service shall be filed in the action.

5. The affidavits to be used by either party shall identify the affiant, the party on whose behalf it is submitted, and the motion or application to which it pertains and shall be served and filed with the motion, or opposition to which it relates.

Affidavits shall contain only factual, evidentiary matter, shall conform with the requirements of NRCP 56(e), and shall avoid mere general conclusions or argument. Affidavits substantially defective in these respects may be stricken, wholly or in part.

6. Factual contentions involved in any pre-trial or post-trial motion shall be initially presented and heard upon affidavits. Oral testimony may be received at the hearing with the approval of the court, or the court may set the matter for a hearing at a time in the future and

allow oral examination of the affiants to resolve factual issues shown by the affidavits to be in dispute.

7. No motion once heard and disposed of shall be renewed in the same cause, nor shall the same matters therein embraced be reheard, unless by leave of the court granted upon motion therefor, after notice of such motion to the adverse parties.

Rule 16. Stipulations to be in writing or to be entered in court minutes. No agreement or stipulation between the parties in a cause or their attorneys, in respect to proceedings therein, will be regarded unless the same shall, by consent, be entered in the minutes in the form of an order, or unless the same shall be in writing subscribed by the party against whom the same shall be alleged, or by **[his]** the party's attorney.

Rule 18. Trial, hearing of cause, proceeding, motion entered into by one judge prevents action by another judge unless requested; only judge having charge of cause may grant further time to plead, act, unless [his] the judge's inability shown by affidavit; modification of rule in judicial districts having more than one judge, another judge requested, or another judge assigned.

1. When any district judge shall have entered upon the trial or hearing of any cause, proceeding or motion, or made any ruling, order or decision therein, no other judge shall do any act or thing in or about such cause, proceeding or motion, unless upon the written request of the judge who shall have first entered upon the trial or hearing of such cause, proceeding or motion.

2. No judge except a judge of the district where the cause or proceeding is pending shall grant further time to plead, move or do any act or thing required to be done in any cause or proceeding unless:

(a) The judge is absent from the state or from other cause is unavailable to act; or

(b) Another judge has been requested to act by the judge having charge of the cause; or

(c) Another judge is assigned to the court by the chief justice in which case he may hear any matter coming before the court during the period of assignment.

3. In the event that a district court judge intends to recuse from participation in a case based upon actual or implied bias toward an attorney at law or law firm for one of the parties, the district court judge shall set forth the basis for recusal in an order filed with the clerk of the

court that contains specific findings of fact and citations to the Nevada Code of Judicial Conduct.

Rule 22. Transfer of certain cases to district court from justice court under NRS 66.070: Grounds for dismissal of action.

1. The plaintiff shall cause the papers in a case certified to this court under the provisions of NRS 66.070 to be filed in the office of the clerk of this court within ~~[15]~~ 14 days from the day upon which the order of the justice of the peace is made directing the transfer of the case.

2. If the papers are not so filed the case shall be dismissed:

(a) Upon filing a certificate from the justice of the peace to the effect that he has certified the papers as required by NRS 66.070, but that the same have not been ordered up, or the proper costs paid; or

(b) If it shall appear that such papers are not filed in this court by reason of the neglect of the plaintiff to pay the fees of the clerk for filing the same.