

FILED

Brown, Elizabeth

FEB 22 2021

**From:** Anderton, Michelle <michelle.anderton@allstate.com>  
**Sent:** Monday, February 22, 2021 3:45 PM  
**To:** Supreme Court Clerk  
**Subject:** OBJECTION on ADKT 0575 and request to participate in the March 2, 2021 Public Hearing

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

**Importance:** High

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Dear Elizabeth Brown

Please note my **OBJECTION** to ADKT 0575.

I was surprised to hear of this proposed revision and more surprised later to learn at the Civil Bench/Bar Meeting in Clark County on February 8, 2021 that this proposal is the brain-child of Eric Dobberstein, the President of the State Bar. To hear Mr. Dobberstein describe during the bench-bar meeting why he made this proposal, one would think he is the President of the Nevada Justice Association representing only Plaintiff personal injury attorneys, not the President of all lawyers in the state. (*The civil bench bar meeting was recorded*). Prior to the January 22, 2021 filing of the subject petition there was no proposal to the members of the Bar of which I am aware, rather merely a "highlight of the proposed changes" given to the Board of Governors in their December 2020 meeting.

Under ADKT 0575 arbitrator/judge fees and the maximum award of attorney fees would drastically increase without a reasonable basis. Such an extreme action would ultimately hinder the successful ADR program in Nevada.

The court-annexed arbitration program is nearing its 30-year anniversary. It works well because of the way it is structured. The purpose of the program is not to give those who act as arbitrators or short trial judges a solid source of income but rather to simplify the process to allow many files to resolve in a "prompt and equitable" manner. Other states have similar programs where the arbitrators and mediators serve at no expense to the parties. Many arbitrators and short trial judges in Nevada serve in that capacity to give assistance to the community and treat it as *quasi pro bono* work. I am not aware of any shortage of arbitrators or short trial judges willing to serve with the fees that are presently allowed. The arbitrator or *pro tem* fees should serve to offset the time and expenses incurred by the arbitrator, not fully compensate them for their time at the hourly rate billed by some attorneys. While a modest increase in the hourly fee and the capped fee at both the arbitration and the short trial level may be warranted, the amounts proposed are improvident.

Of even greater concern, the proposal seeks a **233%** increase in the attorney fees that can be awarded following an arbitration award. The logic for such a steep proposed increase in a program designed to encourage prompt and equitable resolution defies reason without an understanding of Mr. Dobberstein's motives as he revealed at the February 8 civil bench bar meeting. If ADKT 0575 is accepted and the ADR rules amended, the purpose of court-annexed arbitration will be thwarted and more arbitration decisions and awards will be de novo'd to short trial where no similar increase is proposed.

At a very minimum, this proposal should be tabled until comments from members of the bar and those who serve as arbitrators, mediators, and short trial judges can be obtained. It is important that the integrity of the program be maintained and the purpose of the program be preserved.

I would appreciate the opportunity to be heard at the public hearing on March 2, 2021.

Please let me know if you have questions or if you need additional information from me prior to the hearing.

Michelle L. Anderton

Lead Counsel

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