IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE CREATION OF A COMMISSION ON NEVADA RULES OF APPELLATE PROCEDURE.

No. ADKT 0580

FILED
JAN 29 2024
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

PETITION

Justice Kristina Pickering of the Nevada Supreme Court and Judge Bonnie A. Bulla and Judge Deborah Westbrook of the Nevada Court of Appeals petition this Court to amend the Nevada Rules of Appellate Procedure. In support of the petition, Justice Pickering, Judge Bulla, and Judge Westbrook allege that:

1. On August 13, 2021, the Nevada Supreme Court appointed a commission to consider whether the Nevada Rules of Appellate Procedure should be updated and, if so, to recommend appropriate revisions.

2. The Commission consists of Justice Kristina Pickering, Senior Justice Abbi Silver, Judge Bonnie A. Bulla, Judge Deborah Westbrook, Chief Judge Michael Gibbons, and Attorneys Sally Bassett, Alexander Chen, Sharon Dickinson, Kelly Dove, Micah S. Echols, Robert L. Eisenberg, Dayvid Figler, Charlie Finlayson, Travis Gerber, Adam Hosmer-Henner, Phaedra Kalicki, Debbie Leonard, Emily McFarling, Erica C. Medley, Julie Ollom, John Petty, Daniel F. Polsenberg, Steve M. Silva, Abraham Smith, Jordan Smith, Don Springmeyer, David Stanton, JoNell Thomas, Jessica E. Whelan, and J. Colby Williams.

3. The Commission held regularly scheduled meetings over the course of the past two years, the agendas and minutes from which, along

24-03414

with proposed recommended revisions, are publicly available at https://nvcourts.gov/aoc/committees_and_commissions/nrap/overview.

4. After considering the comments of its members and those of the bench and bar who offered comments, the Commission submits the following preliminary rule drafts for the Nevada Supreme Court's consideration:

- Exhibit A: Nevada Rules of Appellate Procedure (clean copy with Reviewing Notes)
- Exhibit B: Nevada Rules of Appellate Procedure (redline against the existing Nevada Rules of Appellate Procedure, with Reviewing Notes)
- Exhibit C: Repeal of the Appendix of Forms
- Exhibit D: Appendix of Forms Replacement

Accordingly, petitioners request that the Nevada Supreme Court hold such public hearings and receive such additional input from judges, attorneys, and other interested parties regarding the proposed amendments as the Court deems appropriate, and that the Court consider and adopt the proposed rule amendments.

Dated this 29th day of January 2024.

Respectfully submitted,

Kristina Pickering, Justice

Bonnie A. Bulla, Judge

Deborah Westbrook, Judge

EXHIBIT A

NEVADA RULES OF APPELLATE PROCEDURE

I. APPLICABILITY OF RULES

RULE 1. SCOPE, CONSTRUCTION OF RULES

(a) Scope of Rules. These Rules govern procedure in the Supreme Court of Nevada and the Nevada Court of Appeals.

(b) Rules Not to Affect Jurisdiction. These Rules must not be construed to extend or limit the jurisdiction of the Supreme Court or the Court of Appeals as established by law.

(c) Construction of Rules. These Rules must be liberally construed to secure the proper and efficient administration of the business and affairs of the courts and to promote and facilitate the administration of justice by the courts.

(d) Effect of Rule and Subdivision Headings. Rule and subdivision headings set forth in these Rules must not in any manner affect the scope, meaning, or intent of any of the provisions of these Rules.

(e) Definitions of Words and Terms. In these Rules, unless the context or subject matter otherwise requires:

(1) "Appellant" includes, if appropriate, a petitioner.

(2) "Case" includes action and proceeding.

(3) "Clerk" and "clerk of the Supreme Court" means the person appointed to serve as clerk of both the Supreme Court and Court of Appeals.

(4) "Court" means the Supreme Court or Court of Appeals.

(5) "Party," "applicant," "petitioner," or any other designation of a party includes such party's attorney of record. Whenever under these Rules a notice

or other paper is required to be given or served on a party, such notice or service must be made on the party's attorney of record if the party has one.

(6) "Person" includes and applies to corporations, firms, associations, and all other entities, as well as natural persons.

(7) "Pro se" or "unrepresented" refers to a party acting on his or her own behalf without the assistance of counsel.

(8) "Postconviction appeal" includes any appeal from an order resolving a postconviction challenge to a judgment of conviction, sentence, or the computation of time served under a judgment of conviction, including, but not limited to, proceedings instituted under NRS Chapter 34.

(9) "Shall" and "must" are mandatory and "may" is permissive.

(10) The past, present, and future tense each include the others; the masculine, feminine, and neuter gender include the others; and the singular and plural numbers each include the other.

REVIEWING NOTE

The proposed amendments to the language of this Rule are intended to make style and terminology consistent throughout the Rules. The only substantive edits are the addition of the term "unrepresented" in subdivision (e)(7) to reflect the use of that term in many of the rules, and the addition of the term "must" in subdivision (e)(9) to reflect the replacement of "shall" with "must" in many of the rule amendments.

RULE 2. SUSPENSION OF RULES

On the court's own or a party's motion, the court may—to expedite its decision or for other good cause—suspend any provision of these Rules in a particular case and order proceedings as the court directs, except as otherwise provided in Rule 26(b).

II. APPEALS FROM JUDGMENTS AND ORDERS OF DISTRICT COURTS

RULE 3. APPEAL—HOW TAKEN

(a) Filing the Notice of Appeal.

(1) Except for automatic appeals from a judgment of death under NRS 177.055, an appeal permitted by law from a district court may be taken only by filing a notice of appeal with the district court clerk within the time allowed by Rule 4.

(2) An appellant's failure to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for the court to act as it deems appropriate, including dismissing the appeal.

(3) The district court clerk must file an appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay any district court fees or Supreme Court filing fee. The district court clerk must apprise the appellant of the deficiencies in writing, and must send the notice of appeal to the Supreme Court in accordance with Rule 3(g) with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court must docket the appeal in accordance with Rule 12.

(b) Joint or Consolidated Appeals.

(1) When two or more parties are entitled to appeal from a district court judgment or order, and their interests make joinder practicable, they may file a joint notice of appeal. They may then proceed on appeal as a single appellant.

(2) When the parties have filed separate timely notices of appeal, the appeals may be joined or consolidated by the court upon its own motion or upon motion of a party.

(c) Contents of the Notice of Appeal.

(1) The notice of appeal must:

(A) specify the party or parties taking the appeal by naming each one in the caption or body of the notice, but an attorney representing more than one party may describe those parties with such terms as "all plaintiffs," "the defendants," "the plaintiffs A, B, et al.," or "all defendants except X";

(B) designate the judgment, order, or part thereof being appealed; and

(C) name the court to which the appeal is taken.

(2) A notice of appeal may identify multiple separately appealable determinations issued in the same underlying matter.

(3) In a class action, whether or not the class has been certified, the notice of appeal is sufficient if it names one person qualified to bring the appeal as representative of the class.

(4) The Notice of Appeal Form on the Nevada Supreme Court website is a suggested form of a notice of appeal.

(d) Serving the Notice of Appeal.

(1) In General. The appellant must serve the notice of appeal on all parties to the action in the district court. Service on a party represented by counsel must be made on counsel. If a party is not represented by counsel, the appellant must serve the notice of appeal on the party at the party's last known address. Unless the appellant serves a file-stamped copy of the notice of appeal, the notice of appeal served must indicate the date when it was filed or submitted for filing. The notice of appeal filed with the district court clerk must contain an acknowledgment of service or proof of service that conforms to the requirements of Rule 25(d).

(2) Service in Criminal Appeals. When a defendant in a criminal case appeals, the defendant's counsel must also serve a copy of the notice of appeal

on the defendant, either by personal service or by mail addressed to the defendant. In criminal appeals governed by Rule 3C, trial counsel must comply with the provisions of this Rule and Rule 3C(c) governing service of the notice of appeal.

(e) Payment of Fees. Except where provided by statute, upon filing a notice of appeal, the appellant must pay the district court clerk the Supreme Court filing fee and any fees charged by the district court. The Supreme Court filing fee is $250 for each notice of appeal filed. No filing fee is required for amended notices of appeal filed under Rule 4(a)(8).

(f) Case Appeal Statement.

(1) Appellant's Duty to File Case Appeal Statement. Upon filing a notice of appeal, the appellant must also file with the district court clerk a completed case appeal statement that is signed by appellant's counsel.

(2) District Court's Duty to Complete Case Appeal Statement. When the appellant is not represented by counsel, the district court clerk must complete and sign the case appeal statement.

(3) Contents of Case Appeal Statement. The case appeal statement must contain the following information:

(A) the district court case number and caption showing the names of all parties to the proceedings below, but the use of et al. to denote parties is prohibited;

(B) the name of the judge who entered the order or judgment being appealed;

(C) the name of each appellant and the name and address of counsel for each appellant;

(D) the name of each respondent and the name and address of appellate counsel, if known, for each respondent, but if the name of a

respondent's appellate counsel is not known, then the name and address of that respondent's trial counsel;

(E) whether an attorney identified in response to Rule 3(f)(3)(C) or (D) is not licensed to practice law in Nevada, and if so, whether the district court granted that attorney permission to appear under SCR 42, including a copy of any district court order granting that permission;

(F) whether the appellant was represented by appointed counsel in the district court, and whether the appellant is represented by appointed counsel on appeal;

(G) whether the district court granted the appellant leave to proceed in forma pauperis, and if so, the date of the district court's order granting that leave;

(H) the date that the proceedings commenced in the district court;

(I) a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court;

(J) whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court or Court of Appeals and, if so, the caption and docket number of the prior proceeding;

(K) whether the primary issue on appeal involves child custody, guardianship of minors, parenting time, or visitation; and

(L) in civil cases, whether the appeal involves the possibility of settlement.

(4) Form Case Appeal Statement. A case appeal statement must substantially comply with the Case Appeal Statement Form on the Nevada Supreme Court website.

(g) Forwarding Appeal Documents to Supreme Court.

(1) District Court Clerk's Duty to Forward.

(A) Upon the filing of the notice of appeal, the district court clerk must immediately forward to the clerk of the Supreme Court the required filing fee, together with a certified, file-stamped copy of the following documents:

(i) the notice of appeal;

(ii) the case appeal statement;

(iii) any transcript request form filed with the notice of appeal;

(iv) the district court docket entries;

(v) the civil case cover sheet, if any;

(vi) the judgment(s) or order(s) being appealed;

(vii) any notice of entry of the judgment(s) or order(s) being appealed;

(viii) any certification order directing entry of judgment in accordance with NRCP 54(b);

(ix) the minutes of the district court proceedings; and

(x) a list of exhibits offered into evidence, if any.

(B) If, at the time of filing of the notice of appeal, any of the enumerated documents have not been filed in the district court, the district court clerk must nonetheless forward the notice of appeal together with all documents then on file with the clerk.

(C) The district court clerk must promptly forward any later docket entries to the clerk of the Supreme Court.

(2) Appellant's Duty. An appellant must take all action necessary to enable the district court clerk to assemble and forward the documents enumerated in Rule 3(g)(1).

REVIEWING NOTE

With a few exceptions, the amendments to this Rule are mostly intended to be stylistic.

Subdivision (c)(2) was added to clarify that a party may identify multiple separately appealable determinations in a single notice of appeal.

In subdivision (d)(1), the language "or submitted for filing" was added to account for the fact that it is the clerk who controls the filing of a document and a party may not know the actual filing date if they simultaneously submit a notice of appeal for filing with the district court and serve the opposing parties with the notice of appeal.

Subdivision (f)(3)(E) was updated to match the requirement on the Case Appeal Statement Form. Subdivision (f)(3)(K) was amended to include additional types of appeals that must be noted in the case appeal statement to make it easier to identify appeals that will be subject to expedited treatment under NRAP 16.

Subdivision (g)(1)(A). Because NRAP 3C requires an appellant to file and serve the transcript request form on the same date the notice of appeal is filed, subdivision (g)(1)(A) was updated to require the district court clerk to transmit any transcript request form that may have been filed with the notice of appeal.

RULE 3A. CIVIL ACTIONS: STANDING TO APPEAL; APPEALABLE DETERMINATIONS

(a) Standing to Appeal. A party who is aggrieved by an appealable judgment or order may appeal from that judgment or order, with or without first moving for a new trial.

(b) Appealable Determinations. An appeal may be taken from the following judgments and orders of a district court in a civil action:

(1) A final judgment entered in an action or proceeding commenced in the court in which the judgment is rendered.

(2) A post-judgment order granting or denying a motion under NRCP 50(b), 52(b), or 59, provided all such motions are resolved as required by Rule 4(a)(5).

(3) An order granting or refusing to grant an injunction or dissolving or refusing to dissolve an injunction.

(4) An order appointing or refusing to appoint a receiver or vacating or refusing to vacate an order appointing a receiver.

(5) An order dissolving or refusing to dissolve an attachment.

(6) An order changing or refusing to change the place of trial of an action or proceeding. Whenever an appeal is taken from such an order, the clerk of the district court must forthwith certify and transmit to the clerk of the Supreme Court, as the record on appeal, the original papers on which the motion was heard in the district court and, if the appellant or respondent demands it, a transcript of any proceedings had in the district court. The district court must require its court reporter to expedite the preparation of the transcript. When the appeal is docketed in the Supreme Court, it stands submitted without further briefs or oral argument unless the court otherwise orders.

(7) A final order that did not arise in a juvenile court and that pertains to child custody, guardianship of minors, parenting time, visitation, or relocation of a minor, whether from initial proceedings or proceedings after the first final order. An order will be deemed final when all pending issues of child custody, guardianship of minors, parenting time, visitation, or relocation of a minor are resolved.

(8) A special order entered after final judgment, including a post-judgment order awarding or refusing attorney fees or costs or granting or denying relief under NRCP 60(b), or any other post-judgment order affecting the rights of a party incorporated in the judgment.

(9) An interlocutory order or decree in an action to redeem real or personal property from a mortgage or lien that determines the right to redeem and directs an accounting.

(10) An interlocutory order in an action for partition that determines the rights and interests of the respective parties and directs a partition, sale, or division.

(11) An order holding a party in contempt, whether designated as civil or criminal, if the order imposes or threatens a sentence of imprisonment.

(12) An order certified as final under NRCP 54(b).

(13) Any other appeal provided for by statute.

REVIEWING NOTE

Revised Rule 3A preserves the purpose and structure of the former rule—to describe who may appeal what.

Subdivision (b) addresses only independently appealable orders. Under the merger doctrine, the notice of appeal encompasses all orders—such as interlocutory or temporary orders—that, for purposes of appeal, merge into the designated judgment or appealable order. It is not necessary to designate those orders in the notice of appeal. Subdivision (b)(2) clarifies that a party may challenge an order disposing of motions under Rule 50(b), 52(b), and 59, consistent with Rule 4(a)(5)(B)(ii), which also governs the timing of such a notice of appeal. Subdivision (b)(6) now treats an order changing or refusing to change the place of trial like other appealable orders—i.e., appealable no later than 30 days after written notice of entry of the order (not 30 days "from

the order") and subject to a stay in accordance with Rule 8 (not an automatic stay).

Subdivision (b)(7) clarifies appeals in family-law cases. A "final order" resolving child custody, guardianship of minors, parenting time, visitation, or relocation of a minor stands in contrast to a temporary order. A case may involve multiple "final," non-temporary orders, and this subdivision clarifies that all such final orders are appealable. Other orders entered before a final judgment resolving all claims in initial proceedings, such as those for alimony, child support, or property division, merge into the final judgment and are appealed at that time. Where an order in initial proceedings resolves some but not all of the claims, the district court may certify its order as final under NRCP 54(b). A final order in post-judgment proceedings that does not involve child custody, guardianship of minors, parenting time, visitation, or relocation of a minor may nonetheless be appealed as a special order after final judgment under subdivision (b)(8).

Subdivision (b)(11) is new and creates an immediate right of appeal for a party held in contempt with an imposed or threatened sentence of imprisonment. This provision clarifies that the threat to personal liberty—not the designation of an order as "civil" or "criminal"—triggers the right of appeal. Non-parties, such as an attorney or witness, may seek appellate review of a contempt order only through a writ petition or in combination with another appealable order. Subdivisions (b)(12) and (b)(13) are new, harmonizing Rule 3A with certification under NRCP 54(b) and statutory appeals.

RULE 3B. CRIMINAL ACTIONS: RULES GOVERNING

Appeals from district court determinations in criminal actions are governed by these Rules and by NRS 176.09183, NRS 177.015 to 177.305, NRS 34.560, and NRS 34.575. All appeals in capital cases are also subject to the

provisions of SCR 250. Rule 3C applies to certain direct appeals as set forth in Rule 3C(a).

RULE 3C. FAST TRACK CRIMINAL APPEALS

(a) Applicability.

(1) This Rule applies to an appeal from:

(A) a judgment of conviction pursuant to a plea of guilty, guilty but mentally ill, or nolo contendere provided that the defendant was represented by counsel in the district court and was not sentenced to death; and

(B) an order or amended judgment of conviction revoking or modifying probation provided that the defendant was represented by counsel in the district court.

(2) This Rule does not apply to an appeal filed in accordance with Rule 4(c).

(b) Responsibilities of Trial Counsel.

(1) Definition. For purposes of this Rule, "trial counsel" means the attorney or office that represented the defendant in district court in the underlying proceedings that are the subject of the appeal or the State Public Defender following a notice of substitution filed under Rule 3C(b)(4).

(2) Responsibilities. Trial counsel must file the notice of appeal, rough draft transcript request form, docketing statement, and fast track brief(s). Trial counsel must arrange their calendars and adjust their public or private contracts for compensation to accommodate the additional duties imposed by this Rule.

(3) Withdrawal. To withdraw from representation during the appeal, trial counsel must file with the clerk a motion to withdraw from representation that complies with Rule 46. The motion will be considered only after trial counsel has complied with Rule 3C(b)(2).

(4) Substitution of State Public Defender as Trial Counsel. The State Public Defender may be substituted as "trial counsel" if the judgment or order being appealed was entered by a court in a county that has opted to have the State Public Defender provide indigent appellate representation. The attorney or office that represented the defendant in district court must file the notice of appeal, rough draft transcript request form, and a notice of substitution of counsel. The notice of substitution of counsel must be filed in the district court on the same date as the notice of appeal and the rough draft transcript request form.

(c) Notice of Appeal. When a defendant elects to appeal from a district court order or judgment governed by this Rule, the defendant's trial counsel must serve and file a notice of appeal pursuant to applicable rules and statutes.

(d) Rough Draft Transcript. A rough draft transcript is a computer-generated transcript that can be expeditiously prepared, but is not proofread, corrected, or certified to be an accurate transcript.

(1) Format. For the purposes of this Rule, a rough draft transcript must:

(A) be printed on paper 8 1/2 by 11 inches in size, with the words "Rough Draft Transcript" printed on the bottom of each page;

(B) include a concordance indexing key words in the transcript; and

(C) include an acknowledgment by the court reporter or recorder that the document submitted under this Rule is a true original or copy of the rough draft transcript.

(2) Audio or Video Recorded Proceedings. Relevant portions of the district court proceedings that were audio recorded or video recorded must be submitted in typewritten form. The court will not accept audio or video recordings in lieu of a rough draft transcript.

(3) Request for Rough Draft Transcript.

(A) Filing and Service.

(i) When a rough draft transcript is necessary for an appeal, trial counsel must file a rough draft transcript request form with the district court and serve a copy of the request form upon the court reporter or recorder and opposing counsel.

(ii) Trial counsel must serve and file the rough draft transcript request form on the same date the notice of appeal is served and filed.

(iii) Trial counsel must file with the clerk a copy of the rough draft transcript request form and proof of service of the form upon the court reporter or recorder and opposing counsel.

(B) Form. The rough draft transcript request must substantially comply with the Rough Draft Transcript Request Form on the Nevada Supreme Court website.

(C) Necessary Transcripts. Counsel must order transcripts of only those portions of the proceedings that counsel reasonably and in good faith believes are necessary to determine whether appellate issues are present.

(D) No Transcripts. If no transcript is to be requested, trial counsel must serve and file with the clerk a certificate to that effect within the same period that a rough draft transcript request form must be served and filed under Rule 3C(d)(3)(A)(ii). Such a certificate must substantially comply with the Certificate of No Transcript Request Form on the Nevada Supreme Court website.

(E) Court Reporter or Recorder's Duty. The court reporter or recorder must:

(i) submit an original rough draft transcript, as requested by appellant's or respondent's counsel, to the district court no more than 21 days after the date that the request is served;

(ii) deliver one copy of the rough draft transcript to the requesting attorney and one copy of the rough draft transcript to counsel for each party appearing separately no more than 21 days after the date the request is served; and

(iii) within 7 days after delivering the copies of the rough draft transcript, file with the clerk a certificate of delivery that substantially complies with the Notice of Completion and Delivery of Transcript Form on the Nevada Supreme Court website and specifies the transcripts that have been delivered and the date that they were delivered to the requesting party.

(4) Supplemental Request for Rough Draft Transcript.

(A) Opposing counsel may make a supplemental request for portions of the rough draft transcript that were not previously requested. The request must be made no more than 7 days after opposing counsel is served with the transcript request made under Rule 3C(d)(3)(A).

(B) In all other respects, opposing counsel must comply with the provisions of this Rule governing a rough draft transcript request when making a supplemental rough draft transcript request.

(5) Sufficiency of the Rough Draft Transcript. Trial counsel must review the sufficiency of the rough draft transcript. If a substantial question arises regarding the sufficiency of a rough draft transcript, counsel may file a motion and the court may order that a certified transcript be produced.

(6) Exceptions. The provisions of Rule 3C(d)(1)(B) do not apply to preparation of transcripts produced by means other than computer-generated technology. But time limits and other procedures governing requests for and

preparation of transcripts produced by means other than computer-generated technology must conform with the provisions of this Rule respecting rough draft transcripts.

(e) Filing of Fast Track Opening Brief, Appendix, and Fast Track Reply Brief.

(1) Fast Track Opening Brief. Within 40 days from the date that the appeal is docketed in the court under Rule 12, appellant's trial counsel must file and serve a fast track opening brief that complies with Rule 28(a), except that it need not include a table of contents or table of authorities, and Rules 28(c) and 32.

(2) Appendix.

(A) Joint Appendix. Counsel have a duty to confer and attempt to reach an agreement concerning a possible joint appendix to be filed with the fast track opening brief.

(B) Appellant's Appendix. In the absence of an agreement respecting a joint appendix, the appellant must file and serve an appellant's appendix with the fast track opening brief.

(C) Form and Content. The form and contents of appendices must comply with Rules 30 and 32.

(3) Fast Track Reply Brief. The appellant may file and serve a reply to the fast track answering brief within 14 days after the fast track answering brief is served. The reply brief must comply with Rule 28(c), except that it need not include a table of contents, and Rules 28(e) and 32.

(f) Filing of Fast Track Answering Brief and Appendix.

(1) Fast Track Answering Brief. Within 21 days from the date the fast track opening brief is served, the respondent must file and serve a fast

track answering brief that complies with Rule 28(b), except that it need not include a table of contents or table of authorities, and Rules 28(e) and 32.

(2) Appendix.

(A) Joint Appendix. Counsel have a duty to confer and attempt to reach an agreement concerning a possible joint appendix.

(B) Respondent's Appendix. In the absence of an agreement respecting a joint appendix, the respondent must file and serve a respondent's appendix with the fast track answering brief.

(C) Form and Contents. The form and contents of appendices must comply with Rules 30 and 32.

(g) Extensions of Time.

(1) Preparation of Rough Draft Transcript.

(A) Seven-Day Telephonic Extension. A court reporter or recorder may request by telephone a 7-day extension of time to prepare a rough draft transcript if the preparation requires more time than is allowed under this Rule. If good cause is shown, the clerk or a designated deputy may grant the request by telephone or by written order of the clerk.

(B) Additional Extensions by Motion. Subsequent extensions of time for filing rough draft transcripts will be granted only upon motion to the court. The motion must justify the requested extension in light of the time limits provided in this Rule, and must specify the exact length of the extension requested. Extensions of time for the filing of rough draft transcripts will be granted only upon demonstration of good cause. Sanctions may be imposed if a motion is brought without reasonable grounds.

(2) Fast Track Briefs.

(A) Seven-Day Telephonic Extension. Counsel may request by telephone a 7-day extension of time for filing fast track briefs and related

documents. If good cause is shown, the clerk may grant the request by telephone or by written order of the clerk.

(B) Extensions of Time Due to Transcript Unavailability. When an extension of time has been granted to a court reporter or recorder under this Rule, the court will extend the time for filing the brief to 21 days after the date set for the transcript to be filed.

(C) Additional Extensions by Motion. Subsequent extensions of time for filing fast track briefs will be granted only upon motion to the court. The motion must justify the requested extension in light of the time limits provided in this Rule, and must specify the exact length of the extension requested. Extensions of time under this provision will be granted only upon demonstration of good cause. Sanctions may be imposed if a motion is brought without reasonable grounds.

(h) Amendments to Briefs. Leave to amend fast track briefs will be granted only upon motion to the court. A motion to amend must justify the absence of the offered arguments in the party's initial brief. The motion will be granted only upon demonstration of good cause.

(i) Withdrawal of Appeal. If an appellant no longer desires to pursue an appeal after the notice of appeal is filed, counsel responsible for the appeal at that time must file with the clerk a notice of withdrawal of appeal. The notice of withdrawal of appeal must substantially comply with the Notice of Withdrawal of Appeal Form on the Nevada Supreme Court website.

(j) Court Reporter or Recorder Protection and Compensation.

(1) Liability. Court reporters or recorders are not subject to civil, criminal, or administrative causes of action for inaccuracies in a rough draft transcript unless:

(A) the court reporter or recorder willfully fails to take full and accurate stenographic notes of the criminal proceeding for which the rough draft transcript is submitted, or willfully and improperly alters stenographic notes from the criminal proceeding, or willfully transcribes audio or video recordings inaccurately; and

(B) such willful conduct proximately causes injury or damage to the party asserting the action, and that party demonstrates that appellate or postconviction relief was granted or denied based upon the court reporter's or recorder's inaccuracies.

(2) Compensation. Court reporters must be compensated as follows:

(A) For preparing a rough draft transcript, the court reporter must receive 100 percent of the rate established by NRS 3.370 for each transcript page as defined by NRS 3.370 and $25 for costs. Costs include the cost of delivery of the original and copies of the rough draft transcript. In the event that overnight delivery is required to or from outlying areas, that cost is additional.

(B) In the event a certified transcript is ordered after the rough draft transcript is prepared, the court reporter must receive an additional fee equal to 25 percent of the amount established by NRS 3.370 for the already prepared rough draft portion of the transcript. Any portions not included with the rough draft transcript will be compensated by the amount established by NRS 3.370.

(k) Sanctions. Any attorney, court reporter, or court recorder who lacks due diligence in compliance with this Rule may be subject to sanctions by the court.

(l) Conflict. The provisions of this Rule prevail over conflicting provisions of any other rule.

RULE 3D. JUDICIAL DISCIPLINE: RIGHT TO APPEAL; HOW TAKEN; RULES GOVERNING

(a) Appealable Decisions. Any Supreme Court justice, Court of Appeals judge, district judge, justice of the peace, or municipal court judge or referee, master, commissioner, or other judicial officer ("Judicial Officer") who is the subject of any disciplinary or removal proceedings instituted before the Commission on Judicial Discipline ("Commission") may appeal to the Supreme Court:

(1) from an order of suspension from the exercise of office under NRS 1.4675; and

(2) from an order of censure, removal, retirement, or other form of discipline.

(b) Notice of Appeal. An appeal to the Supreme Court from a Commission order must be taken by filing a notice of appeal with the clerk of the Commission and serving a copy of the notice on the prosecuting counsel, if any. Filing and service of the notice of appeal must be made within 30 days after service on the Judicial Officer of the Commission's formal order of suspension, censure, removal, retirement, or other discipline, together with its formal findings of fact and conclusions of law. Upon the filing of the notice of appeal, the clerk of the Commission must immediately transmit to the clerk of the Supreme Court a file-stamped copy of the notice of appeal.

(c) Applicable Rules. An appeal from a Commission order will proceed in the same manner as a civil appeal except that:

(1) the provisions of Rule 4(f) for expediting criminal appeals will apply to all appeals from orders or actions taken by the Commission.

(2) any request for all or part of a transcript must be made in accordance with the Procedural Rules of the Commission.

➥ Other provisions in the Nevada Rules of Appellate Procedure apply to appeals from a Commission order, unless this Rule expressly provides to the contrary or application of a particular rule is clearly impracticable, inappropriate, or inconsistent. All references to the district court in applicable portions of the Nevada Rules of Appellate Procedure must be deemed references to the Commission.

(d) Interlocutory Orders. Review of interlocutory orders of the Commission, which are considered either by the Judicial Officer or the Commission's prosecuting officer to be without or in excess of jurisdiction, may be sought by way of petition for an appropriate extraordinary writ pursuant to Rule 21.

REVIEWING NOTE

The amendments to this Rule are intended to be stylistic only, with the exception of subdivision (b), which changes the Rule to only require one file-stamped copy. The Procedural Rules of the Nevada Commission on Judicial Discipline Commission, which were amended in 2018, are available at https://judicial.nv.gov/uploadedFiles/judicialnvgov/content/Discipline/Rules/June_2018_Revised_Procedural_Rules_of_the_NCJD_FINAL.pdf. Notably, the Commission's procedural rules provide a 15-day timeline to appeal, whereas this Rule provides a 30-day window. We recommend either a change to this Rule or the Commission's rules to ensure both deadlines are the same.

RULE 3E. FAST TRACK CHILD CUSTODY APPEALS

(a) Applicability. This Rule applies to appeals and cross-appeals from district court orders primarily pertaining to child custody, guardianship of minors, parenting time, or visitation.

(b) Responsibilities of Appellant. The appellant and cross-appellant are responsible for filing the notice of appeal, case appeal statement, docketing statement, a transcript request form, and a fast track opening brief for the case identifying the appellate issues that are raised. An appellant and/or cross-appellant who is proceeding without counsel need not prepare a case appeal statement, as the district court clerk will prepare this document in accordance with Rule 3(f)(2).

(c) Transcripts.

(1) Rough Draft Transcript; Format. For the purposes of this Rule, a rough draft transcript is a computer-generated transcript that can be expeditiously prepared, but is not proofread, corrected, or certified to be an accurate transcript. A rough draft transcript must:

(A) be printed on paper 8 1/2 by 11 inches in size with the words "Rough Draft Transcript" printed on the bottom of each page;

(B) include a concordance, indexing key words in the transcript; and

(C) include an acknowledgment by the court reporter or recorder that the document submitted pursuant to this Rule is an original or accurate copy of the rough draft transcript.

(2) Audio or Video Recorded Proceedings. Relevant portions of the district court proceedings that were audio recorded or video recorded must be submitted in typewritten form. The court will not accept audio or video recordings in lieu of a rough draft transcript.

(3) Transcript Requests.

(A) Filing and Service.

(i) When a transcript is necessary for an appeal, the appellant must file the transcript or rough draft transcript request form with the district court and must serve a copy of the request form upon the court reporter or recorder and the opposing party.

(ii) The appellant must file and serve the request form within 14 days of the date that the Supreme Court approves the settlement conference report indicating that the parties were unable to settle or, if the case was exempted or removed from the settlement program, within 14 days of the date that the case was exempted or removed from the settlement program. Within the same time period, the appellant must file with the clerk of the Supreme Court 1 file-stamped copy of the transcript or rough draft transcript request form and proof of service of the form upon the court reporter or recorder and the opposing party.

(B) Form. The transcript request form must substantially comply with the Rough Draft Transcript Request Form or the Certified Transcript Request Form on the Nevada Supreme Court website.

(C) Necessary Transcripts. The appellant must order transcripts of only those portions of the proceedings that the appellant reasonably and in good faith believes are necessary to determine the appellate issues.

(D) No Transcripts. If no transcript is to be requested, the appellant must file with the clerk of the Supreme Court and serve the opposing party with a certificate to that effect within the same period that the transcript request form must be filed and served under Rule 3E(c)(3)(A)(ii). Such a

certificate must substantially comply with the Certificate of No Transcript Request Form on the Nevada Supreme Court website.

(4) Court Reporter or Recorder's Duty. The court reporter or recorder must:

(A) submit an original certified transcript or rough draft transcript, as requested by the appellant, to the district court no more than 21 days after the date that the request is served;

(B) deliver one copy of the transcript or rough draft transcript to the requesting attorney and one copy of the transcript or rough draft transcript to counsel for each party appearing separately no more than 21 days after the date when the request is served; and

(C) within 7 days after delivering the copies of the transcript or rough draft transcript, file with the clerk a certificate of delivery that substantially complies with the Notice of Completion and Delivery of Transcript Form on the Nevada Supreme Court website and specifies the transcripts that have been delivered and the date that they were delivered to the requesting party.

(5) Supplemental Request for Transcripts or Rough Draft Transcripts.

(A) An opposing party may make a supplemental request for portions of the transcript or rough draft transcript that were not previously requested. The request must be made no more than 7 days after the appellant served the transcript request made pursuant to Rule 3E(c)(3).

(B) In all other respects, the opposing party must comply with the provisions of this Rule governing a transcript or rough draft transcript request when making a supplemental transcript request.

(6) Sufficiency of the Rough Draft Transcript. In the event that the appellant elects to use rough draft transcripts, the appellant is responsible for reviewing the sufficiency of the rough draft transcripts. If a substantial question arises regarding the sufficiency of a rough draft transcript, a party may file a motion and the court may order that a certified transcript be produced.

(7) Transmission of Transcripts. Parties represented by counsel must include copies of all transcripts that are necessary to the review of the issues presented on appeal in the appendix as provided in Rule 30. Pro se parties who have not been granted in forma pauperis status must file a copy of each requested transcript with the clerk of the Supreme Court within 14 days of receipt of the transcript from the court reporter or court recorder.

(d) Filing Fast Track Opening Brief, Appendix, and Fast Track Reply Brief.

(1) Fast Track Opening Brief. Within 60 days after the Supreme Court approves the settlement conference report indicating that the parties were unable to settle the case or, if the appeal is removed or exempted from the settlement program, within 60 days after the appeal is removed or exempted, the appellant and cross-appellant must file and serve, pursuant to Rule 25, their fast track opening brief on the opposing party. The fast track opening brief must substantially comply with Rule 28(a), except that it need not include a table of contents or table of authorities if the brief is no more than 20 pages or 9,334 words or, if it uses a monospaced typeface, no more than 866 lines of text, and with Rules 28(e) and 32.

(2) Appendix.

(A) Joint Appendix. Counsel have a duty to confer and attempt to reach an agreement concerning a possible joint appendix to be filed with the fast track opening brief.

(B) Appellant's Appendix. In the absence of an agreement respecting a joint appendix, the appellant must prepare and file a separate appendix with the fast track opening brief.

(C) Form and Content. The form and contents of appendices must comply with Rules 30 and 32.

(D) Pro Se Appellant; Appendix. A pro se appellant or cross-appellant may not file an appendix. If the court's review of the record is necessary in such a case, the court may direct that a partial or complete record be transmitted as provided in Rule 11(a)(2). Pro se parties are encouraged, but not required, to support assertions made in the fast track opening brief or answering brief regarding matters in the record by citing to the specific page number in the record that supports the assertions.

(3) Fast Track Reply Brief. The appellant may file and serve, pursuant to Rule 25, a reply to the fast track answering brief within 14 days after the fast track answering brief is served. The reply must comply with Rule 32 and Rule 28(c), except that it need not include a table of contents or table of authorities if the brief is no more than 10 pages or 4,667 words or, if it uses a monospaced typeface, no more than 433 lines of text.

(e) Fast Track Answering Brief and Appendix.

(1) Fast Track Answering Brief. Within 21 days from the date a fast track opening brief is served, the respondent and cross-respondent must file and serve their fast track answering brief on the opposing party pursuant to Rule 25. The fast track answering brief must substantially comply with Rule 32 and Rule 28(b), except that it need not include a table of contents or table

of authorities if the brief is no more than 20 pages or 9,334 words or, if it uses a monospaced typeface, no more than 866 lines of text.

(2) Appendix.

(A) Joint Appendix. Counsel have a duty to confer and attempt to reach an agreement concerning a possible joint appendix.

(B) Respondent's Appendix. In the absence of an agreement respecting a joint appendix, the respondent must file and serve a respondent's appendix with the fast track answering brief unless the respondent is pro se.

(C) Form and Contents. The form and contents of appendices must comply with Rules 30 and 32.

(f) Expanded Fast Track Opening Brief, Answering Brief, or Reply Brief. When a case presents complex issues, a party may seek leave of the court to expand the length of the fast track opening brief, answering brief, or reply brief pursuant to Rule 32(a)(7)(D).

(g) Extensions of Time.

(1) Preparation of Transcripts or Rough Draft Transcripts.

(A) Seven-Day Telephonic Extension. A court reporter or recorder may request, by telephone, a 7-day extension of time for the preparation of a transcript or rough draft transcript if such preparation requires more time than is allowed under this Rule. If good cause is shown, the clerk or a designated deputy may grant the request by telephone or by written order of the clerk.

(B) Additional Extensions by Motion. Subsequent extensions of time for filing transcripts or rough draft transcripts will be granted only upon motion to the court. The motion must justify the requested extension in light of the time limits provided in this Rule and must specify the exact length of the extension requested. Extensions of time for the filing of transcripts or

rough draft transcripts will be granted only upon demonstration of good cause. Sanctions may be imposed if a motion is brought without reasonable grounds.

(2) Case Appeal Statements; Docketing Statements; Fast Track Opening Briefs, Answering Briefs, or Reply Briefs.

(A) Seven-Day Telephonic Extension. Either party may request, by telephone, a 7-day extension of time for filing a case appeal statement, docketing statement, fast track opening brief, answering brief, or reply brief and related documents. If good cause is shown, the clerk may grant the request by telephone or by written order of the clerk.

(B) Extensions of Time Due to Transcript Unavailability. When an extension of time has been granted to a court reporter or recorder under this Rule, the court will extend the time for filing the brief to 21 days after the date set for the transcript to be filed.

(C) Additional Extensions by Motion. Subsequent extensions of time for filing fast track briefs will be granted only upon motion to the court. The motion must justify the requested extension in light of the time limits provided in this Rule, and must specify the exact length of the extension requested. Extensions of time under this provision will be granted only upon demonstration of good cause. Sanctions may be imposed if a motion is brought without reasonable grounds.

(h) Amendments to Briefs. Leave to amend fast track briefs will be granted only upon motion to the court. A motion to amend must justify the absence of the offered arguments in the party's initial brief. The motion will be granted only upon demonstration of good cause.

(i) Withdrawal of Appeal. If an appellant no longer desires to pursue an appeal after the notice of appeal is filed, the appellant must file with the clerk of the Supreme Court a notice of withdrawal of appeal.

(j) Appeal Disposition or Calendaring.

(1) Based solely upon review of the transcripts or rough draft transcripts, fast track opening brief, fast track answering brief, reply brief, and any other documents filed with the court, the court may resolve the matter.

(2) A party may seek leave of the court to remove an appeal from the fast track program and extend deadlines. The motion must demonstrate that the specific issues raised in the appeal are complex and/or too numerous for resolution in the fast track program or that the orders pertaining to child custody, guardianship of minors, parenting time, or visitation are not a primary issue on appeal.

(3) If the court removes an appeal from the fast track program, the parties are not required to file transcript request forms pursuant to Rule 9(a) unless otherwise ordered. If a party's brief cites to a transcript not previously filed in the court, that party must cause a supplemental transcript to be prepared and filed in the district court and the appellate court under Rule 9 within the time specified for filing the brief in the court's briefing order. If a represented party's brief cites to documents not previously filed in the court, that party must file and serve an appropriately documented supplemental appendix with the brief. In accordance with Rule 30(i), pro se parties must not file an appendix, but when the court's review of the record is necessary in a pro se appeal, the court may direct that the complete record be transmitted as provided in Rule 11(a)(2).

(4) Subject to extensions, and if the court does not remove an appeal from the fast track program, the court must attempt to dispose of all fast track child custody appeals within 90 days of the date the case is transferred to the Court of Appeals. If a fast track child custody appeal is retained by the Supreme

Court, the court must attempt to dispose of it within 90 days of the date the case is submitted for a decision.

(k) Court Reporter or Recorder Protection and Compensation.

(1) Liability. Court reporters or recorders are not subject to civil, criminal, or administrative causes of action for inaccuracies in a rough draft transcript unless:

(A) the court reporter or recorder willfully fails to take full and accurate stenographic notes of the proceeding for which the rough draft transcript is submitted, or willfully and improperly alters stenographic notes from the proceeding, or willfully transcribes audio or video recordings inaccurately; and

(B) such willful conduct proximately causes injury or damage to a party, and that party demonstrates that appellate relief was likely granted or denied based upon the court reporter's or recorder's inaccuracies.

(2) Compensation. Court reporters must be compensated as follows:

(A) For preparing a transcript or rough draft transcript, the court reporter must receive 100 percent of the rate established by NRS 3.370 for each transcript page and for costs. A party ordering transcripts or copies must pay the court reporter's fee. No reporter may be required to perform any service in a civil case until the fees have been paid to the court reporter or deposited with the court clerk.

(B) In the event that a certified transcript is ordered after the rough draft transcript is prepared, the court reporter must receive an additional fee as established by NRS 3.370.

(l) Sanctions. Any party, attorney, court reporter, or court recorder who lacks due diligence in compliance with this Rule may be subject to sanctions by the court. Sanctionable actions include, but are not limited to, failure of the

appellant to timely file a fast track opening brief or the respondent's failure to file a fast track answering brief.

(m) Conflict. The provisions of this Rule must prevail over conflicting provisions of any other Rule.

RULE 4. APPEAL—WHEN TAKEN

(a) Appeals in Civil Cases.

(1) Time and Location for Filing a Notice of Appeal. Except as provided in Rule 4(a)(5)-(6), in a civil case in which an appeal is permitted by law from a district court, the notice of appeal required by Rule 3 must be filed with the district court clerk no later than 30 days after written notice of entry of the judgment or order appealed from is served. If an applicable statute provides that a notice of appeal must be filed within a different time period, the notice of appeal required by these Rules must be filed within the time period established by the statute.

(2) Filing Before Entry of Judgment. A notice of appeal filed after the court announces a decision or order—but before the entry of the judgment or order—is treated as filed on the date of and after the entry.

(3) Multiple Appeals. If one party timely files a notice of appeal, any other party may file a notice of appeal no later than 14 days after the date when the first notice was served, or within the time otherwise prescribed by Rule 4(a), whichever period ends later.

(4) Entry Defined. A judgment or order is entered for purposes of this Rule when it is signed by the judge or by the clerk, as the case may be, and filed with the clerk. A notice or stipulation of dismissal filed under NRCP 41(a)(1) has the same effect as a judgment or order signed by the judge and filed by the clerk and constitutes entry of a judgment or order for purposes of this Rule. If that notice or stipulation dismisses all unresolved claims pending

in an action in the district court, the notice or stipulation constitutes entry of a final judgment or order for purposes of this Rule.

(5) Effect of Certain Motions on a Notice of Appeal.

(A) If a party timely files in the district court any of the following motions under the Nevada Rules of Civil Procedure, the notice of appeal must be filed no later than 30 days after service of written notice of entry of the order disposing of the last such remaining motion:

(i) for judgment under Rule 50(b);

(ii) to amend or make additional findings of fact under Rule 52(b), whether or not granting the motion would alter the judgment;

(iii) to alter or amend the judgment under Rule 59;

(iv) for a new trial under Rule 59; or

(v) for relief under Rule 60 if the motion is filed no later than 28 days after service of written notice of entry of the judgment or order.

(B) Notices of appeal involving motions listed in Rule 4(a)(5)(A) are governed by the following:

(i) If a party files a notice of appeal after the court announces or enters a judgment—but before it disposes of any motion listed in Rule 4(a)(5)(A)—the notice becomes effective to appeal a judgment or order, in whole or in part, when the order disposing of the last such remaining motion is entered.

(ii) A party intending to challenge an order disposing of any motion listed in Rule 4(a)(5)(A), or a judgment's alteration or amendment upon such a motion, must file a notice of appeal, or an amended notice of appeal—in compliance with Rule 3(c)—within the time prescribed by this Rule measured from the service of written notice of entry of the order disposing of the last such remaining motion.

(6) Motion for Extension of Time.

(A) Except when an appeal period is set by statute, the district court may extend the time to file a notice of appeal if:

(i) a party so moves no later than 30 days after the time prescribed by Rule 4(a) expires; and

(ii) regardless of whether its motion is filed before or during the 30 days after the time prescribed by Rule 4(a) expires, that party shows excusable neglect or good cause.

(B) No extension under Rule 4(a)(6) may exceed 30 days after the prescribed time or 14 days after the date when the order granting the motion is entered, whichever is later.

(7) Premature Notice of Appeal. A premature notice of appeal does not divest the district court of jurisdiction. The court may dismiss as premature a notice of appeal filed after the oral pronouncement of a decision or order but before entry of the written judgment or order, or before entry of the written disposition of the last-remaining timely motion listed in Rule 4(a)(5). If, however, a written order or judgment, or a written disposition of the last-remaining timely motion listed in Rule 4(a)(5), is entered before dismissal of the premature appeal, the notice of appeal is considered filed on the date of and after entry of the order, judgment or written disposition of the last-remaining timely motion.

(8) Amended Notice of Appeal. No additional fees are required if any party files an amended notice of appeal in order to comply with the provisions of this Rule.

(b) Appeals in Criminal and Postconviction Cases.

(1) Time for Filing a Notice of Appeal.

(A) Appeal by Defendant or Petitioner. Except as otherwise provided in NRS 34.560(2), NRS 34.575(1), NRS 176.09183(6), NRS 177.055, Rule 4(b)(4), and Rule 4(c), the notice of appeal by a defendant or petitioner in a criminal case must be filed with the district court clerk within 30 days after the later of:

(i) the entry of the judgment or order being appealed; or

(ii) the filing of the state's notice of appeal.

(B) Appeal by the State. Except as otherwise provided in NRS 34.575(2), NRS 176.09183(4), and NRS 177.015(2), when an appeal by the state is authorized by statute, the notice of appeal must be filed with the district court clerk within 30 days after the later of:

(i) the entry of the judgment or order being appealed; or

(ii) the filing of a notice of appeal by any defendant or petitioner.

(2) Filing Before Entry of Judgment. A notice of appeal filed after the announcement of a decision, sentence, or order—but before entry of the judgment or order—is treated as filed after such entry and on the day thereof.

(3) Effect of a Motion on a Notice of Appeal.

(A) If a defendant timely makes any of the following motions, the notice of appeal from a judgment of conviction must be filed within 30 days after the entry of the order disposing of the last such remaining motion, or within 30 days after the entry of the judgment of conviction, whichever period comes later. This provision applies to a timely motion:

(i) for judgment of acquittal under NRS 175.381(2);

(ii) for a new trial under NRS 176.515, but if based on newly discovered evidence, only if the motion is made no later than 30 days after the entry of the judgment; or

(iii) for arrest of judgment under NRS 176.525.

(B) A notice of appeal filed after the court announces a decision, sentence, or order—but before it disposes of any of the motions referred to in Rule 4(b)(3)(A)—becomes effective upon the later of:

(i) the entry of the order disposing of the last such remaining motion; or

(ii) the entry of the judgment of conviction.

(C) A valid notice of appeal is effective—without amendment—to appeal from an order disposing of any of the motions referred to in Rule 4(b)(3)(A).

(4) Motion for Extension of Time. Except when an appeal period is set by statute, upon a finding of excusable neglect or good cause, the district court may—before or after the time has expired, with or without motion and notice—extend the time to file a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by this Rule.

(5) Jurisdiction. The filing of a notice of appeal under Rule 4(b) does not divest a district court of jurisdiction to correct a sentence under NRS 176.555 or NRS 176.565, nor does the filing of a motion under those statutes affect the validity of a notice of appeal filed before entry of the order disposing of the motion. The filing of a motion under NRS 176.555 or NRS 176.565 does not suspend the time for filing a notice of appeal from a judgment of conviction.

(6) Entry Defined. A judgment or order is entered for purposes of this Rule when it is signed by the judge and filed with the clerk.

(7) Time for Entry of Judgment; Content of Judgment or Order in Postconviction Matters.

(A) Judgment of Conviction. The district court judge must enter a written judgment of conviction within 14 days after sentencing.

(B) Order Resolving Postconviction Matter. The district court judge must enter a written judgment or order finally resolving any postconviction matter. If the district court judge first makes an oral pronouncement of a final decision in such a matter, the written judgment or order must be issued within 21 days after the district court judge's oral pronouncement. The judgment or order in any postconviction matter must contain specific findings of fact and conclusions of law supporting the district court's decision.

(C) Sanctions; Counsel's Failure to Timely Prepare Judgment or Order. The court may impose sanctions on any counsel instructed by the district court judge to draft the judgment or order and who does not submit the proposed judgment or order to the district court judge within the applicable time periods specified in Rule 4(b)(7).

(8) Withdrawal of Appeal. If an appellant no longer desires to pursue an appeal after the notice of appeal is filed, counsel for the appellant must file with the clerk of the Supreme Court a notice of withdrawal of appeal. The notice of withdrawal of appeal must substantially comply with the Notice of Withdrawal of Appeal Form on the Nevada Supreme Court website.

(c) Untimely Direct Appeal From a Judgment of Conviction and Sentence.

(1) When an Untimely Direct Appeal From a Judgment of Conviction and Sentence May Be Filed. An untimely notice of appeal from a judgment of conviction and sentence may be filed only under the following circumstances:

(A) A postconviction petition for a writ of habeas corpus has been timely and properly filed in accordance with the provisions of NRS 34.720 to 34.830, asserting a viable claim that the petitioner was unlawfully deprived of

the right to a timely direct appeal from a judgment of conviction and sentence; and

(B) The district court in which the petition is considered finds that the petitioner has established a valid appeal deprivation claim and is entitled to a direct appeal.

(C) In compliance with Rule 4(b)(7)(B), the district court must enter a written order containing:

(i) specific findings of fact and conclusions of law finding that the petitioner has established a valid appeal-deprivation claim and is entitled to a direct appeal with the assistance of appointed or retained appellate counsel;

(ii) if the petitioner is indigent, directions for the appointment of appellate counsel, other than counsel for the defense in the proceedings leading to the conviction, to represent the petitioner in the direct appeal from the conviction and sentence; and

(iii) directions to the district court clerk to prepare and file—within 7 days of the entry of the district court's order—a notice of appeal from the judgment of conviction and sentence on the petitioner's behalf in substantially the form provided in the Notice of Appeal Form on the Nevada Supreme Court website.

(D) If a federal court of competent jurisdiction issues a final order directing the state to provide a direct appeal to a federal habeas corpus petitioner, the petitioner or petitioner's counsel must file the federal court order within 30 days of entry of the order in the district court in which petitioner's criminal case was pending. The clerk of the district court must prepare and file—within 30 days of filing of the federal court order in the district court—a notice of appeal from the judgment of conviction and sentence

on the petitioner's behalf in substantially the form provided in the Notice of Appeal Form on the Nevada Supreme Court website.

(2) Service by the District Court Clerk. The district court clerk must serve certified copies of the district court's written order and the notice of appeal required by Rule 4(c) on the petitioner and petitioner's counsel in the postconviction proceeding, if any, the respondent, the Attorney General, the district attorney of the county in which the petitioner was convicted, the appellate counsel appointed to represent the petitioner in the direct appeal, if any, and the clerk of the Supreme Court.

(3) Notice of Appeal Filed by Petitioner's Counsel or Petitioner. If the district court has entered an order containing the findings required by Rule 4(c)(1)(C) and the district court clerk has not yet prepared and filed the notice of appeal on the petitioner's behalf, the petitioner or petitioner's counsel may file the notice of appeal from the judgment of conviction and sentence.

(4) Motion to Dismiss Appeal. The state may challenge a district court's written order granting an appeal-deprivation claim by filing a motion to dismiss the appeal with the clerk of the Supreme Court within 30 days after the date on which the appeal is docketed in the Supreme Court. The state's motion to dismiss must be properly supported with all documents relating to the district court proceeding that are necessary to the Supreme Court's or Court of Appeals' complete understanding of the matter.

(5) Effect on Procedural Bars. When a direct appeal of a criminal conviction and sentence is conducted under this Rule, the timeliness provisions governing any subsequent habeas corpus attack on the judgment begin to run upon the termination of the direct appeal, as provided in NRS 34.726(1) and NRS 34.800(2). A habeas corpus petition filed after a direct appeal conducted

under this Rule must not be deemed a "second or successive petition" under NRS 34.810(2).

(d) Appeal by an Inmate Confined in an Institution. If an inmate confined in an institution files a notice of appeal in either a civil or a criminal case, the notice is timely if it is delivered to a prison official for mailing on or before the last day for filing. If the institution has a notice-of-appeal log or another system designed for legal mail, the inmate must use that log or system to receive the benefit of this Rule.

(e) Mistaken Filing in the Supreme Court. If a notice of appeal in either a civil or a criminal case is mistakenly filed in the Supreme Court rather than the district court, the clerk of the Supreme Court must note on the notice the date when it was received and send it to the district court clerk. The notice is then considered filed in the district court on the date so noted.

(f) Expediting Criminal Appeals. The court may, with or without motion by the parties, by a majority of its members, make orders to expedite the handling of criminal appeals, including without limitation the following:

(1) Elimination of steps in preparation of the record and the briefs.

(2) Expediting preparation of stenographic transcripts.

(3) Priority of calendaring for oral argument.

(4) Utilization of court opinions or per curiam orders.

(5) Other lawful measures reasonably calculated to expedite the appeal and promote justice.

REVIEWING NOTE

Most of the amendments in subdivision (a), which deals with appeals in civil cases, are intended to be stylistic—making the Nevada rules largely consistent with federal rules governing the time for notices of appeal. The most significant rule change—subdivision(a)(6)—allows a district court to extend

the time for an appeal. Under caselaw interpreting the former rule, the time for a notice of appeal was considered jurisdictional; neither district courts nor appellate courts could extend the time limit. Under the new rule, the 30-day time limit for a notice of appeal remains the same. Except when the appeal period is set by statute, the new rule gives a district court discretion to extend the deadline if the appealing party files a motion for an extension not later than 30 days after expiration of the appeal time. Upon a showing of excusable neglect or good cause, a district court may extend the appeal time to a date up to 30 days after the appeal time expired, or 14 days after the date on which the extension motion is granted, whichever is later. No further extensions are allowed under the amended rule. This rule change is intended to provide relief from the strict consequences of the previous jurisdictional limitation, without creating an undue burden on the judiciary.

The proposed amendments to subdivision (b) are both stylistic and substantive. Subdivision (b)(1)(A) and (B) incorporate the structure of their analogous federal counterparts, allowing a party to file a notice of appeal within 30 days of the entry of the judgment or order being appealed or the filing of the opposing party's notice of appeal—whichever comes later. These amendments allow the prevailing party additional time to assess whether to cross-appeal.

Subdivision (b)(4) similarly incorporates the structure of its analogous federal counterpart, allowing a court to extend the time to file a notice of appeal for 30 days upon a showing of excusable neglect or good cause. However, unlike the federal rule, the Commission adopted language clarifying that appellate deadlines set by statute cannot be extended. This amendment promotes justice by allowing appellate review in certain circumstances where the appeal would otherwise be dismissed as untimely. Nevada courts should look to decisions

interpreting the federal rule for guidance in interpreting Rule 4(b)(4). Subdivision (b)(5) also incorporates the structure of its analogous federal counterpart.

RULE 5. CERTIFICATION OF QUESTIONS OF LAW

(a) Power to Answer. The Supreme Court may in its discretion answer questions of law certified to it by the Supreme Court of the United States, a United States court of appeals for any circuit, a United States district or bankruptcy court, the highest appellate court of any state, territory, or the District of Columbia, or the highest court of a federally recognized Indian tribe. Such answer may be furnished, when requested by the certifying court, if there are involved in any proceeding before those courts questions of law of this state which may be determinative of the cause then pending in the certifying court and as to which it appears to the certifying court there is no controlling precedent in the decisions of the Supreme Court or Court of Appeals of this state. Certification ordinarily will not be accepted if facts material to the question of law certified are in dispute.

(b) Method of Invoking. This Rule may be invoked by an order of any of the courts referred to in Rule 5(a) upon the court's own motion or upon the motion of any party to the cause.

(c) Contents of Certification Order. A certification order must set forth:

(1) The questions of law to be answered;

(2) A statement of all facts relevant to the questions certified, identifying any facts that are in dispute;

(3) The nature of the controversy in which the questions arose;

(4) A designation of the party or parties who will be the appellant(s) and the party or parties who will be the respondent(s) in the Supreme Court;

(5) The names and addresses of counsel for the appellant and respondent;

(6) A brief statement explaining how the certified question of law may be determinative of the cause then pending in the certifying court;

(7) A brief statement setting forth relevant decisions, if any, of the Supreme Court and the Court of Appeals and the reasons why such decisions are not controlling; and

(8) Any other matters that the certifying court deems relevant to a determination of the questions certified.

(d) Preparation of Certification Order. The certification order must be prepared by the certifying court and forwarded to the Supreme Court by the clerk of the certifying court under its official seal. The Supreme Court may require the original or copies of all or of any portion of the record before the certifying court to be filed with the certification order, if, in the opinion of the Supreme Court, the record or portion thereof may be necessary in answering the questions. The Supreme Court may in its discretion restate any question of law certified or may request from the certifying court additional clarification with respect to any question certified or with respect to any facts.

(e) Costs of Certification. Fees and costs are the same as in civil appeals docketed before the Supreme Court and are to be equally divided between the parties unless otherwise ordered by the certifying court in its order of certification.

(f) Docketing in Supreme Court. Upon receiving the certification order, the clerk of the Supreme Court will docket the case and notify the clerk of the certifying court, the certifying judge, and the parties that the case has been docketed in the Supreme Court.

(g) Briefs and Argument.

(1) The Supreme Court will consider whether to accept a question certified to it without oral or written argument from the parties unless otherwise directed by the Supreme Court.

(2) If the Supreme Court accepts certification of a question of law, the parties must brief the certified question of law unless the court orders otherwise. The clerk of the Supreme Court will notify the parties of the court's decision to accept certification and set a briefing schedule. Briefs and any appendices must be in the form provided in Rules 28, 30, and 32.

(3) If the Supreme Court decides to hear oral argument on the certified question of law, Rule 34 will govern the proceedings.

(h) Opinion. The written opinion of the Supreme Court stating the law governing the questions certified will be sent by the clerk under the seal of the Supreme Court to the certifying court and to the parties, and has the same preclusive effect as a judgment under Rule 36.

REVIEWING NOTE

The proposed amendments to the language in subdivision (a) make clear that whether to answer a certified question of law is discretionary; and add "the highest appellate court of any state, territory, or the District of Columbia" and "the highest court of a federally recognized Indian tribe" as certifying courts. Subdivision (a) is amended to provide generally that certification will not be accepted if material facts are in dispute, but leaves open the option for certification when the matter is important. The Commission also recommends an official note be included with this Rule to assist the certifying court with the meaning of the phrase "may be determinative of the cause then pending" in subdivision (a)—i.e., that the phrase has the meaning set forth in *Volvo Cars of North America, Inc. v. Ricci*, 122 Nev. 746, 137 P.3d 1161 (2006).

Subdivision (c)(2) requires any disputed facts to be identified in the certification order. Subdivision (c)(6) and (7) are new provisions and specify additional information to be included in the certification order. These proposed amendments are intended to guide certifying courts as to what to include in their certification orders and to assist the Supreme Court in determining whether to accept certification.

The amendment to subdivision (d) omits the requirement that the certification order be "signed by the judge presiding at the hearing" because there is not always a hearing or a single judge signing the order. Language was also added to give the court discretion to restate the certified question of law or request clarification with respect to any question certified or to any facts.

In subdivision (h), the language providing that the written opinion will be "res judicata as to the parties" is amended to say that it will have "the same preclusive effect as a judgment under Rule 36." This amendment recognizes that "res judicata" is archaic language and that claim or issue preclusion is more accurate, and is intended to ensure that the written opinion is binding on the parties in this case.

RULE 6. RESERVED

RULE 7. BOND FOR COSTS ON APPEAL IN CIVIL CASES

In a civil case, the district court may require an appellant to file a bond or provide other security in any form and amount necessary to ensure payment of costs on appeal. Rule 8(b) applies to a surety on a bond given under this Rule.

REVIEWING NOTE

The former version of this Rule has been replaced with the language from FRAP 7 to modernize and simplify the rule and leave the form, amount, and release of the security to the discretion of the district court.

RULE 8. STAY OR INJUNCTION PENDING APPEAL OR RESOLUTION OF ORIGINAL WRIT PROCEEDINGS

(a) Motion for Stay.

(1) Initial Motion in the District Court. A party must ordinarily move first in the district court for the following relief:

(A) a stay of the judgment or order of, or proceedings in, a district court pending appeal or resolution of an original writ petition;

(B) approval of a supersedeas bond; or

(C) an order suspending, modifying, restoring, or granting an injunction while an appeal or original writ petition is pending.

➥ If a district court stays an order or judgment to permit application to the appellate court for a stay pending appeal or resolution of an original writ petition, an application for such stay must be filed with the clerk of the Supreme Court within 14 days after issuance of the district court's stay.

(2) Motion in the Court; Conditions on Relief. A motion for the relief mentioned in Rule 8(a)(1) may be made to the Supreme Court or to one of its justices. If the matter has been transferred to the Court of Appeals, the motion may be made to the Court of Appeals or to one of its judges.

(A) The motion must:

(i) show that moving first in the district court would be impracticable; or

(ii) state that, a motion having been made, the district court denied the motion or failed to afford the relief requested and state any reasons given by the district court for its action.

(B) The motion must also include:

(i) the reasons for granting the relief requested and the facts relied on;

(ii) originals or copies of affidavits or other sworn statements supporting facts subject to dispute; and

(iii) relevant parts of the record including the order or decision from which relief is sought. In an emergency, the motion shall comply with Rule 27(e).

(C) The moving party must give reasonable notice of the motion to all parties.

(D) In an exceptional case in which time constraints make consideration by a panel impracticable, the motion may be considered by a single justice or judge.

(E) The court may condition relief on a party's filing a bond or other appropriate security in the district court.

(b) Proceedings Against Sureties. If a party gives security in the form of a bond or stipulation or other undertaking with one or more sureties, each surety submits to the jurisdiction of the district court and irrevocably appoints the district court clerk as the surety's agent on whom any papers affecting the surety's liability on the bond or undertaking may be served. On motion, a surety's liability may be enforced in the district court without the necessity of an independent action. The motion and any notice that the district court prescribes may be served on the district court clerk, who will promptly mail a copy to each surety whose address is known.

(c) Stays or Injunctions in Civil and Criminal Cases but Not Cases Involving Child Custody. In deciding whether to issue a stay or injunction, the Supreme Court or Court of Appeals will generally consider the following factors: (1) whether the object of the appeal or writ petition will be defeated if the stay or injunction is denied; (2) whether the appellant/petitioner will suffer irreparable or serious injury if the stay or injunction is denied; (3) whether the respondent/real party in interest will suffer irreparable or serious injury if the stay or injunction is granted; and (4) whether the appellant/petitioner is likely to prevail on the merits in the appeal or writ petition.

(d) Stays in Civil Cases Involving Child Custody. In deciding whether to issue a stay in matters involving child custody, the Supreme Court or Court of Appeals will consider the following factors: (1) whether the child(ren) will suffer hardship or harm if the stay is either granted or denied; (2) whether the nonmoving party will suffer hardship or harm if the stay is granted; (3) whether the movant is likely to prevail on the merits in the appeal; and (4) whether a determination of other existing equitable considerations, if any, is warranted.

(e) Stays in Criminal Cases; Admission to Bail. Stays in criminal cases will be had in accordance with the provisions of NRS 177.095 et seq. Admission to bail will be as provided in NRS 178.4873 through 178.488.

(f) Stay of Execution of Death Penalty. Immediately upon entry of an order of the Supreme Court staying execution of the death penalty, the clerk will deliver copies thereof to the Governor of Nevada, the Director of the Department of Corrections, the warden of the institution in which the offender is imprisoned, and the Office of the Attorney General in Carson City.

REVIEWING NOTE

Subdivision (a)(1)(D) is added to require a party to move to obtain a stay in the appellate court within 14 days if the district court has entered a limited stay of an order or judgment to allow the party to seek a stay from the appellate court. This addition is modeled after Ninth Circuit Rule 27-2. Subdivision (a)(2)(B)(iii) clarifies that the portions of the record accompanying the motion should generally include the order from which relief is sought.

The heading of subdivision (c) was amended to clarify that the same stay factors apply to criminal and civil cases but not to child custody cases. The amendment in subdivision (f) modernizes who must receive notice of a stay motion in capital cases.

RULE 9. REQUESTS FOR AND PREPARATION OF TRANSCRIPTS

(a) Appellant's Duty to Request Transcripts.

(1) What to Request. Unless otherwise provided in these Rules, the appellant must request transcripts of district court proceedings that the appellant deems necessary for proper consideration of the issues on appeal but that were not prepared and filed in the district court before the appeal was docketed under Rule 12.

(2) When and How to Comply with Duty to Request. The appellant must do either of the following no later than 14 days from the date the appeal is docketed under Rule 12:

(A) request the court reporter or recorder to prepare the necessary transcripts by:

(i) preparing a transcript request form that complies with Rule 9(a)(6); and

(ii) filing the original transcript request form with the district court clerk and a file-stamped copy with the clerk of the Supreme Court; or

(B) file and serve a certificate that substantially complies with the Certificate of No Transcript Request Form on the Nevada Supreme Court website, stating that no transcript will be requested.

(3) Multiple Appeals from the Same Judgment. If multiple parties appeal from the same judgment, each appellant must comply with the provisions of this Rule. The appellants must confer and attempt to reach an agreement concerning the transcripts necessary for the appellate court's review to avoid duplicative requests.

(4) Service of Request Form. Except as otherwise provided in this Rule, the appellant must serve a copy of the transcript request form on the named court reporter or recorder and on all parties to the appeal within the time provided in Rule 9(a)(2). An appellant who will seek a waiver of the costs associated with the preparation and delivery of transcripts under Rule 9(a)(9) must serve a copy of the transcript request form on all parties to the appeal within the time provided in Rule 9(a)(2) but need not serve the request form on the named court reporter or recorder.

(5) Payment of Deposit. Except as otherwise provided in this Rule, the appellant must pay an appropriate deposit to the court reporter or recorder when the transcript request form is served. Where several parties have appealed from the same judgment or any part thereof, or there is a cross-appeal, the deposit must be borne equally by the parties appealing, or as the parties may agree. An appellant who is not required to serve the transcript request form on the court reporter or recorder under Rule 9(a)(4), is not required to pay a deposit.

(6) Contents of the Transcript Request Form. The appellant must prepare a separate transcript request form addressed to each court reporter or recorder who recorded the necessary proceedings, specifying only those

proceedings recorded by the named court reporter or recorder. The transcript request form must substantially comply with the Certified Transcript Request Form on the Nevada Supreme Court website and must contain the following information based on appellant's examination of the district court minutes:

(A) Name of the judge or officer who heard the proceedings;

(B) Date or dates of the trial or hearing to be transcribed; individual dates must be specified, a range of dates is not acceptable;

(C) Portions of the transcript requested; specify the type of proceedings (e.g., suppression hearing, trial, closing argument);

(D) Number of copies required; and

(E) A certification by the appellant or appellant's counsel, if any, that the required transcripts have been requested and that the required deposits have been paid. This certification must specify from whom the transcript was ordered, the date the transcript was ordered, and the date the deposit was paid. If the appellant is not required to serve the transcript request form on the court reporter or recorder pursuant to Rule 9(a)(4) or pay the deposit, the appellant may omit this certification but must file and serve a motion for waiver of costs pursuant to Rule 9(a)(9) within the time provided in Rule 9(a)(2).

(7) Number of Copies of Transcript; Costs. The appellant must provide a copy of the certified transcript to each party appearing separately. Unless otherwise ordered under Rule 9(a)(9), the appellant initially must pay any costs associated with the preparation and delivery of the transcript. Where several parties have appealed from the same judgment or any part thereof, or there is a cross-appeal, the costs associated with the preparation and delivery of the transcript must be borne equally by the parties appealing, or as the parties may agree.

(8) Supplemental Requests.

(A) Partial Transcript. Unless the entire transcript is ordered, the parties have a duty to confer and attempt to reach an agreement concerning the transcripts necessary for the appellate court's review.

(i) If the parties cannot agree on the necessary transcripts, within 14 days from the date the initial transcript request form is filed, the respondent must notify the appellant in writing of the additional portions it believes are required.

(ii) The appellant then has 14 days to file and serve a supplemental transcript request form and pay any additional deposit required.

(iii) Unless the appellant has ordered all additional portions of the transcript requested by the respondent within 14 days and has so notified the respondent, the respondent may, within the following 14 days either order the additional portions of the transcript or move in the Supreme Court or the Court of Appeals for an order requiring the appellant to do so.

(B) Pro Bono Program Appeals. If counsel has been assigned to represent the appellant pro bono pursuant to a program authorized by the Supreme Court, pro bono counsel may proceed as provided in Rule 9(a)(9) to obtain necessary transcripts not previously prepared.

(9) Motion for Waiver of Costs Associated with Preparation and Delivery of Transcripts. An appellant who has been permitted to proceed in forma pauperis, is a "client of a program for legal aid" as defined by NRS 12.015(8), or is represented by pro bono counsel pursuant to a program authorized by the Supreme Court and administered by a program for legal aid may request a waiver of the costs associated with the preparation and delivery of the transcripts by filing a motion with the clerk of the Supreme Court. The motion must specify each proceeding for which a transcript is requested and

explain why each transcript is necessary for the appellate court's review. If the court grants the motion, it will specify the transcripts that are necessary for appellate review and direct the district court to order that those transcripts be prepared at county expense in accordance with NRS 12.015(3).

(10) Consequences of Failure to Comply. An appellant's failure to comply with the provisions of this Rule may result in the imposition of sanctions, including dismissal of the appeal.

(b) Duty of the Court Reporter or Recorder.

(1) Preparation, Filing, and Delivery of Transcripts.

(A) Time to File and Deliver Transcripts. Upon receiving a transcript request form and the required deposit, the court reporter or recorder must promptly prepare or arrange for the preparation of the transcript. Except as provided in Rule 9(b)(1)(B) and (b)(4), the court reporter or recorder must—within 30 days after the date that a request form is served:

(i) file the original transcript with the district court clerk; and

(ii) deliver to the party ordering the transcript 1 certified copy and an additional certified copy for the appendix.

(B) Appellant's Failure to Pay Deposit. The court reporter or recorder is not obligated to prepare the transcript until receipt of the deposit required by Rule 9(a)(5). If the appellant fails to timely pay the deposit, the court reporter or recorder must—no later than 30 days from the date that the transcript request form is served:

(i) file with the clerk of the Supreme Court a written notice that the deposit has not been received, setting forth the full amount of the deposit and the amount that remains unpaid; and

(ii) serve a copy of the notice on the party requesting the transcript.

(2) Notice to Clerk of the Supreme Court. Within 14 days after the transcript is filed with the district court and delivered to the requesting party, the court reporter or recorder must file with the clerk of the Supreme Court a notice that the completed transcript has been filed and delivered. The notice must specify the transcripts that have been filed and delivered and the date that those transcripts were filed and delivered. The Notice of Completion and Delivery of Transcript Form on the Nevada Supreme Court website is a suggested form of certificate of delivery.

(3) Format of Transcript. A certified transcript may be produced in a conventional page-for-page format. A concordance indexing keywords in the transcript must be provided.

(4) Extension of Time to Deliver Transcript.

(A) Fourteen-Day Telephonic Extension. A court reporter or recorder may request by telephone a 14-day extension of time to prepare a transcript if the preparation requires more time than is allowed under this Rule. If good cause is shown, the clerk or a designated deputy may grant the request by telephone or by written order of the clerk.

(B) Additional Extensions by Motion. Subsequent extensions of time for filing a transcript will be granted only upon motion to the court on or before the date that the transcript is due. A motion to extend the time for delivering a transcript must be accompanied by an affidavit or declaration of the court reporter or recorder setting forth the reasons for the requested extension and the length of additional time needed to prepare the transcript. The motion must be served on all parties. Requests for extensions of time to prepare a transcript will be closely scrutinized and will be granted only upon a showing of good cause.

(C) Request for Extension of Briefing Schedule. The party requesting the transcript may, within 7 days of entry of an order granting a motion to extend the time for delivering a transcript, file a request to extend the briefing schedule by an equivalent amount granted for transcript preparation. The court may, in its discretion, extend the briefing schedule. Such an extension does not preclude a party from obtaining any other extension permitted under Rule 31.

(5) Sanctions for Failure to Comply. A court reporter or recorder who fails to file and deliver a timely transcript without sufficient cause as provided in Rule 9(c)(4) may be subject to sanctions under Rule 13.

(c) Statement of the Evidence When the Proceedings Were Not Recorded or When a Transcript Is Unavailable. If a hearing or trial was not officially recorded, or if a transcript is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including an unofficial recording or the appellant's recollection. The statement must be served on all other parties, who may serve objections or proposed amendments within 14 days after being served. The statement and any objections or proposed amendments must then be submitted to the district court for settlement and approval. As settled and approved, the statement must be included by the district court clerk in the trial court record, and the appellant must include a file-stamped copy of the statement in an appendix filed with the clerk of the Supreme Court.

REVIEWING NOTE

The Commission recommends a substantial overhaul of NRAP 9.

Subdivision (b)(4)(A) provides a mechanism by which court reporters and recorders can obtain a 14-day telephonic extension of time of time to prepare transcripts for good cause. If the court grants an extension of time to prepare

a transcript, thereby delaying a party's receipt of a transcript, subdivision (b)(4)(C) allows that party to request that the court extend the briefing schedule to accommodate the delay without precluding the party from obtaining any other extension under Rule 31.

The Commission recommends revisions to subdivision (c) to allow parties in short trial cases that are not officially recorded or transcribed to make unofficial recordings from which they could prepare a statement of the evidence.

RULE 10. THE RECORD

(a) The District Court Record. The district court record consists of the papers and exhibits filed in the district court, the transcript of the proceedings, if any, the district court minutes, and the docket entries made by the district court clerk.

(1) Retention of Record. The district court clerk must retain the district court record. When the appellate court deems it necessary to review the district court record, the district court clerk must assemble and transmit the portions of the record designated by the clerk of the Supreme Court in accordance with the provisions of Rule 11. The appellate court may direct a party to pay any costs associated with the preparation and transmission of the record.

(b) The Record on Appeal.

(1) The Appendix. For the purposes of appeal, the parties must submit to the clerk of the Supreme Court copies of the portions of the district court record to be used on appeal, including all transcripts necessary to the Supreme Court's or Court of Appeals' review, as appendices to their briefs. Under Rule 30(a), a joint appendix is preferred. This Rule does not apply to pro se parties. The Supreme Court or Court of Appeals will determine whether its review of

the complete record is necessary in a pro se appeal and direct the district court clerk to transmit the record as provided in Rule 11(a)(2).

(2) Exhibits. If exhibits cannot be copied to be included in the appendix, the parties may request transmittal of the original exhibits to the clerk of the Supreme Court under Rule 30(d).

(3) Audio or Video Recordings. If an official audio or video recording of a proceeding is necessary to the Supreme Court's or Court of Appeals' meaningful review of an issue raised on appeal, a party may request transmittal of the recording to the clerk of the Supreme Court. The court will not accept audio or video recordings in lieu of a transcript.

(c) Correction or Modification of the Record.

(1) If any difference arises about whether the district court record truly discloses what occurred in the district court, the difference must be submitted to and settled by that court and the record conformed accordingly.

(2) If anything material to either party is omitted from or misstated in the district court record, the omission or misstatement may be corrected:

(A) on stipulation of the parties;

(B) on order of the district court; or

(C) on order of the Supreme Court or Court of Appeals.

(3) All other questions as to the form and content of the record must be presented to the Supreme Court or Court of Appeals.

REVIEWING NOTE

Some of the proposed amendments to Rule 10 are stylistic, to include changing references to the "trial court" to the "district court," and changing "shall" to "must." However, some are substantive. Subdivision (a)(1) has been revised to reflect that the Supreme Court Clerk's office is not making pro se parties pay for the preparation of a record; thus the rule no longer states that

"costs associated with the preparation and transmission of the record shall be paid initially by the appellant, unless otherwise ordered." Subdivision (b)(3) is new language that provides a mechanism for parties to request transmission of audio or video recordings that are, in and of themselves, necessary for meaningful appellate review. Subdivisions (c)(2) and (c)(3) are modeled after FRAP 10(e)(2) and (3) to enable parties to correct and supplement the record either in district court or in Nevada's appellate courts when "anything material to either party is omitted from or misstated in the district court record." However, unlike in FRAP 10(e)(2), the omission or misstatement need not have been the result of an "error or accident" to be corrected.

RULE 11. PREPARING AND FORWARDING THE RECORD

(a) Preparation of the Record. The district court clerk must transmit the district court record to the clerk of the Supreme Court only when required by statute or court rule or upon order of the Supreme Court or Court of Appeals. The district court clerk must assemble, paginate, and index the record in the same manner as an appendix to the briefs under Rule 30. If the Supreme Court or Court of Appeals determines that its review of original papers or exhibits is necessary, the district court clerk must forward the original district court record in lieu of copies.

(1) Exhibits. If the Supreme Court or Court of Appeals directs transmittal of exhibits, the exhibits must not be included with the documents comprising the record. The district court clerk must place exhibits in an envelope or other appropriate container, so far as practicable. The title of the case, the court docket number, and the number and description of all exhibits must be listed on the envelope, or if no envelope is used, then on a separate list.

(2) Record in Pro Se Cases. When the court directs transmission of the complete record in cases in which the appellant is proceeding without counsel, the record must contain each and every paper, pleading, and other document filed in, or submitted for filing in, the district court. The record must also include any previously prepared transcripts of the proceedings in the district court. If the Supreme Court or Court of Appeals should determine that additional transcripts are necessary to its review, the court may order the reporter or recorder who recorded the proceedings to prepare and file the transcripts.

(b) Duty of Clerk to Certify and Forward the Record. The district court clerk must certify and forward the record to the clerk of the Supreme Court. The district court clerk must indicate, by endorsement on the face of the record or otherwise, the date upon which it is forwarded to the clerk of the Supreme Court.

(c) Time for Forwarding the Record. The district court record must be forwarded within the time allowed by the court, unless the time is extended by an order entered under Rule 11(d).

(d) Failure of Timely Transmittal; Extensions.

(1) Failure of Timely Transmittal. A district court clerk who fails to forward a timely record on appeal without sufficient excuse may be subject to sanctions.

(2) Extension of Time; Supporting Documentation and Affidavits. If the district court clerk cannot timely forward the record, the clerk must seek an extension of time from the requesting court. The district court clerk may request by telephone a 14-day extension of time to transmit the record. If good cause is shown, the clerk of the Supreme Court may grant the request by telephone. Any additional request for an extension of time to

transmit the record must be sought by filing a written motion with the clerk of the Supreme Court and must be accompanied by a declaration of the district court clerk or deputy clerk setting forth the reasons for the requested extension, and the length of additional time needed to prepare the record.

REVIEWING NOTE

The proposed amendments to this Rule are primarily stylistic, with two minor exceptions. First, subdivision (d)(2) provides the district court clerk's office with the ability to seek a 14-day telephonic extension of time to transmit the record for good cause. Second, the Commission recommends an official note to this Rule be included to clarify for non-attorneys that appellants and respondents are still required to comply with any appendix requirements of NRAP 30 that may apply.

RULE 12. DOCKETING THE APPEAL; FILING OF THE RECORD

(a) Docketing the Appeal. Upon receiving the copies of the notice of appeal and other documents from the district court clerk under Rule 3, the clerk of the Supreme Court will docket the appeal and immediately notify all parties of the docketing date. Automatic appeals from a judgment of conviction of death will be docketed in accordance with SCR 250. If parties on opposing sides file notices of appeal from the same district court judgment or order, in accordance with Rule 4(a), the appellants and cross-appellants will be designated as provided in Rule 28.1. A subsequent appeal will in all respects be treated as an initial appeal, including the payment of the prescribed filing fee. Cross-appeals will be filed under the same docket number and calendared and argued with the initial appeal.

(b) Filing the Record. Upon receiving the record, the clerk of the Supreme Court will file it and immediately notify all parties of the filing date.

REVIEWING NOTE

The amendments to this Rule are stylistic only. The NRAP Commission recommends avoiding the use of the word "shall" and replacing it with "will" or "must" where applicable.

RULE 12A. REMAND AFTER AN INDICATIVE RULING BY THE DISTRICT COURT ON A MOTION FOR RELIEF THAT IS BARRED BY A PENDING APPEAL

(a) Notice to the Appellate Court. If a timely motion is made in the district court for relief that it lacks authority to grant because of an appeal that has been docketed and is pending, the movant must promptly notify the clerk of the Supreme Court if the district court states either that it would grant the motion or that the motion raises a substantial issue.

(b) Remand After an Indicative Ruling. If the district court states that it would grant the motion or that the motion raises a substantial issue, the Supreme Court or the Court of Appeals may remand for further proceedings but the appellate court retains jurisdiction unless it expressly dismisses the appeal. If the appellate court remands but retains jurisdiction, the parties must promptly notify the clerk of the Supreme Court when the district court has decided the motion on remand.

RULE 13. COURT REPORTERS' AND RECORDERS' DUTIES AND OBLIGATIONS; SANCTIONS

(a) Court Reporters' and Recorders' Duties and Obligations. A person serving as a court reporter or reporter pro tempore or court recorder in trials, proceedings, or hearings subject to court review is, for such purposes, an officer of the Supreme Court, and as such is accountable to the Supreme Court for the faithful performance of their duties and obligations. Subject to the provisions of Rule 9, such person has a duty to expeditiously prepare, and

punctually deliver, all transcripts needed for such review; such person accordingly has a duty to refrain from undertaking further professional assignments that may unduly interfere with timely preparation and delivery of transcripts necessary for review of matters already heard; and where appropriate such person must promptly notify every affected judge of the reporter's or recorder's consequent unavailability to report matters currently being heard, so that substitute reporters pro tempore or court recorders may be obtained.

(b) Sanctions. For default in the professional obligations of any court reporter or reporter pro tempore or court recorder, if such default threatens or adversely affects the efficiency or integrity of the court, appropriate sanctions may be imposed. The court may, for reasons stated, enter an order (1) referring an apparent offending court reporter or reporter pro tempore to the certified court reporters' board of Nevada for disciplinary action in accordance with the provisions of NRS Chapter 656; or (2) requiring an apparent offender to appear before the court, or its designated master, to show cause why he or she should not be precluded from undertaking to act as a reporter or recorder in regard to any trial, proceeding, administrative hearing, or deposition, that is subject to court review; why he or she should not be punished for contempt of court; and why damages should not be awarded to either or both parties, and to the State of Nevada, if loss of court time results.

REVIEWING NOTE

The amendments to this Rule are intended to be stylistic only, with the exception of a minor revision in subdivision (b) to make sanctions permissive rather than mandatory.

RULE 14. DOCKETING STATEMENT

(a) Application and Purpose of Docketing Statement.

(1) In General. Each appellant must file a completed docketing statement in accordance with the provisions of this Rule. Unless a cross-appeal is filed, the respondent must not file a docketing statement but may file a response as specified in Rule 14(f).

(2) Exceptions.

(A) Original Writ Proceedings. This Rule does not apply to original proceedings commenced pursuant to NRS Chapters 34 or 35.

(B) Postconviction Appeals. This Rule does not apply to postconviction appeals in which the appellant is appearing without counsel.

(3) Purpose of Docketing Statement. The purpose of the docketing statement is to assist the Supreme Court in identifying jurisdictional defects, identifying issues on appeal, assessing assignment to the Court of Appeals under Rule 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment, and compiling statistical information.

(4) Statement of Issues on Appeal. A docketing statement must state specifically all issues that a party in good faith reasonably believes to be the issues on appeal. The statement of issues is instrumental to the court's case management procedures; however, such statement is not binding on the court, and the parties' briefs will determine the issues on appeal. Omission of an issue from the statement of issues will not provide an appropriate basis for a motion to strike any portion of the opening brief.

(b) Time for Filing; Form of Docketing Statement. Within 21 days after docketing of the appeal under Rule 12, the appellant must file a docketing statement with the clerk of the Supreme Court, on the Docketing Statement

Form that is provided by the clerk or available on the Nevada Supreme Court website. Legible copies of the original form provided by the clerk will be accepted by the clerk for filing in lieu of the original form. The appellant may file a docketing statement that is not on the form provided by the clerk so long as it contains every question included in the clerk's form. The docketing statement must be filed, together with proof of service of a copy of the completed statement on all parties and, if the appeal is assigned to the settlement conference program under Rule 16, on the settlement judge.

(c) Consequences of Failure to Comply. The docketing statement must be completed fully and accurately. For civil appeals, copies of all requested documents must be attached to the completed docketing statement. The court may impose sanctions on counsel or the appellant if it appears that the information provided is incomplete or inaccurate, or if the requested documentation has not been attached. Failure to file a docketing statement within the time prescribed will not affect the validity of the appeal, but is grounds for such action as the court deems appropriate including sanctions and dismissal of the appeal.

(d) Extensions of Time. Any extension of time must be sought in accordance with Rule 26(b).

(e) Multiple Appellants. In cases involving more than one appellant, any number of appellants may join in a single docketing statement. Multiple appellants are encouraged to consult with each other and, whenever possible, file only one docketing statement.

(f) Response by Respondent(s). The respondent, within 7 days after service of the docketing statement, may file a single-page response, together with proof of service on all parties, if the respondent strongly disagrees with the appellant's statement of the case or issues on appeal. If the respondent

believes there is a jurisdictional defect, the respondent should file a motion to dismiss. In cases involving more than one respondent, any number of respondents may join in a single response. Multiple respondents are encouraged to consult with each other and, whenever possible, file only one response.

(g) Cross-Appeals. All parties who have filed a notice of appeal, whether designated as appellants or cross-appellants, must comply with Rule 14(a). Cross-appellants and cross-respondents are subject to all the provisions of this Rule as are appellants and respondents.

REVIEWING NOTE

The amendments to this rule were intended to be stylistic, with the exception of subdivisions (b) and (f), which were modified to eliminate the requirement of filing multiple copies. No substantive change was intended by the modification of subdivision (d), which was modified to say extensions of time can be sought in accordance with Rule 26(b). Rule 26(b) is the general rule for extensions and permits extensions using the same standard as was listed in Rule 14(d).

RULE 15. REPEALED [EFFECTIVE DECEMBER 30, 1997]

RULE 16. SETTLEMENT CONFERENCES IN CIVIL APPEALS

(a) Applicability.

(1) Except as provided in Rule 16(a)(2), any civil appeal in which all parties are represented by counsel may be assigned to the settlement conference program.

(2) Unless the court otherwise orders, an appeal is not subject to this Rule if the appeal involves:

(A) Termination of parental rights; or

(B) Child custody, guardianship of minors, parenting time, visitation, or relocation of a minor.

(3) In appeals involving issues listed in Rule 16(a)(2)(B), either party may file a motion to opt into the settlement conference program. Such motion must be filed within 7 days of the docketing of the appeal or the appearance of counsel for a previously self-represented party. Any opposition must be filed within 7 days of service of the motion to opt in and must include a statement that the party believes there is no reasonable possibility of settlement. Unopposed motions filed under this Rule will be granted.

(b) Assignment of Case to Settlement Conference Program. The settlement conference program administrator will determine whether to assign an appeal to the settlement conference program. The settlement conference will be presided over by a qualified mediator who has been appointed as a settlement judge by the Supreme Court. The parties may file a motion or stipulation to proceed with a private mediator that is hired by the parties. Any such motion must identify the mediator the parties wish to use and demonstrate that the mediator possesses the requisite qualifications to act as a mediator.

(1) Referral Notice; Suspension of Rules. The clerk will issue a referral notice informing the parties that the appeal may be assigned to the settlement conference program. The referral notice automatically stays the time for filing a request for transcripts and for filing briefs. The notice also stays the preparation and filing of any transcripts requested. The time for filing a docketing statement is not stayed.

(2) Assignment Notice. Upon assignment, the clerk of the Supreme Court will issue an assignment notice informing the parties that a case has

been assigned to the settlement conference program and identifying the name of the settlement judge.

(c) Early Case Assessment. The settlement judge must conduct a pre-mediation telephonic or video conference with counsel and file an Early Case Assessment Report within 30 days of assignment. In that report, the settlement judge must inform the court whether the case is appropriate for the program or should be removed from the program. If the settlement judge reports that the case is not appropriate for the settlement conference program, the court may remove the case from the program and reinstate the timelines for requesting transcripts and briefing.

(d) Scheduling of Settlement Conference. Unless the Supreme Court removes the case from the settlement conference program or grants an extension of time, the settlement judge must hold an initial settlement conference within 120 days of assignment. If the appeal is subject to the provisions of Rule 3E, the initial settlement conference must be held within 45 days of assignment.

(e) Settlement Statement.

(1) Each party to the appeal must submit a settlement statement directly to the settlement judge 7 days prior to the settlement conference, unless otherwise directed by the settlement judge. A settlement statement must not be filed with the Supreme Court. Sections 1-4 of the settlement statement must be served on the settlement judge and counsel for all other parties. Sections 5-9 must only be served on the settlement judge.

(2) A settlement statement is limited to 4,667 words, unless otherwise directed by the settlement judge, and must concisely state: (1) relevant facts and procedural history; (2) legal issues and arguments related to this dispute; (3) past settlement discussions; (4) names and representative capacities of

attendees; (5) goals and interests of the party filing the settlement statement; (6) a settlement proposal that the party believes would be fair or would be willing to make in order to conclude the matter; (7) perceived goals and interests of the other parties; (8) obstacles to settlement and proposals to overcoming them; and (9) any other matters requested by the settlement judge or that may assist the settlement judge in conducting the settlement conference. The Settlement Statement Form on the Nevada Supreme Court website is a suggested form of a settlement statement.

(f) Service. Papers or documents filed with the Supreme Court while a case is in the settlement program must be served on all parties and the settlement judge.

(g) Settlement Conference. The settlement conference will be held at a time and place designated by the settlement judge.

(1) Attendance. Counsel for all parties and their clients must attend the conference. The settlement judge may, for good cause shown, excuse a client's attendance at the conference, provided that counsel has written authorization to resolve the case fully or has immediate telephone access to the client.

(2) Agenda. The agenda for the settlement conference and the sequence of presentation will be at the discretion of the settlement judge. A subsequent settlement conference may be conducted by agreement of the parties or at the direction of the settlement judge.

(3) Settlement Conference Status Reports. The settlement judge must file a settlement conference status report within 3 days of any settlement conference in appeals subject to the provisions of Rule 3E and within 14 days of any settlement conference in all other appeals. The report must state the

result of the settlement conference but must not disclose any matters discussed at the conference.

(4) Settlement Documents. If a settlement is reached, the parties must promptly execute a stipulation to dismiss the appeal and file the stipulation to dismiss with the clerk of the Supreme Court. The parties must also execute a signed settlement agreement that reduces the material terms of the settlement to writing and contains an acknowledgment that the parties have agreed to the terms. The settlement agreement must not be filed with the Supreme Court.

(h) Length of Time in Settlement Conference Program.

(1) Time Limits. For appeals subject to the provisions in Rule 3E, the settlement judge must file a final settlement conference status report within 120 days of assignment that indicates whether the parties were able to agree to a settlement. In all other appeals, a final settlement conference status report must be filed within 180 days of assignment.

(2) Extensions. Upon stipulation of all parties or upon the settlement judge's recommendation, the settlement program administrator may extend the time for filing a final settlement conference status report. In appeals subject to the provisions of Rule 3E, the time may be extended for an additional 60 days. In all other appeals, the time may be extended for an additional 90 days.

(i) Confidentiality. All participants must sign a confidentiality agreement prior to commencement of the settlement conference. Papers or documents prepared by counsel or a settlement judge in furtherance of a settlement conference, excluding the settlement conference status report and stipulation or motion to dismiss appeal, must not be available for public inspection or submitted to or considered by the Supreme Court or Court of

Appeals. Aside from the terms of a settlement reached, matters discussed at the settlement conference and papers or documents prepared under this Rule are not admissible in evidence in any judicial proceeding and are not subject to discovery.

(j) Sanctions. The failure of a party, or the party's counsel, to participate in good faith in the settlement conference process by not attending a scheduled conference or not complying with the procedural requirements of the program may be grounds for sanctions against the party, the party's counsel, or both. If a settlement judge believes sanctions are appropriate, the settlement judge may file a settlement conference status report recommending the sanction to be imposed and describing the conduct warranting that sanction. Sanctions include, but are not limited to, payment of attorney fees and costs of the opposing party, dismissal of the appeal, or reversal of the judgment below.

REVIEWING NOTE

Subdivision (a) is added to set forth the applicability of the rule. The changes substantively modify the rule by adding appeals subject to the provisions of Rule 3E to the list of appeals that are exempt from the settlement program and by including a provision that allows the parties in Rule 3E appeals to opt into the settlement program.

The previous subdivision (a) is re-lettered to (b) and minor edits were made to make the referral and assignment process distinct. This subdivision is also substantively modified to allow parties to hire a private mediator for the settlement proceedings. The provision on Service was moved from this subdivision and placed as its own subdivision (f).

Subdivision (c) was re-lettered to (d) and was substantively modified to reduce the time for the settlement judge to hold the initial settlement

conference in appeals subject to the provisions of Rule 3E and increase the time to hold the initial settlement conference in all other appeals.

Subdivision (d) was re-lettered to (e) and is substantively modified by changing the time for filing the settlement statement and the questions that need to be answered, and by adding a requirement that questions 1-4 of the settlement statement must be served on all parties.

Subdivision (e) was re-lettered to (g) and the subdivision includes substantive changes that: in (1) allow the parties to appear at the settlement conference by video; in (3) reduces to 3 days the time for filing the settlement conference status report in appeals subject to the provisions of NRAP 3E; and in (4) adds a requirement that the parties must execute a signed settlement agreement that reduces the material terms of the agreement to writing and contains an acknowledgment that the parties have agreed to those terms.

Subdivision (f) is re-lettered to (h) and the changes to this subdivision are not intended to be substantive. Subdivision (h) is re-lettered to (i) and adds a sentence requiring all participants to sign a confidentiality agreement prior to commencement of the settlement conference. The subdivision is also modified to include the stipulation or motion to dismiss the appeal as a document that is available for public inspection. This subdivision is also substantively modified to allow the terms of any settlement reached in this program to be subject to discovery and admissible in judicial proceedings. Subdivision (g) is re-lettered to (j).

The Commission recommends an official note be included with this Rule to advise that if the settlement requires the district court to enter orders to effectuate the parties' settlement agreement and the parties want the district court to indicate whether it will enter the order consistent with the settlement agreement, the parties may follow the procedure set forth in Rule 12A.

RULE 17. DIVISION OF CASES BETWEEN THE SUPREME COURT AND THE COURT OF APPEALS

(a) Cases Always Retained by the Supreme Court. The Supreme Court must hear and decide the following:

(1) All death penalty cases;

(2) Cases involving ballot or election questions;

(3) Cases involving judicial discipline;

(4) Cases involving attorney admission, suspension, discipline, disability, reinstatement, and resignation;

(5) Cases involving the approval of prepaid legal service plans;

(6) Questions of law certified by a federal court;

(7) Disputes between branches of government or local governments;

(8) Administrative agency cases involving tax, water, or public utilities commission determinations;

(9) Cases involving the termination of parental rights;

(10) Cases involving juvenile certifications under NRS 62B.390; and

(11) Matters raising as a principal issue an inconsistency in the decisions of the Court of Appeals or of the Supreme Court or a conflict between decisions of the two courts.

(b) Cases Ordinarily Retained by the Supreme Court. The Supreme Court will ordinarily retain the following types of cases:

(1) Cases originating in business court;

(2) Matters raising as a principal issue a question of first impression;

(3) Matters raising as a principal issue a question of law regarding the validity of a statute, ordinance, court rule, or administrative rule or regulation;

(4) Matters raising as a principal issue a question of state or federal constitutional interpretation; and

(5) Matters raising as a principal issue a question of statewide public importance that has application beyond the parties.

(c) Cases Ordinarily Assigned to Court of Appeals. The Court of Appeals will hear and decide only those matters assigned to it by the Supreme Court and those matters within its original jurisdiction. Except as provided in Rule 17(a), the Supreme Court may assign to the Court of Appeals any case filed in the Supreme Court. The Supreme Court will ordinarily transfer to the Court of Appeals the following:

(1) Cases presenting the application of existing legal principles;

(2) Appeals from a judgment of conviction based on a plea of guilty, guilty but mentally ill, or nolo contendere (Alford);

(3) Appeals from a judgment of conviction based on a jury verdict that:

(A) do not involve a conviction for any offenses that are category A or B felonies; or

(B) challenge only the sentence imposed and/or the sufficiency of the evidence;

(4) Postconviction appeals that involve a challenge to a judgment of conviction or sentence for offenses that are not category A felonies;

(5) Postconviction appeals that involve a challenge to the computation of time served under a judgment of conviction, a motion to correct an illegal sentence, or a motion to modify a sentence;

(6) Appeals from a judgment, exclusive of interest, attorney fees, and costs, of $250,000 or less in a tort case;

(7) Cases involving a contract dispute where the amount in controversy is less than $150,000;

(8) Appeals from postjudgment orders in civil cases;

(9) Cases involving statutory lien matters under NRS Chapter 108;

(10) Administrative agency cases except those involving tax, water, or public utilities commission determinations;

(11) Cases involving family law matters other than termination of parental rights, including:

(A) Cases involving domestic relations under NRS Title 11;

(B) Cases involving adult and minor guardianship under NRS Title 13; and

(C) Cases involving the protection of children from abuse and neglect under NRS Chapter 432B;

(12) Cases involving juvenile justice under NRS Title 5 other than juvenile certifications under NRS 62B.390;

(13) Appeals challenging venue;

(14) Cases challenging the grant or denial of injunctive relief;

(15) Pretrial writ proceedings challenging discovery orders or orders resolving motions in limine;

(16) Cases involving trust and estate matters in which the corpus has a value of less than the applicable federal estate tax exemption amount; and

(17) Cases arising from the foreclosure mediation program.

(d) Consideration of Workload. In assigning cases to the Court of Appeals, due regard will be given to the workload of each court.

(e) Routing Statements; Finality. A party who believes that a matter ordinarily assigned to the Court of Appeals should be retained by the Supreme Court may state the reasons as enumerated in Rule 17(a) and (b) in the routing statement of the briefs as provided in Rules 3C, 3E, and 28 or a writ petition as provided in Rule 21. A party may not file a motion or other pleading seeking reassignment of a case that the Supreme Court has assigned to the Court of Appeals.

(f) Transfer and Notice. Upon the transfer of a case to the Court of Appeals, the clerk will issue a notice to the parties. With the exception of a petition for Supreme Court review under Rule 40B, any pleadings in a case after it has been transferred to the Court of Appeals must be entitled "In the Court of Appeals of the State of Nevada."

REVIEWING NOTE

The NRAP Commission did not unanimously agree on three provisions of this Rule. The majority and minority views are provided below.

The NRAP Commission recommends splitting the existing rule into three subdivisions: (a) cases "always" retained by the Supreme Court; (b) cases "ordinarily" retained by the Supreme Court; and (c) cases "ordinarily" assigned to the Court of Appeals.

The cases "always" retained by the Supreme Court under subdivision (a) are clearly defined categories and will now include cases involving juvenile certifications under NRS 62B.390. While cases involving the termination of parental rights will always be retained by the Supreme Court under subdivision (a), cases arising under NRS Chapter 432B will ordinarily be assigned to the Court of Appeals under subdivision (c)(11). A majority of the Commission recommends removing cases originating in business court from subdivision (a) and placing them among the cases ordinarily assigned to the Supreme Court under subdivision (b); however, a minority of Commission members would like to see business court cases always retained by the Supreme Court.

For the most part, the cases "ordinarily" retained by the Supreme Court under subdivision (b) are less-clearly defined (e.g. "matters raising as a principal issue a question of first impression") and are subject to argument/interpretation by the parties in their routing statements.

Subdivision (c) will govern cases "ordinarily" assigned to the Court of Appeals. Cases presenting "the application of existing legal principles" or "the application of settled law" will ordinarily be assigned to the Court of Appeals under subdivision (c)(1). A minority of the Commission recommends that the Court of Appeals no longer ordinarily review decisions granting summary judgment or dismissals of tort claims and has proposed alternate language in subdivision (c)(6) limiting the Court of Appeals' review of tort cases to "[a]ppeals from a judgment awarding damages, exclusive of interest, attorney fees, and costs of between $1 and $250,000." The Commission recommends raising the amount in controversy for contract disputes assigned to the Court of Appeals from $75,000 to $150,000 under subdivision (c)(7). The family law cases ordinarily assigned to the Court of Appeals under subdivision (c)(11) will explicitly include the following: "(a) Cases involving domestic relations under NRS Title 11; (b) Cases involving adult and minor guardianship under NRS Title 13; and (c) Cases involving the protection of children from abuse and neglect under NRS Chapter 432B." Additionally, under subdivision (c)(12), the Court of Appeals will ordinarily hear cases involving juvenile justice under NRS Title 5 (except for juvenile certifications). Finally, the Commission recommends revising the value limit on trust and estate matters assigned to the Court of Appeals from "$5,430,000" to "the applicable federal estate tax exemption amount."

RULE 18. RESERVED

RULE 19. RESERVED

RULE 20. RESERVED

III. EXTRAORDINARY WRITS

RULE 21. WRITS OF MANDAMUS AND PROHIBITION AND OTHER EXTRAORDINARY WRITS

(a) Mandamus or Prohibition: Petition for Writ; Service and Filing.

(1) Filing and Service. A party petitioning for a writ of mandamus or prohibition must file a petition with the clerk of the Supreme Court with proof of service on the respondent judge, corporation, commission, board or officer and on each real party in interest. A petition directed to a court must also be accompanied by a notice of the filing of the petition, which must be served on all parties to the proceeding in that court.

(2) Caption. The petition must include in the caption: the name of each petitioner; the name of the appropriate judicial officer, public tribunal, corporation, commission, board or person to whom the writ is directed as the respondent; and the name of each real party in interest, if any.

(3) Contents of Petition. The petition must state:

(A) whether the matter falls in one of the categories of cases always retained by the Supreme Court pursuant to Rule 17(a), ordinarily retained by the Supreme Court pursuant to Rule 17(b), or ordinarily assigned to the Court of Appeals pursuant to Rule 17(c);

(B) the relief sought;

(C) the issues presented;

(D) the facts necessary to understand the issues presented by the petition; and

(E) the reasons why the writ should issue, including points and legal authorities.

(4) Appendix and Record. The petitioner must submit with the petition an appendix that complies with Rule 30. Rule 30(i), which prohibits pro se parties from filing an appendix, does not apply to a petition for relief filed under this Rule and thus pro se writ petitions must be accompanied by an appendix as required by this Rule. The appendix must include a copy of any order or opinion, parts of the record before the respondent judge, corporation, commission, board, or officer, or any other original document that may be essential to understand the matters set forth in the petition. In petitions arising from the district court, the appendix must also comply with Rule 10.

(5) Verification. A petition for an extraordinary writ must be verified by the affidavit or declaration of the petitioner or, if the petitioner is unable to verify the petition or the facts stated therein are within the knowledge of the petitioner's attorney, by the affidavit or declaration of the attorney. The affidavit or declaration must be filed with the petition.

(6) Emergency Petitions. A petition that requests the court to grant relief in less than 14 days must also comply with the requirements of Rule 27(e).

(b) Denial; Order Directing Answer.

(1) The court may deny the petition without an answer. Otherwise, it may order the respondent or real party in interest to answer within a fixed time.

(2) Two or more respondents or real parties in interest may answer jointly.

(3) The court may invite an amicus curiae to address the petition.

(4) In extraordinary circumstances, the court may invite the trial court judge to address the petition.

(c) Other Extraordinary Writs. An application for an extraordinary writ other than one provided for in Rule 21(a) must be made by filing a petition with the clerk of the Supreme Court with proof of service on the parties named as respondents and any real party in interest. Proceedings on the application must conform, so far as is practicable, to the procedure prescribed in Rule 21(a) and (b).

(d) Form of Papers; Length. All papers must conform to Rule 32(c)(2). A petition is acceptable if it contains no more than 15 pages or 7,000 words as computed under Rule 32(a)(7)(C) or the court grants leave to file a longer petition. Unless the court directs otherwise, the same page and type-volume limitations apply to any answer, reply, or amicus brief allowed by the court. A motion to exceed the page or type-volume limitation in this Rule must comply with Rule 32(a)(7)(D).

(e) Certificate of Compliance. A petition filed under this Rule and any answer, reply, or amicus brief allowed by the court must include a certificate of compliance that comports with Rule 32(a)(9).

(f) Disclosure Statement. A petition and any answer thereto must be accompanied by the disclosure statement required by Rule 26.1.

(g) Payment of Fees. The court will not consider any application for an extraordinary writ until the petition has been filed; and the clerk will receive no petition for filing until the $250 fee has been paid, unless the applicant is exempt from payment of fees, or the court or a justice or judge thereof orders waiver of the fee for good cause shown.

REVIEWING NOTE

The amendment to subdivision (a)(4) clarifies that the appendix must comply with Rule 10 when the petition arises from the district court.

IV. HABEAS CORPUS; PROCEEDINGS IN FORMA PAUPERIS

RULE 22. HABEAS CORPUS PROCEEDINGS

Application for the Original Writ. An application for an original writ of habeas corpus should be made to the appropriate district court. If an application is made to the district court and denied, the proper remedy is by appeal from the district court's order denying the application.

RULE 23. CUSTODY OR RELEASE OF A PRISONER IN A HABEAS CORPUS PROCEEDING

(a) Transfer of Custody Pending Review. Pending review of a decision in a habeas corpus proceeding commenced before a court, justice, or judge of this state for the release of a prisoner, the person having custody of the prisoner must not transfer custody to another unless a transfer is directed in accordance with this Rule and NRS 174.325. When, upon application, a custodian shows the need for a transfer, the court, justice, or judge rendering the decision under review may authorize the transfer and substitute the successor custodian as a party.

(b) Detention or Release Pending Review of Decision Not to Release. While a decision not to release a prisoner is under review, the court or judge rendering the decision, or the Supreme Court or Court of Appeals or a justice or judge thereof, may order that the prisoner be:

(1) detained in the custody from which release is sought;

(2) detained in other appropriate custody; or

(3) released on personal recognizance, with or without surety.

(c) Release Pending Review of Decision Ordering Release. While a decision ordering the release of a prisoner is under review, the prisoner must—unless the court or judge rendering the decision, or the Supreme Court

or Court of Appeals or a justice or judge thereof orders otherwise—be released on personal recognizance, with or without surety.

(d) Modification of the Initial Order on Custody. An initial order governing the prisoner's custody or release, including any recognizance or surety, continues in effect pending review unless for special reasons shown to the Supreme Court or Court of Appeals or to a justice or judge thereof, the order is modified or an independent order regarding custody, release, or surety is issued.

RULE 24. PROCEEDINGS IN FORMA PAUPERIS

(a) Leave to Proceed on Appeal in Forma Pauperis.

(1) Motion in the District Court. Except as stated in Rule 24(a)(3) and (5)(b), a party to a district court action who desires to appeal in forma pauperis must file a motion in the district court. The party must attach an affidavit that:

(A) shows in detail the party's inability to pay or to give security for fees and costs, as prescribed by the Affidavit in Support of Motion to Proceed in Forma Pauperis Form that is available on the Nevada Supreme Court website;

(B) claims an entitlement to redress; and

(C) states the issues that the party intends to present on appeal.

(2) Action on the Motion. If the district court grants the motion, the party may proceed on appeal without prepaying or giving security for fees and costs. If the district court denies the motion, it must state its reasons in writing.

(3) Prior Approval. A party who was permitted to proceed in forma pauperis in a civil district court action may proceed on appeal in forma pauperis without further authorization, unless the district court—before or after the notice of appeal is filed—certifies that the appeal is not taken in good

faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding.

(4) Notice of District Court's Denial. The district court clerk must immediately notify the parties and the clerk of the Supreme Court when the district court does any of the following:

(A) denies a motion to proceed on appeal in forma pauperis;

(B) certifies that the appeal is not taken in good faith; or

(C) finds that the party is not otherwise entitled to proceed in forma pauperis.

(5) Motion in the Supreme Court or Court of Appeals. A party who desires to proceed on appeal in forma pauperis may file one of the following:

(A) a motion to proceed on appeal in forma pauperis in the court within 30 days after service of the notice prescribed in Rule 24(a)(4). The motion must include a copy of the affidavit filed in the district court and a copy of the district court's statement of reasons for its action. If no affidavit was filed in the district court, the party must include the affidavit prescribed by Rule 24(a)(1); or

(B) in a civil appeal, a statement of legal aid eligibility providing that the party is a client of a program for legal aid as defined by NRS 12.015(8).

(b) Leave to Use Original Record. A party allowed to proceed on appeal in forma pauperis may request that the appeal be heard on the original record without reproducing any part.

V. GENERAL PROVISIONS

RULE 25. FILING AND SERVICE

(a) Filing.

(1) Filing With the Clerk. A paper required or permitted to be filed in the court must be filed with the clerk.

(2) Filing: Method and Timeliness.

(A) Nonelectronic Filing. A paper not filed electronically is timely filed if, on or before the last day for filing, it is:

(i) delivered to the clerk in person in Carson City;

(ii) mailed to the clerk at the Supreme Court of Nevada, 201 South Carson Street, Suite 201, Carson City, Nevada 89701-4702 by first-class mail, or other class of mail that is at least as expeditious, postage prepaid;

(iii) dispatched to a third-party commercial carrier for delivery to the clerk within 3 days;

(iv) deposited in the Supreme Court drop box as provided in Rule 25(a)(3); or

(v) transmitted directly to the clerk by facsimile transmission as provided in Rule 25(a)(4).

(B) Electronic Filing.

(i) By a Represented Person—Generally Required; Exceptions. A person represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for good cause.

(ii) By an Unrepresented Person—When Allowed. A person not represented by an attorney may file electronically only if allowed by court order.

(iii) Timeliness. A paper is timely filed if, on or before the last day for filing, it is electronically transmitted to the court's electronic filing system consistent with NEFCR 8. If technical failure prevents timely electronic filing of any paper, the filing party shall preserve documentation of the failure and seek appropriate relief from the court.

(iv) Same as a Written Paper. A paper filed electronically is a written paper for the purposes of these rules.

(3) Clerk's Drop Box.

(A) Papers Eligible for Drop Box Submission. Any paper required or permitted to be filed in the court may be submitted for filing by depositing the paper in the drop box located in the Las Vegas office of the clerk of the Supreme Court during the hours the Las Vegas office is open. Cash must not be deposited in the drop box.

(B) Requests for Emergency or Expedited Relief. A request for emergency or expedited relief, or a response thereto, should not be deposited in the drop box. Emergency filings are governed by Rule 27(e).

(C) Procedure. Before being placed in the drop box, a paper must be date and time stamped and enclosed in a sealed envelope. Filing is timely if, on or before the last day of the prescribed filing period, the paper is date and time stamped and deposited in the drop box. Stamping of copies submitted to the court is not required.

(D) Transmission of Papers to Carson City. A paper deposited in the drop box will be transmitted to the clerk's office in Carson City and processed in accordance with these Rules.

(4) Filing by Facsimile Transmission. Papers may be received for filing by the clerk through facsimile transmission only in cases of emergency, and only if an oral request for permission to do so has first been tendered to the clerk and approved, upon a showing of good cause, by any justice or judge or the clerk. In all cases where a paper has been facsimile transmitted and filed under this Rule, the party who transmitted the paper for filing must file the original paper with the clerk, in the manner provided in Rule 25(a)(2)(A)(i)-(iii) or Rule 25(a)(2)(B)(i), within 3 days of the date of the facsimile transmission. The original must be accompanied by proof of service on all parties as required by Rule 25(d). A copy of a paper filed by facsimile transmission must be served

on all parties by facsimile transmission and as required by Rule 25(c) at the time the document is filed with the court.

(5) Signing. All papers submitted to the court for filing by a represented party must include the signature of at least 1 attorney of record who is an active member of the bar of this state, and the address, telephone number, and State Bar of Nevada identification number of the attorney and of any associated attorney appearing for the party filing the paper. All papers submitted to this court for filing by unrepresented parties must include the signature of the party and must state the party's address and telephone number. A filing made through a person's electronic-filing account and authorized by that person, together with that person's name on a signature block, constitutes the person's signature.

(b) Service of All Papers Required. Unless a rule requires service by the clerk, a party or person acting for that party must, at or before the time of filing a paper, serve a copy on the other parties to the appeal or review. Service on a party represented by counsel must be made on the party's counsel.

(c) Manner of Service.

(1) Nonelectronic service may be any of the following:

(A) personal, including delivery to a responsible person at the office of counsel;

(B) by mail; or

(C) by third-party commercial carrier for delivery within 3 days.

(2) Electronic service of a paper may be made by:

(A) notice by electronic means to registered users of the court's electronic filing system consistent with NEFCR 9; or

(B) other electronic means, if the party being served consents in writing.

(3) When reasonable, considering such factors as the immediacy of the relief sought, distance, and cost, service on a party must be by a manner at least as expeditious as the manner used to file the paper with the court.

(4) Service by mail or by commercial carrier is complete on mailing or delivery to the carrier. Service by electronic means under Rule 25(c)(2) is complete on filing or transmission, unless the party making service is notified that the paper was not received by the party served.

(d) Proof of Service.

(1) A paper presented for filing must contain either of the following if it was served other than through the court's electronic filing system:

(A) an acknowledgment of service by the person served; or

(B) proof of service in the form of a statement by the person who made service certifying:

(i) the date and manner of service;

(ii) the names of the persons served; and

(iii) the mail or electronic addresses, facsimile numbers, or the addresses of the places of delivery, as appropriate for the manner of service.

(2) Proof of service may appear on or be affixed to the papers filed.

(e) Clerk's Refusal of Documents. The clerk must not refuse to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by these Rules.

REVIEWING NOTE

This rule has been reformatted throughout to better match the format of FRAP 25. Because "document" and "paper" were used interchangeably throughout the rule, "document" was changed to "paper" throughout for consistency and to match FRAP 25. NRAP 25(a)(3) does not have a FRAP counterpart and only local court rules have some type of counterpart to NRAP

25(a)(4). Because subdivisions (a)(3) and (a)(4) are used in the Court, the rules have been kept but cleaned up, with the only substantive change intended being to remove subdivision (a)(4)(E), involving costs of fax transmissions, to match current Court practice. Other substantive changes to the rule include:

- Existing Rule 25(a)(2)(A)(vi) simply permits electronic filing and does not differentiate between represented and unrepresented parties. This court, however, does not currently allow unrepresented parties to file electronically. Subdivision (a)(2) was reformatted to match FRAP 25(a)(2), which differentiates between nonelectronic and electronic filing, and adopts the FRAP provisions for electronic filing. Subdivision (a)(2)(B)(i) makes electronic filing by an attorney mandatory, with an exception to file nonelectronically for good cause shown. This change differs from the current rule which permits, but does not require, electronic filing. Subdivision (a)(2)(B)(ii) permits a person not represented by counsel to file electronically if allowed by court order. Current subdivision (a)(2)(A)(vi) becomes subdivision (a)(2)(B)(iii) and is amended to include a sentence, based on similar language in the 9th Circuit counterpart, to address what a party should do in the event technical failure prevents timely filing. Subdivision (a)(2)(B)(iv) was added to be consistent with its FRAP counterpart.
- The added language in subdivision (d)(1) changes the current rule so that those who are serving a paper through the electronic filing system do not need to file proof of service of the paper. The addition of this language makes the rule consistent with NEFCR 9(b) which provides that the notice issued from the electronic filing system is effective service of the document on registered users and has the same legal effect as service of a paper document.

- Subdivision (e) was added, which prohibits the clerk from refusing to file a document solely because it is not presented in proper form. This rule is taken from FRAP 25(a)(4). As the subcommittee notes, refusing to file papers that are not in the form required by the rule is not a suitable role for the office of the clerk and the practice could expose parties to the hazards of time bars. Currently, the clerk's office does a compliance check on all incoming documents and routinely rejects or returns documents that do not conform to the rules and sends a notice or letter to the party that identifies the deficiency and, usually, provides a time period for the party to resubmit the document. During this process, all copies of that document are either returned to the party or rejected and deleted from the court's case management system. If the party does not resubmit a conforming document, the document will not be able to be considered by the Court and is never filed in the system. If this rule is adopted, the clerk's office could still do a compliance check and notify the parties of any noncompliance so the parties could correct any deficiency, but the deficient document would be filed and be available to the Court. It would be up to the Court to determine how to proceed if the deficiency is not corrected.
- Subdivision (d)(3) was deleted because it would be unnecessary if subdivision (e) is adopted. If subdivision (e) is not adopted, this provision should remain.

RULE 25A. COURT COMPOSITION AND QUORUM

(a) Supreme Court. The full court consists of all seven members of the court. A panel consists of three members of the court. A quorum of the full court sitting en banc is four, and a quorum of the court sitting as a panel is two.

(b) Court of Appeals. The Court of Appeals consists of all three members of the court. A quorum of the court is two.

(c) Replacement Judge or Justice. A senior justice, senior Court of Appeals judge, or active district court judge may be assigned to sit in place of a justice or judge as provided by law.

(d) Argument Participation. Where a quorum of justices or judges is present for oral argument, any absent justice or judge assigned to hear the matter may participate in the decision and the opinion of the court upon the recording or transcript of the oral argument and the written briefs or points and authorities. In the absence of a quorum, on any day appointed for holding a session of the court, the justices or judges attending (or if no justices or judges are present, the clerk or a deputy clerk) may adjourn the court until there is a quorum.

REVIEWING NOTE

The amendments to this Rule are intended to be stylistic and remove unnecessary provisions that are already governed by other rules and statutes. For subdivision (a), the substance is covered in NRAP 33 and 34. For subdivision (b)(1), state statutes control hours of operation, whereas NRS 2.130 requires the court to always be open for the issuance of writs; thus, creating a conflict with subdivision (b)(1). While the constitution of the Court is covered by NRS 2.135 and 2.140, as well as the Nevada Constitution, Article 6, the subcommittee recommends leaving this subdivision in the Rule for clarity.

The subcommittee questions what subdivision (d) adds. The core of this provision is that absent justices/judges may participate by reading the transcript or listening to the oral argument. However, if the quorum limitation is removed, the "participation of absent judges" provision can go with NRAP 34.

RULE 26. COMPUTING AND EXTENDING TIME

(a) Computing Time. The following rules apply in computing any time period specified in these Rules, in any appellate court order, or in any statute that does not specify a method of computing time.

(1) Period Stated in Days or a Longer Unit. When the period is stated in days or a longer unit of time:

(A) exclude the day of the event that triggers the period;

(B) count every day, including intermediate Saturdays, Sundays, and legal holidays; and

(C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

(2) Period Stated in Hours. When the period is stated in hours:

(A) begin counting immediately on the occurrence of the event that triggers the period;

(B) count every hour, including hours during intermediate Saturdays, Sundays, and legal holidays; and

(C) if the period would end on a Saturday, Sunday, or legal holiday, the period continues to run until the same time on the next day that is not a Saturday, Sunday, or legal holiday.

(3) Inaccessibility of the Clerk's Office. Unless the court orders otherwise, if the clerk's office is inaccessible:

(A) on the last day for filing under Rule 26(a)(1), then the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or legal holiday; or

(B) during the last hour for filing under Rule 26(a)(2), then the time for filing is extended to the same time on the first accessible day that is not a Saturday, Sunday, or legal holiday.

(4) "Last Day" Defined. Unless a different time is set by a statute or court order, the last day ends:

(A) for electronic filing under the NEFCR, at 11:59 p.m. in the court's local time;

(B) for filing under Rules 4(d) and 25(a)(2)(A)(ii) and (iii), at the latest time for the method chosen for delivery to the post office, third-party commercial carrier, or prison mailing system;

(C) for filing via the Supreme Court clerk's drop box under Rule 25(a)(2)(A)(iv), when the Supreme Court building in Las Vegas is scheduled to close; and

(D) for filing by other means, when the clerk's office is scheduled to close.

(5) "Next Day" Defined. The "next day" is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.

(6) "Legal Holiday" Defined. "Legal holiday" means any day set aside as a legal holiday by NRS 236.015.

(b) Extending Time.

(1) By Court Order.

(A) Except as otherwise provided in these Rules, for good cause, the court may extend the time prescribed by these Rules or by its order to perform any act, or may permit an act to be done after that time expires.

(B) Except as otherwise provided in these Rules, a party may, on or before the due date sought to be extended, request by telephone a single 14-

day extension of time for performing any act except the filing of a notice of appeal. The clerk may grant such a request by telephone or by written order of the clerk. The grant of an extension of time to perform an act under this Rule will bar any further extensions of time to perform the same act unless the party files a written motion for an extension of time demonstrating extraordinary and compelling circumstances why a further extension of time is necessary.

(2) By Stipulation. Except as otherwise provided in these Rules, or when not otherwise controlled by statute, the time prescribed by these Rules to perform any act may be extended once for appellant(s) and once for respondent(s) by stipulation of the parties. No stipulation extending time is effective unless approved by the court or a justice or judge thereof; and such stipulations must be filed before expiration of the time period that is sought to be extended.

(c) Additional Time After Service. When a party is required or permitted to act within a prescribed period after a paper is served on that party, 3 days are added to the prescribed period unless the paper is delivered on the date of service stated in the proof of service. For purposes of Rule 26(c), a paper that is served electronically is treated as delivered on the date of service stated in the proof of service. Specific due dates set by court order or acts required to be taken within a time period set forth in a court order are not subject to the additional 3-day allowance.

(d) Shortening Time. Except as otherwise provided in these Rules, or when not otherwise controlled by statute, the time prescribed by these Rules to perform any act may be shortened by stipulation of the parties, or by order of the court or a justice or judge.

REVIEWING NOTE

Edits are stylistic and not intended to be substantive.

RULE 26.1. DISCLOSURE STATEMENTS

(a) Who Must File Statement and Contents. Every nongovernmental corporation that is a party or amicus curiae to a proceeding in the court must file a statement identifying all its parent corporations and listing any publicly held company that owns 10% or more of the party's stock or states that there is no such corporation. The statement must also disclose the names of all law firms whose attorneys have appeared for the party or amicus in the case (including proceedings in the district court or before an administrative agency) or are expected to appear in this court. If any litigant is using a pseudonym, the statement must disclose the litigant's true name. A disclosure required by the preceding sentence will be kept under seal.

(b) Time to File; Supplemental Filing. A party must file the disclosure statement with the principal brief or upon filing a motion, response, petition, or answer in the court. Even if the party's statement has already been filed, the party's principal brief must include the statement before the table of contents. A party must supplement its statement whenever the information that must be disclosed under Rule 26.1(a) changes.

(c) Form. The certificate must be in the following form:

(1) Caption setting forth the name of the court, the title of the case, the case number, and the title "NRAP 26.1 Disclosure";

(2) The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

(Here list names of all such persons and entities and identify their connection and interest.)

Attorney of record for .....

RULE 27. MOTIONS

(a) In General.

(1) Application for Relief. An application for an order or other relief is made by motion unless these Rules prescribe another form. A motion must be in writing and be accompanied by proof of service.

(2) Contents of a Motion.

(A) Grounds and Relief Sought. A motion must state with particularity the grounds for the motion, the relief sought, and the legal argument necessary to support it.

(B) Accompanying Documents.

(i) Any affidavit, declaration, or other paper necessary to support a motion must be served and filed with the motion.

(ii) An affidavit or declaration must contain only factual information, not legal argument.

(iii) Except as otherwise provided in Rule 27(e), a motion seeking substantive relief must include as a separate exhibit a copy of the trial court's or agency's decision.

(C) Documents Barred or Not Required.

(i) A separate brief supporting or responding to a motion must not be filed.

(ii) A notice of motion is not required.

(iii) A proposed order is not required.

(3) Response.

(A) Time to File. Any party may file a response to a motion; Rule 27(a)(2) governs its contents. The response must be filed within 7 days after service of the motion unless the court shortens or extends the time. A motion

authorized by Rules 8 or 41 may be granted before the 7-day period runs only if the court gives reasonable notice to the parties that it intends to act sooner.

(B) Request for Affirmative Relief. A response may include a motion for affirmative relief. The time to respond to the new motion, and to reply to that response, is governed by Rule 27(a)(3)(A) and (a)(4). The title of the response must alert the court to the request for relief.

(4) Reply to Response. Any reply to a response must be filed within 7 days after service of the response. A reply must not present matters that do not relate to the response.

(b) Disposition of a Motion for a Procedural Order. The court may act on a motion for a procedural order—including a motion under Rule 26(b)—at any time without awaiting a response, and may, by rule or by order in a particular case, authorize its clerk to act on specified types of procedural motions. A party adversely affected by the court's, or the clerk's, action may file a motion to reconsider, vacate, or modify that action. Timely opposition filed after the motion is granted in whole or in part does not constitute a request to reconsider, vacate, or modify the disposition; a motion requesting that relief must be filed.

(c) Power of a Single Justice or Judge to Entertain Motions; Delegation of Authority to Entertain Motions.

(1) Authority of the Court of Appeals to Entertain Motions. The Court of Appeals and its judges may entertain motions in appeals or matters that the Supreme Court has transferred to that court.

(2) Order of a Single Justice or Judge.

(A) In addition to the authority expressly conferred by these Rules or by law, a justice or judge of the Supreme Court or Court of Appeals may act alone on any motion but may not dismiss or otherwise determine an appeal or

other proceeding. The Supreme Court or Court of Appeals may provide by rule or by order in a particular case that only the Supreme Court or Court of Appeals may act on any motion or class of motions.

(B) The court may review the action of a single justice or judge. A ruling on a motion or other interlocutory matter, whether entered by a single judge or justice, is not binding upon the panel or full court to which the appeal is assigned on the merits, and the court considering the merits may alter, amend, or vacate it.

(3) Authority of Clerk to Enter Orders of Dismissal. The Supreme Court or Court of Appeals may delegate to the clerk authority to enter orders of dismissal in civil cases where the appellant has filed a motion or parties to an appeal or other proceeding have signed and filed a stipulation that the proceeding be dismissed, specifying terms as to the payment of costs.

(d) Form of Papers.

(1) Format.

(A) Reproduction. All papers relating to motions may be reproduced by any process that yields a clear black image of letter quality. The paper must be opaque and unglazed. Only one side of the paper may be used.

(B) Cover. A cover is not required, but there must be a caption that includes the name of the court and the docket number, the title of the case, and a brief descriptive title indicating the purpose of the motion and identifying the party or parties for whom it is filed. If a cover is used, it must be white.

(C) Binding. The document must be bound in any manner that is secure, does not obscure the text, and permits the document to lie reasonably flat when open.

(D) Paper Size, Line Spacing, and Margins. The document must be on 8 1/2 by 11-inch paper. The text must be double-spaced, but quotations more than 2 lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. Margins must be at least 1 inch on all 4 sides. The pages must be consecutively numbered at the bottom.

(E) Typeface and Type Style. The document must comply with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6).

(F) A pro se party who is incarcerated or detained in a state prison or county jail or other facility may file documents under this Rule that are legibly handwritten in black or blue ink and that otherwise conform to the requirements of this Rule. Handwritten documents are not otherwise permitted without leave of the court.

(2) Length. Except by the court's permission, and excluding the accompanying documents authorized by Rule 27(a)(2)(B):

(A) a motion or response to a motion produced using a computer is acceptable if it contains no more than 10 pages or 4,667 words;

(B) a handwritten or typewritten motion or response to a motion is acceptable if it contains no more than 10 pages;

(C) a reply produced using a computer is acceptable if it contains no more than 5 pages or one half of the type-volume limitation for a motion; and

(D) a handwritten or typewritten reply to a response is acceptable if it contains no more than 5 pages.

(e) Emergency Motions. If a movant certifies that to avoid irreparable harm relief is needed in less than 14 days, the motion will be governed by the following requirements:

(1) Before filing the motion, the movant must make every practicable effort to notify the clerk of the Supreme Court, opposing counsel, and any opposing parties proceeding without counsel and to serve the motion at the earliest possible time. If an emergency motion is not filed at the earliest possible time, the court may summarily deny the motion.

(2) A motion filed under Rule 27(e) must include the title "Emergency Motion Under NRAP 27(e)" immediately below the caption of the case and a statement immediately below the title of the motion that states the date or event by which action is necessary.

(3) A motion filed under Rule 27(e) must be accompanied by the following:

(A) The relevant parts of the record including the order or decision from which relief is sought, if any; if the order or decision is unavailable, a copy of the transcript of proceedings is preferred but the movant's or counsel's statement of the reasons given by the district court will suffice until a copy of the order or decision is available. The movant's or counsel's statement must be included in the certificate required by Rule 27(e)(3)(B).

(B) A certificate of the movant or the movant's counsel, if any, entitled "NRAP 27(e) Certificate," that contains the following information:

(i) The telephone numbers and office addresses of the attorneys for the parties and the telephone numbers and addresses for any pro se parties;

(ii) Facts showing the existence and nature of the claimed emergency; and

(iii) When and how counsel for the other parties and any pro se parties were notified and whether they have been served with the motion; or, if not notified and served, why that was not done.

(4) If the relief sought in the motion was available in the district court, the motion must state whether all grounds advanced in support of the motion in the court were submitted to the district court, and, if not, why the motion should not be denied.

(5) The motion must otherwise comply with the provisions of this Rule.

(f) Oral Argument. A motion will be decided without oral argument unless the court orders otherwise.

REVIEWING COMMENT

The overall structure and wording of Rule 27 was modified to more closely mirror FRAP 27. Subdivision (c)(2)(B) specifies that a single judge's or justice's ruling on a motion or interlocutory matter is not binding on the panel or full court. Subdivision (c)(3)(A) regarding the clerk's authority over procedural motions was deleted because it is already addressed by a revision to subdivision (b) on the same subject. Subdivision (d)(2) adds a word limit (4,667) to the page limit (10 pages). Subdivision (e)(3) requires emergency motions to include the relevant order from which emergency relief is sought but, if the order is not yet available, a transcript or counsel's statement in the required Rule 27(e)(3)(B) certification will suffice until the order is available.

RULE 28. BRIEFS

(a) Appellant's Brief. Except as provided in Rule 28(k), the appellant's brief must be entitled "Appellant's Opening Brief" and must contain under appropriate headings and in the order indicated:

(1) a disclosure that complies with Rule 26.1;

(2) a table of contents, with page references;

(3) a table of authorities—cases (alphabetically arranged), statutes, and other authorities—with references to the pages of the brief where they are cited;

(4) a jurisdictional statement, including:

(A) the basis for appellate jurisdiction;

(B) the filing dates establishing the timeliness of the appeal; and

(C) an assertion that the appeal is from a final order or judgment, or information establishing appellate jurisdiction on some other basis.

(5) a routing statement, setting forth whether the matter is always retained by the Supreme Court, ordinarily retained by the Supreme Court, or ordinarily assigned to the Court of Appeals under Rule 17, and citing the subparagraph(s) under which the matter falls. If the appellant believes that the Supreme Court should retain the case despite its ordinary assignment to the Court of Appeals, based on a principal issue raised in the matter, the routing statement must include a clear statement of the relevant issue, citations to the record where the issue was raised and resolved, and an explanation of the importance of the issue;

(6) a statement of the issues presented for review;

(7) a concise statement of the case setting out the facts relevant to the issues submitted for review, describing the relevant procedural history, and identifying the rulings presented for review, with appropriate references to the record (see Rule 28(e));

(8) a summary of the argument, which must contain a succinct, clear, and accurate statement of the arguments made in the body of the brief and which must not merely repeat the argument headings;

(9) the argument, which must contain:

(A) appellant's contentions and the reasons for them, with citations to the authorities and parts of the record on which the appellant relies; and

(B) for each issue, a concise statement of the applicable standard of review (which may appear in the discussion of the issue or under a separate heading placed before the discussion of the issues);

(10) a short conclusion stating the precise relief sought; and

(11) a certificate that complies with Rule 32(a)(9).

(b) Respondent's Brief. The respondent's brief must be entitled "Respondent's Answering Brief" and must conform to the requirements of Rule 28(a)(1)-(9) and (11), except that none of the following need appear unless the respondent is dissatisfied with the appellant's statement:

(1) the jurisdictional statement;

(2) the routing statement;

(3) the statement of the issues;

(4) the statement of the case; and

(5) the statement of the standard of review.

(c) Reply Brief. The appellant may file a brief in reply to the respondent's answering brief that must be entitled "Appellant's Reply Brief." A reply brief must comply with Rule 28(a)(1)-(2) and (9) and must be limited to answering any new matter set forth in the opposing brief. Unless the court permits, no further briefs may be filed. A party may waive the right to file a reply brief. Providing the clerk with immediate notice of that waiver will expedite submission of the case to the court.

(d) References in Briefs to Parties. In briefs and at oral argument, parties should minimize references to parties by such designations as "appellant" and "respondent." To make briefs clear, use the parties' actual

names, the designations used in the lower court, or descriptive terms such as "the employee" or "the injured person."

(e) References in Briefs to the Record.

(1) Except as provided in Rule 28(e)(3), every assertion in briefs regarding matters in the record must be supported by a reference to the page and volume number, if any, of the appendix where the matter relied on is to be found. A party referring to evidence whose admissibility is in controversy must cite the pages of the appendix or of the transcript at which the evidence was identified, offered, and received or rejected.

(2) Parties must not incorporate by reference briefs or memoranda of law submitted to the district court or refer the Supreme Court or Court of Appeals to such briefs or memoranda for the arguments on the merits of the appeal.

(3) A pro se party is not permitted to file an appendix under Rule 30(i), and therefore is not required to comply with Rule 28(e)(1). Pro se parties are encouraged to support assertions in briefs regarding matters in the record by providing citations to the appropriate pages and volume numbers of the district court record.

(f) Reproductions of Constitutional Provisions, Statutes, Rules, Regulations. If the court's determination of the issues presented requires the study of constitutional provisions, statutes, rules, regulations, etc., the relevant parts must be reproduced in the brief or in an addendum at the end, or they may be supplied to the court in pamphlet form.

(g) Length of Briefs. See Rule 32(a)(7) for provisions regarding the length of briefs.

(h) Sanctions for Inadequate Briefs. All briefs under this Rule must be concise, presented with accuracy, logically arranged with proper headings and free from burdensome, irrelevant, immaterial, or scandalous matters.

Briefs that are not in compliance may be disregarded or stricken, on motion or sua sponte by the court, and the court may assess attorney fees or other monetary sanctions.

(i) Briefs in a Case Involving Multiple Appellants or Respondents. In a case involving more than one appellant or respondent, including consolidated cases, any number of appellants or respondents may join in a single brief, and any party may adopt by reference a part of another's brief. Parties may similarly join in reply briefs.

(j) Supplemental Authorities. If pertinent and significant authorities come to a party's attention after the party's brief has been filed—or after oral argument but before a decision—a party may promptly advise the court by filing and serving a notice of supplemental authorities, setting forth the citations. The notice must refer either to the page of a brief or to a point argued orally. The notice must further state concisely and without argument the legal proposition for which each supplemental authority is cited. Any response must be made promptly and must be similarly limited.

(k) Briefs by Pro Se Appellants. Appellants proceeding without assistance of counsel may file the form brief provided by the clerk of the Supreme Court in lieu of the brief described in Rule 28(a). If an appellant uses the informal brief form, the optional reply brief need not comply with the technical requirements of Rule 28(c) or Rule 32(a).

REVIEWING NOTE

Rule 28 is amended to conform to amendments in Rule 17 (routing statement) and Rule 32(a)(9) (certificate of compliance, replacing former Rule 28.2). Instead of a separate statement of the case and statement of the facts, subdivision (b)(7) combines the two into a single section under the heading "statement of the case," as is the practice in federal court under FRAP 28(a)(6).

The provision for sanctions has been moved to subdivision (h). Supplemental authorities, formerly addressed in Rule 31(e), now appear in Rule 28(j), in parallel with FRAP 28(j).

RULE 28.1. CROSS-APPEALS

(a) Applicability. This Rule applies to a case in which a cross-appeal is filed. Rules 28(a)-(c), 31(a), 32(a)(2), and 32(a)(7)(A)-(B) do not apply to such a case, except as otherwise provided in this Rule.

(b) Designation of Appellant. The party who files a notice of appeal first is the appellant for all purposes. If the notices are filed on the same day, the plaintiff in the proceeding below is the appellant. These designations may be modified by the parties' agreement or by court order.

(c) Briefs. In a case involving a cross-appeal:

(1) Appellant's Opening Brief on Appeal. The appellant must file an opening brief in the appeal. That brief must comply with Rule 28(a).

(2) Respondent's Answering Brief on Appeal and Opening Brief on Cross-Appeal. The respondent must file a combined answering brief on appeal and opening brief on cross-appeal. That brief must comply with Rule 28(a), except that the brief need not include a statement of the case unless the respondent is dissatisfied with the appellant's statement.

(3) Appellant's Reply Brief on Appeal and Answering Brief on Cross-Appeal. The appellant must file a brief that responds to the opening brief in the cross-appeal and may, in the same brief, reply to the response in the appeal. That brief must comply with Rule 28(a)(1)-(9) and (11), except that none of the following need appear unless the appellant is dissatisfied with the respondent's statement in the cross-appeal:

(A) the jurisdictional statement;

(B) the routing statement;

(C) the statement of the issues;

(D) the statement of the case; and

(E) the statement of the standard of review.

(4) Respondent's Reply Brief on Cross-Appeal. The respondent may file a brief in reply to the response in the cross-appeal. That brief must comply with Rule 28(a)(1)-(2) and (11) and must be limited to the issues presented by the cross-appeal.

(5) No Further Briefs. Unless the court permits, no further briefs may be filed in a case involving a cross-appeal.

(d) Cover. The front cover of a brief must contain the information required by Rule 32(a)(2).

(e) Length.

(1) Opening Brief or Combined Reply/Answering Brief. The appellant's opening brief or the appellant's combined reply/answering brief is acceptable if it complies with the page or type-volume limitation for an opening brief under Rule 32(a)(7).

(2) Combined Answering Brief/Opening Brief. In a noncapital case, the respondent's combined answering and opening brief is acceptable if it does not exceed 40 pages, contains no more than 18,668 words or, if it uses a monospaced typeface, contains no more than 1,732 lines of text. In a capital case, these limitations are 100 pages, 46,670 words, or 4,330 lines of text.

(3) Reply Brief. The respondent's reply brief is acceptable if it complies with the page or type-volume limitation for a reply brief under Rule 32(a)(7).

(f) Time to Serve and File a Brief. Unless the court orders a different briefing schedule in a particular case, briefs in cross-appeals must be served and filed as provided in this Rule. Motions for extensions of time are governed by Rule 31(b).

(1) All Cross-Appeals Except Child Custody and Termination of Parental Rights Cases. The appellant's opening brief must be filed and served within 120 days after the date on which the appeal is docketed in the Supreme Court. All subsequent briefs must be filed and served within 30 days of service of the opposing party's brief.

(2) Cross-Appeals in Child Custody or Termination of Parental Rights Cases. The appellant's opening brief must be filed and served within 90 days after the date on which the appeal is docketed in the Supreme Court. The respondent's combined answering brief/opening brief and the appellant's combined reply brief/answering brief must be filed and served within 21 days of service of the opposing party's brief. The respondent's reply brief on cross-appeal must be filed and served within 14 days after service of the appellant's combined reply brief/answering brief.

(g) Certificate of Compliance. A brief submitted pursuant to this Rule must include the certificate of compliance required by Rule 32(a)(9).

REVIEWING NOTE

Rule 28.1 is revised to clarify its application in various kinds of cross-appeals and to conform to amendments in Rule 32. Subdivision (e) clarifies the page, line, and word limitations in both noncapital and capital cases. Subdivision (f) clarifies the briefing schedule for cross-appeals in cases involving termination of parental rights.

RULE 28.2. ATTORNEY'S CERTIFICATE – REPEAL

REVIEWING NOTE

Rule 28.2's information has been incorporated into Rule 32(a)(9), certificate of compliance, which now applies to all briefs.

RULE 29. BRIEF OF AN AMICUS CURIAE

(a) When Permitted. The United States, the State of Nevada, a political subdivision thereof, or an officer or agency of the foregoing entities, or a state, territory, or commonwealth, or a federally recognized tribe may file an amicus curiae brief without the consent of the parties or leave of court. Any other amicus curiae may file a brief only by leave of court granted on motion or at the court's request or if accompanied by written consent of all parties.

(b) Motion for Leave to File. A motion for leave to file an amicus brief must be accompanied by the proposed brief and state:

(1) the movant's interest; and

(2) the reasons why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the case.

(c) Contents and Form. An amicus brief must comply with Rule 32. In addition to the requirements of Rule 32, the cover must identify the party or parties supported, if any, and indicate whether the brief supports affirmance, reversal, or extraordinary relief. An amicus brief need not comply with Rule 28, but must include the following:

(1) If the amicus curiae is a corporation, a disclosure statement like that required of a party by Rule 26.1.

(2) A table of contents, with page references.

(3) A table of cases (alphabetically arranged), statutes, and other authorities cited, with references to the pages of the brief where they are cited.

(4) A concise statement of the identity of the amicus curiae, its interest in the case, and the source of its authority to file, which does not count toward the type-volume limitation.

(5) Unless the amicus curiae is one listed in the first sentence of Rule 29(a), a statement that indicates whether:

(A) a party or a party's counsel authored the brief in whole or in part; and

(B) any person—other than the amicus curiae, its members, or its counsel—contributed money or other consideration intended to fund preparing or submitting the brief and, if so, identifies each person.

(6) An argument, which may be preceded by a summary.

(7) An attorney's certificate that complies with the requirements contained in Rule 32(a)(9).

(d) Length. Except by the court's permission or as provided in Rule 21(d) as to writ proceedings, an amicus brief may be no more than one-half the maximum length authorized by these Rules for a party's brief. If the court grants a party permission to file a longer brief, that extension does not affect the length of an amicus brief.

(e) Time for Filing. An amicus curiae must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the brief, petition, or answer of the party being supported is filed. An amicus curiae that does not support either party must file its brief no later than 7 days after the appellant's opening brief or the writ petition is filed. The court may grant leave for later filing, specifying the time within which an opposing party may answer.

(f) Reply Brief. An amicus may not file a reply brief.

(g) Oral Argument. An amicus may file a motion to participate in oral argument, but the court will grant such motions only for extraordinary reasons.

(h) During Rehearing, En Banc Reconsideration, and Review by the Supreme Court. The provisions of this Rule apply to amicus briefs submitted in connection with rehearing, en banc reconsideration, and review

by the Supreme Court. Such briefs may be filed irrespective of whether an amicus brief was filed by that party in the primary briefing. Except by the court's permission, the length of an amicus brief in these proceedings must not exceed 4,667 words.

RULE 30. APPENDIX TO THE BRIEFS

(a) Joint Appendix; Duty of the Parties. Counsel have a duty to confer and attempt to reach an agreement concerning a possible joint appendix. In the absence of an agreement, the parties may file separate appendices to their briefs.

(b) Contents of the Appendix. Except as otherwise required by this Rule, all matters not essential to the decision of issues presented by the appeal must be omitted. Brevity is required; the court may impose costs upon parties or attorneys who unnecessarily enlarge the appendix.

(1) Transcripts. Copies of all transcripts that are necessary to the Supreme Court's or Court of Appeals' review of the issues presented on appeal must be included in the appendix.

(2) Documents Required for Inclusion in Joint Appendix. In addition to the transcripts required by Rule 30(b)(1), the joint appendix must contain:

(A) Complaint, indictment, information, or petition (including all amendments);

(B) All answers, counterclaims, cross-claims, and replies, and all amendments thereto;

(C) Relevant pretrial orders;

(D) Relevant jury instructions given to which exceptions were taken, and excluded when offered;

(E) Verdict or findings of fact and conclusions of law with direction for entry of judgment thereon;

(F) Any relevant report of a hearing master, commissioner, or other referee;

(G) Relevant opinions;

(H) All judgments or orders being challenged on appeal;

(I) All notices of appeal; and

(J) Proof of service, if any, of:

(i) the summons and complaint;

(ii) written notice of entry of the judgment or order appealed from;

(iii) post-judgment motions enumerated in Rule 4(a); and

(iv) written notice of entry of an order resolving any post-judgment motions enumerated in Rule 4(a).

(3) Appellant's Appendix. If a joint appendix is not prepared, appellant's appendix to the opening brief must include those documents required for inclusion in the joint appendix under this Rule, and any other portions of the record essential to determination of issues raised in appellant's appeal.

(4) Respondent's Appendix. If a joint appendix is not prepared, respondent's appendix to the answering brief may contain any transcripts or documents which should have been but were not included in the appellant's appendix, and must otherwise be limited to those documents necessary to rebut appellant's position on appeal which are not already included in appellant's appendix.

(5) Reply Appendix. The appellant may file an appendix to the reply brief which must include only those documents necessary to reply to respondent's position on appeal.

(6) Presentence Investigation Report. If a copy of appellant's presentence investigation report is necessary for the Supreme Court's or Court of Appeals' review in a criminal case, appellant or respondent must file a motion with the clerk of the Supreme Court within the time period for filing the party's appendix, requesting that the court direct the district court clerk to transmit the report to the clerk of the Supreme Court in a sealed envelope. The motion must demonstrate that the report is necessary for the appeal.

(c) Arrangement and Form of Appendix. The appendix must be in the form required by Rule 32(b), must be bound separately from the briefs, and must be arranged as set forth in this Rule. Documents filed electronically must be filed in a searchable Portable Document Format (PDF), except that exhibits and attachments to a filed document that cannot be imaged in a searchable format may be scanned.

(1) Order and Numbering of Documents. All documents included in the appendix must be placed in chronological order by the dates of filing beginning with the first document filed, and must bear the file stamp of the district court clerk, clearly showing the date the document was filed in the proceedings below. Transcripts that are included in the appendix must be placed in chronological order by date of the hearing or trial. If the docket sheet or court minutes are included in the appendix, they need not be file stamped and must be placed at the end of the appendix. Each page of the appendix must be numbered consecutively in the lower right corner of the document.

(2) Page Limits. Each volume of the appendix must contain no more than 250 pages.

(3) Cover. The cover of an appendix must be white and must contain the same information as the cover of a brief under Rule 32(a), but must be

prominently entitled "JOINT APPENDIX," or "APPELLANT'S APPENDIX," or "RESPONDENT'S APPENDIX" or "APPELLANT'S REPLY APPENDIX."

(4) Indices to Appendix. The party filing the appendix must prepare both an alphabetical index and a chronological index identifying each document in the appendix with reasonable definiteness, and indicating the volume and page of the appendix where the document is located. These indices must be filed contemporaneously with the appendix as a separate document. The cover of the indices must contain the same information as the cover of a brief under Rule 32(a).

(d) Exhibits. Copies of relevant and necessary exhibits must be clearly identified, and must be included in the appendix as far as practicable. If the exhibits are too large or otherwise incapable of being reproduced in the appendix, the parties may file a motion requesting the court to direct the district court clerk to transmit the original exhibits. The court will not permit the transmittal of original exhibits except upon a showing that the exhibits are relevant to the issues raised on appeal, and that the court's review of the original exhibits is necessary to the determination of the issues.

(e) Time for Service and Filing of Appendix. A joint appendix must be filed and served no later than the filing of appellant's opening brief. An appellant's appendix must be served and filed with appellant's opening brief. A respondent's appendix must be served and filed with respondent's answering brief. If a reply brief is filed, any reply appendix must be served and filed with the reply brief.

(f) Filing and Service. A party represented by counsel must file the appendix electronically, unless nonelectronic filing has been approved by the court. Unless electronically filed, one paper copy and USB flash drive version of the appendix must be filed with the clerk and served on all parties. A paper

copy and USB flash drive version of the appendix must be served on all parties not represented by counsel.

(g) Filing as Certification; Sanctions for Nonconforming Copies or for Substantial Underinclusion.

(1) Filing an appendix constitutes a representation by counsel that the appendix consists of true and correct copies of the papers in the district court file. Willful or grossly negligent filing of an appendix containing nonconforming copies is an unlawful interference with the proceedings of the Supreme Court or Court of Appeals, and subjects counsel, and the party represented, to monetary and any other appropriate sanctions.

(2) If an appellant's appendix is so inadequate that justice cannot be done without requiring inclusion of documents in the respondent's appendix which should have been in the appellant's appendix, or without the court's independent examination of portions of the original record which should have been in the appellant's appendix, the court may impose monetary sanctions.

(h) Costs. Each party must, initially, bear the cost of preparing its separate appendices. The appellant must, initially, bear the cost of preparing a joint appendix; where several parties appeal from the same judgment or any part thereof, or there is a cross-appeal, the initial expense of preparing a joint appendix must be borne equally by the parties appealing, or as the parties may agree.

(i) Pro Se Party Exception. This Rule does not apply to a party who is not represented by counsel. A pro se party must not file an appendix except as otherwise provided in these Rules or ordered by the court. If the court's review of the complete record is necessary, the court will direct the district court to transmit the record as provided in Rule 11.

RULE 31. FILING AND SERVICE OF BRIEFS

(a) Time for Serving and Filing Briefs. Unless a different briefing schedule is provided by court order or rules, including fast track rules, parties must observe the briefing schedule set forth in this Rule.

(1) All Appeals Except Termination of Parental Rights and Direct-Appeal Capital Cases.

(A) The appellant must serve and file the opening brief no later than 120 days after the date on which the appeal is docketed in the Supreme Court.

(B) The respondent must serve and file the answering brief no later than 30 days after the appellant's brief is served.

(C) The appellant's reply brief must be served and filed no later than 30 days after the respondent's brief is served.

(2) Termination of Parental Rights Cases. If an appeal is taken from any district court order in an action seeking termination of parental rights:

(A) The appellant must serve and file the opening brief no later than 90 days after the date on which the appeal is docketed in the Supreme Court.

(B) The respondent must serve and file the answering brief no later than 21 days after the appellant's brief is served.

(C) The appellant's reply brief must be served and filed no later than 14 days after the respondent's brief is served.

(D) The court may order oral argument at its discretion. Where oral argument is not ordered, the matter will be submitted for decision on the briefs and the appendix no later than 60 days of the date that the final brief is due.

(3) Direct-Appeal Capital Cases. On direct appeal from a judgment of conviction and sentence of death:

(A) The appellant must serve and file the opening brief no later than 120 days from the date that the record on appeal is filed in the Supreme Court.

(B) The respondent must serve and file the answering brief no later than 60 days after the appellant's brief is served.

(C) The appellant's reply brief must be served and filed no later than 45 days after the respondent's brief is served.

(b) Extensions of Time for Filing Briefs.

(1) Telephonic Requests. No telephonic extensions are permitted for filing any brief.

(2) Streamlined Extensions of Time.

(A) If a party has not previously filed a motion for an extension of time to file an opening, answering, reply, or cross-appeal brief under Rule 31 (b)(3), that party may obtain a single streamlined extension of time to file that brief not to exceed 30 days. The streamlined extension of time is not available:

(i) if a case has previously been expedited,

(ii) in a case challenging the termination of parental rights, or

(iii) when a party is seeking emergency or injunctive relief.

(B) A party may request a streamlined extension by completing the Streamlined Request for Extension of Time to File Brief Form that is available on the Nevada Supreme Court website and submitting it for filing in compliance with Rule 25(a)(2). A request must be made on or before the brief's due date. Timeliness of the request is governed by Rule 25(a)(2).

(C) The clerk of the Supreme Court will approve requests that comply with this Rule and will provide the parties with a new schedule. The

clerk will inform parties not eligible for relief under Rule 31(b)(2) as to the appropriate method to obtain relief.

(3) Motions for Extensions of Time. A motion for extension of time for filing a brief may be made no later than the due date for the brief and must comply with the provisions of this Rule and Rule 27. Timeliness of the motion is governed by Rule 25(a)(2).

(A) Contents of Motion. A motion for extension of time for filing a brief must include the following:

(i) When the brief is due and was first due;

(ii) The number of extensions previously granted (including any streamlined extension);

(iii) Whether any previous extensions have been denied or denied in part;

(iv) The reasons or grounds why an extension is necessary; and

(v) The length of the extension requested and when the brief would become due.

(B) Motions in All Appeals Except Termination of Parental Rights Cases. Applications for extensions of time beyond that to which the parties are permitted under Rule 31(b)(2) are not favored. The court will grant a motion for extension of time for filing a brief only upon a showing of good cause.

(C) Motions in Termination of Parental Rights Cases. The court will grant a motion for extension of time for filing a brief in termination of parental rights cases only in extraordinary and compelling circumstances.

(c) Service. A copy of each brief must be served on each unrepresented party and on counsel for each separately represented party. The brief must be signed in compliance with Rules 25(a)(5), 32(a)(9), and 32(d).

(d) Consequences of Failure to File Briefs or Appendix.

(1) Appellant. If an appellant fails to timely file an opening brief or appendix, a respondent may move for dismissal of the appeal or the court may dismiss the appeal on its own motion. This Rule does not apply to postconviction appeals in which the appellant is not represented by counsel. In those cases, the court may decide the appeal based on the record without briefing as provided in Rule 34(g).

(2) Respondent. A respondent who fails to timely file an answering brief will not be heard at oral argument unless the court grants permission, and such failure may be treated as a confession of error. Unless the court has ordered the respondent to file an answering brief as provided in Rule 46A(c), this Rule does not apply to appeals in which the appellant is not represented by counsel.

REVIEWING NOTE

New Rule 31 clarifies when to file various kinds of briefs and amends the process for extending those deadlines.

Subdivision (a) clarifies that Rule 31 does not govern the briefing schedule in fast track appeals. Because appeals involving child custody and visitation are now governed by Rule 3E, subdivision (a)(2) now governs the briefing schedule only for termination of parental rights cases. Former subdivision (a)(4) (postconviction appeals in capital cases) is now subsumed within subdivision (a)(1), which adheres to the same deadlines as the eliminated subdivision.

Subsection (b)(1) replaces the provisions on telephonic and stipulated extensions with a 30-day streamlined extension, akin to the streamlined extension available in the Ninth Circuit under 9th Cir. R. 31-2.2(a). Subsection (b)(2) eliminates inconsistent standards for extensions by motion. In cases

except termination of parental rights and direct-appeal capital cases, a motion must demonstrate good cause. In termination of parental rights cases, the motion must demonstrate extraordinary and compelling circumstances. The court retains discretion to prescribe another standard in particular cases. Supplemental authorities, formerly addressed in subsection (e), now appear in Rule 28(j).

RULE 32. FORM OF BRIEFS, THE APPENDIX AND OTHER PAPERS

(a) Form of a Brief.

(1) Reproduction.

(A) A brief must be reproduced by any process that yields a clear black image of letter quality. The paper must be opaque and unglazed. Only one side of the paper may be used.

(B) Text must be reproduced with a clarity that equals or exceeds the output of a laser printer.

(C) Photographs, illustrations, and tables may be reproduced by any method that results in a good copy of the original; a glossy finish is acceptable if the original is glossy.

(2) Cover. The front cover of a brief must contain:

(A) the name of the court and the number of the case;

(B) the title of the case (see Rule 12(a));

(C) the nature of the proceedings in the court (e.g., Appeal) and the name of the court below;

(D) the title of the document (e.g., Appellant's Opening Brief, Respondent's Answering Brief); and

(E) the names, addresses, telephone numbers, and State Bar of Nevada identification numbers of counsel, if any, representing the party for whom the brief is filed.

(3) Binding. The brief must be bound in any manner that is secure, does not obscure the text, and permits the brief to lie reasonably flat when open.

(4) Paper Size, Line Spacing, Margins, and Page Numbers. The brief must be on 8 1/2 by 11-inch paper. The text must be double-spaced, except that quotations of more than two lines may be indented and single-spaced. Headings and footnotes may be single-spaced. Margins must be at least 1 inch on all four sides. The pages must be consecutively numbered at the bottom. Pages in the brief preceding the statement of the case must be numbered in lowercase Roman numerals, and pages in the brief beginning with the statement of the case must be numbered in Arabic numerals.

(5) Typeface. Either a proportionally spaced or a monospaced typeface may be used. Footnotes must be in the same size and typeface as the body of the brief.

(A) A proportionally spaced typeface (e.g., Century Schoolbook, Times New Roman, Garamond, Georgia, and Palatino) must be 14-point or larger.

(B) A monospaced typeface (e.g., Courier and Pica) may not contain more than 10 1/2 characters per inch (e.g., Courier 12-point).

(C) Self-represented litigants may use elite type, 12 characters per inch, if they lack access to a typewriter with larger characters.

(6) Type Styles. A brief must be set in a plain, roman style, although underlining, italics, or boldface may be used for emphasis. Case names must be italicized or underlined.

(7) Length.

(A) Noncapital Cases.

(i) Page Limitation. Unless it complies with Rule 32(a)(7)(A)(ii) or permission of the court is obtained under Rule 32(a)(7)(D), an opening or

answering brief must not exceed 30 pages, and a reply brief must not exceed 15 pages.

(ii) Type-Volume Limitation. An opening or answering brief is acceptable if it contains no more than 14,000 words or, if it uses a monospaced typeface, contains no more than 1,300 lines of text. A reply brief is acceptable if it contains no more than half the type-volume specified for an opening or answering brief under this Rule.

(B) Capital Cases.

(i) Page Limitation. Unless it complies with Rule 32(a)(7)(B)(ii) or permission of the court is obtained under Rule 32(a)(7)(D), an opening or answering brief in a capital case must not exceed 80 pages, and a reply brief in a capital case must not exceed 40 pages.

(ii) Type-Volume Limitation. An opening or answering brief in a capital case is acceptable if it contains no more than 37,000 words or, if it uses a monospaced typeface, contains no more than 3,500 lines of text. A reply brief in a capital case is acceptable if it contains no more than half the type-volume specified in this Rule for an opening or answering brief in a capital case.

(C) Computing Page and Type-Volume Limitations. The disclosure statement, table of contents, table of authorities, signature blocks, required certificate of service and compliance with these Rules, and any addendum containing statutes, rules, or regulations do not count toward a brief's page or type-volume limitation. The page or type-volume limitation applies to all other portions of the brief beginning with the statement of the case, including headings, footnotes, and quotations.

(D) Permission to Exceed Page or Type-Volume Limitation.

(i) The court looks with disfavor on motions to exceed the applicable page or type-volume limitation, and therefore, permission to exceed the page or type-volume limitation will not be routinely granted. A motion to file a brief that exceeds the applicable page or type-volume limitation will be granted only upon a showing of diligence and good cause. The court will not consider the cost of preparing and revising the brief in ruling on the motion.

(ii) A motion seeking an enlargement of the page or type-volume limitation for a brief must be filed on or before the brief's due date and must state in detail the reasons for the motion and the number of additional pages, words, or lines of text requested. A motion to exceed the type-volume limitation must be accompanied by a certification as required by Rule 32(a)(9) as to the line or word count.

(iii) The motion must also be accompanied by a single copy of the brief the applicant proposes to file.

(8) Handwritten Briefs. A pro se party who is incarcerated or detained in a state prison or county jail or other facility may file documents under this Rule that are legibly handwritten in black or blue ink and that otherwise conform to the requirements of this Rule. Handwritten documents are not otherwise permitted without leave of the court.

(9) Certificate of Compliance.

(A) Certificate Required Upon Filing of Any Brief. All briefs must include a certificate of compliance. The certificate must be signed by the self-represented party or an active member of the State Bar of Nevada. The certificate must substantially comply with the Certificate of Compliance for Briefs Form on the Nevada Supreme Court website, representing that:

(i) the filer has read the brief;

(ii) the brief is not frivolous or interposed for any improper purpose;

(iii) the brief complies with all applicable Nevada Rules of Appellate Procedure, including Rule 28(e); and

(iv) the brief complies with the formatting requirements of Rule 32(a)(4)-(6), identifying the typeface and type-style used; and

(v) the brief complies with the page or type-volume limitation stated in Rule 32(a)(7). If relying on word or line count, the certificate must state either the number of words or the number of lines of monospaced type in the brief.

(B) Striking a Brief Without the Required Certificate. If a brief does not contain the certification required by this Rule, it will be stricken unless such a certification is provided within 14 days after the omission is called to the filer's attention.

(C) Sanctions. The Court may impose sanctions for an incomplete or inaccurate certificate.

(b) Form of Appendices. An appendix must comply with Rule 32(a)(1), (2), (3), and (4) with the following exceptions:

(1) An appendix may include a legible photocopy of any document found in the trial court record (see Rule 30).

(2) When necessary to facilitate inclusion of odd-sized documents such as technical drawings, an appendix may be a size other than 8 1/2 by 11 inches, and need not lie reasonably flat when opened.

(c) Form of Other Papers.

(1) Motion. The form of a motion is governed by Rule 27(d).

(2) Other Papers. Any other paper, including a petition for rehearing and a petition for en banc reconsideration, and any response to such a petition,

must be reproduced in the manner prescribed by Rule 32(a)(1), (3), (4), (5), (6), and (8) and must contain a caption setting forth the name of the court, the title of the case, the case number, and a brief descriptive title indicating the purpose of the paper.

(d) Signature. Every brief, motion, or other paper filed with the court must be signed as set forth in Rule 25(a)(5).

(e) Effect of Noncompliance With Rule. A brief, petition, motion, or other paper that is not prepared in accordance with this Rule may be stricken or disregarded by the court.

REVIEWING NOTE

Rule 32 is amended to conform to FRAP 32 and to address the attorney's certificate in former Rule 28.2.

Subdivision (a)(2) eliminates the requirement for colored covers. When formatting the cover, practitioners should consider the placement of the court's file electronic stamp in the upper right-hand corner about 2 inches below and 3 inches to the left of the edge. The court name, case number, and case title should be formatted so as not to obscure the file stamp.

The certificate of compliance in subdivision (a)(9) now includes the information in former Rule 28.2 (attorney's certificate) and is required for all briefs, not just those submitted by represented parties.

In conformance with Rule 25, subdivision (e) now provides that a noncompliant brief or other paper may be stricken or disregarded by the court, but not by the clerk without the court's instruction.

RULE 33. APPEAL CONFERENCES

The court may direct the attorneys—and, when appropriate, the parties—to participate in one or more conferences to address any matter that

may aid in disposing of the proceedings, including simplifying the issues. The court, justice, or judge may, as a result of the conference, enter an order controlling the course of the proceedings.

REVIEWING NOTE

The amendment substantively changes the rule by allowing the court to also direct the parties, not just the attorneys, to participate in an appeal conference. This change mirrors the language in FRAP 33.

RULE 34. ORAL ARGUMENT

(a) Notice of Argument; Postponement. The clerk will advise all parties of the date, time, and place for oral argument, the time allowed for oral argument, the court before which argument will occur, and if before the Supreme Court, whether it will be before the full court or a panel, and if deemed appropriate, the issues to be addressed at oral argument. A motion to postpone the argument must be filed reasonably in advance of the date fixed for hearing.

(b) Time Allowed for Argument. Unless the case is submitted for decision on the briefs under Rule 34(f) or the court otherwise orders, each side will be allowed 15 minutes for argument. If counsel believes that additional time is necessary for the adequate presentation of their argument, counsel may request such additional time. A motion to allow longer argument must be filed reasonably in advance of the date fixed for the argument and will be liberally granted if cause therefor is shown. A party is not obliged to use all of the time allowed, and the court may terminate the argument whenever in its judgment further argument is unnecessary.

(c) Order and Content of Argument. The appellant opens and concludes the argument. The opening argument must include a fair statement

of the case. Counsel will not be permitted to read at length from briefs, records, or authorities.

(d) Cross-Appeals and Separate Appeals. Unless the court directs otherwise, a cross-appeal or separate appeal must be argued with the initial appeal at a single argument. If there is a cross-appeal, Rule 28.1(b) determines which party is the appellant and which is the respondent for the purpose of this Rule, unless the parties otherwise agree or the court otherwise directs. If separate appellants support the same argument, care must be taken to avoid duplication of argument.

(e) Nonappearance of a Party. If the respondent fails to appear for argument, the court will hear the appellant's argument. If the appellant fails to appear, the court may hear the respondent's argument. If neither party appears, the case will be decided on the briefs unless the court orders otherwise.

(f) Submission on Briefs. The court may order a case submitted for decision on the briefs, without oral argument.

(g) Postconviction Appeals. Postconviction appeals may be submitted and decided on the record on appeal without briefing or oral argument when the appellant is proceeding pro se.

REVIEWING NOTE

The proposed amendment in subdivision (a) sets the default time for oral argument at 15 minutes for each side—the standard amount generally scheduled by the court for oral argument—but also gives the court the ability to give each side more time when necessary.

The proposed amendment in subdivision (c) removes the general requirement that an appellant must file a reply brief in order to argue in rebuttal. A reply brief replies to arguments raised for the first time in an

opposing brief, whereas rebuttal at argument is intended to address arguments raised in the respondent's oral argument. During oral argument, a respondent may raise unanticipated arguments or the court may ask questions during the respondent's time that take the argument in an unanticipated direction. An appellant/petitioner should be able to respond to such arguments regardless of whether they filed a reply brief. Because a reply brief and a rebuttal argument are intended to address separate things, the lack of a reply brief should not automatically forfeit rebuttal argument.

The proposed amendments in subdivisions (f) and (g) are not substantive but rather remove redundant language and clarify that postconviction appeals may be decided without briefing or oral argument when the appellant is pro se.

RULE 35. DISQUALIFICATION OF A JUSTICE OR JUDGE

(a) Motion for Disqualification. A request that a justice or judge of the Supreme Court or Court of Appeals be disqualified from sitting in a particular case must be made by motion. Unless the court permits otherwise, the motion must be in writing and must be in the form required by Rule 27. A separate motion for disqualification must be filed for each justice or judge being challenged. A motion for disqualification that seeks the disqualification of more than one judge or justice will be stricken.

(1) Time to File. A motion to disqualify a justice or judge must be filed with the clerk of the Supreme Court within 60 days after docketing of the appeal under Rule 12, together with proof of service on all other parties. Except for good cause shown, the failure to file a timely motion to disqualify will be deemed a waiver of the moving party's right to object to a justice's or judge's participation in a case.

(2) Contents of a Motion.

(A) Grounds, Supporting Facts, and Legal Authorities. A motion must state clearly and concisely in separately numbered paragraphs each ground relied upon as a basis for disqualification with the specific facts alleged in support thereof and the legal argument, including citations to relevant cases, statutes, or rules, necessary to support it.

(B) Verification. All assertions of fact in a motion must be supported by proper sworn averments in an affidavit or by citations to the specific page and line where support appears in the record of the case.

(i) A verification by affidavit must be served and filed with the motion.

(ii) The affidavit must be made upon personal knowledge by a person or persons affirmatively shown competent to testify and must set forth only those facts that would be admissible in evidence.

(iii) The affidavit must set forth the date or dates when the moving party first became aware of the facts set forth in the motion.

(C) Attorney's Certificate. A motion under this Rule filed by a party represented by counsel must contain a certificate signed by at least 1 attorney of record who is an active member of the bar of this state. The certificate must contain the following information:

(i) A representation that the signing attorney has read the motion and supporting documents;

(ii) A representation that the motion and supporting documents are in the form required by this Rule; and

(iii) A representation that, based on personal investigation, the signing attorney believes all grounds asserted to be legally valid and all supporting factual allegations to be true, and that the motion is made in good faith and not for purposes of delay or for other improper motive.

(D) Striking a Motion Without an Attorney's Certificate. If a motion does not contain the certification required by Rule 35(a)(2)(C), it must be stricken unless such a certification is provided within 14 days after the omission is called to the attorney's attention.

(b) Response.

(1) By a Party. Any party may file a response to a motion to disqualify a justice or judge. The response must be filed within 14 days after service of the motion unless the court shortens or extends the time.

(2) By the Justice or Judge. The challenged justice or judge may submit a response to the motion in writing or orally at any hearing that may be ordered by the court.

(c) Reply. A reply may not be filed unless permission is first obtained from the court.

REVIEWING NOTE

Subdivision (a) is substantively modified to require the filing of a separate motion for disqualification for each justice or judge being challenged.

RULE 36. ENTRY OF JUDGMENT

(a) Entry. The filing of the court's decision or order constitutes entry of the judgment. The clerk will file the judgment after receiving it from the court. If a judgment is rendered without an opinion, the clerk will enter the judgment following instruction from the court.

(b) Notice. On the date when judgment is entered, the clerk will serve all parties a copy of the opinion, if any, or of the order entering judgment, if no opinion was written.

(c) Form of Decision. The Supreme Court and Court of Appeals decide cases by either published or unpublished disposition.

(1) A published disposition is an opinion designated for publication in the Nevada Reports. The Supreme Court or Court of Appeals will decide a case by published opinion if it:

(A) Presents an issue of first impression;

(B) Alters, modifies, or significantly clarifies a rule of law previously announced by either the Supreme Court or the Court of Appeals; or

(C) Involves an issue of public importance that has application beyond the parties.

(2) An unpublished disposition, while publicly available, does not establish mandatory precedent except in a subsequent stage of a case in which the unpublished disposition was entered, in a related case, or in any case for purposes of issue or claim preclusion or to establish law of the case.

(3) A party may cite for its persuasive value, if any, an unpublished disposition issued by the Supreme Court or Court of Appeals. When citing such an unpublished disposition, the party must cite an electronic database, if available, and the docket number and date filed in the Supreme Court or Court of Appeals (with the notation "unpublished disposition"). A party citing such an unpublished disposition must serve a copy of it on any party not represented by counsel.

(d) Duplicate Order or Opinion. The justices of the Supreme Court, judges of the Court of Appeals, or district judges designated by the governor to serve on the Supreme Court or Court of Appeals for a specific case, if they are physically present within the State of Nevada, may sign duplicate copies of any order or opinion. Signed duplicate copies of orders and opinions will be transmitted to the clerk of court for filing.

(e) Motion to Reissue an Order as an Opinion. A motion to reissue an unpublished disposition or order as an opinion to be published in the

Nevada Reports may be made under the provisions of Rule 36(e) by any interested person. With respect to the form of such motions, the provisions of Rule 27(d) apply; in all other respects, such motions must comply with the following:

(1) Time to File. Such a motion must be filed within 14 days after the filing of the order. Parties may not stipulate to extend this time period, and any motion to extend this time period must be filed before the expiration of the 14-day deadline.

(2) Response. No response to such a motion may be filed unless requested by the court.

(3) Contents. Such a motion must be based on one or more of the criteria for publication set forth in Rule 36(c)(1)(A)-(C). The motion must state concisely and specifically on which criteria it is based and set forth argument in support of such contention. If filed by or on behalf of a nonparty, the motion must also identify the movant and his or her interest in obtaining publication.

(4) Decision. The granting or denial of a motion to publish is entrusted to the sound discretion of the panel that issued the disposition. Publication is disfavored if revisions to the text of the unpublished disposition will result in discussion of additional issues not included in the original decision.

(5) Resolution of Motion to Publish Filed in the Court of Appeals When Rule 40B Petition Is Pending in the Supreme Court. When a motion to publish is pending in the Court of Appeals, resolution of any pending petition for review filed in the Supreme Court will be held in abeyance until the motion to publish is resolved.

RULE 37. INTEREST ON JUDGMENTS

(a) When the Court Affirms. Unless the law provides otherwise, if a money judgment in a civil case is affirmed, whatever interest is allowed by law is payable from the date when the district court's judgment was entered.

(b) When the Court Reverses. If the court modifies or reverses a judgment with a direction that a money judgment be entered in the district court, the mandate must contain instructions about the allowance of interest.

RULE 38. FRIVOLOUS CIVIL APPEALS—DAMAGES AND COSTS

If the Supreme Court or Court of Appeals determines that an appeal is frivolous or was brought or maintained without reasonable ground or solely for purposes of delay, or whenever the appellate processes of the court have otherwise been misused, the court may, after reasonable opportunity to respond to a notice from the court or a separately filed motion, impose monetary sanctions and/or require the offending party to pay costs or attorney fees as it deems appropriate to discourage like conduct in the future.

REVIEWING NOTE

This rule is substantively changed to remove appeal being occasioned by respondent's imposition on the court below as a basis for a sanction and to provide the alleged offending party an opportunity to respond prior to the court imposing any sanction.

RULE 39. COSTS

(a) Against Whom Assessed. The following rules apply in civil appeals unless the law provides or the court orders otherwise:

(1) if an appeal is dismissed, costs are taxed against the appellant, unless the parties agree otherwise;

(2) if a judgment is affirmed, costs are taxed against the appellant;

(3) if a judgment is reversed, costs are taxed against the respondent;

(4) if a judgment is affirmed in part, reversed in part, modified, or vacated, costs are taxed only as the court orders.

(b) Limitations on Costs.

(1) Costs of Copies. The cost of producing necessary copies of briefs or appendices is taxable in the Supreme Court or Court of Appeals at a rate not to exceed 10 cents per page, or at actual cost, whichever is less.

(2) Costs of Counsel's Transportation. The actual costs of round-trip transportation within Nevada for one attorney, actually attending arguments before the Supreme Court or Court of Appeals, to the place where the appeal is argued are taxable in the Supreme Court or Court of Appeals. For the purpose of this Rule, "actual costs" for private automobile travel is deemed to be the rate established by the Internal Revenue Service for business travel at the time such travel occurs.

(3) Bill of Costs. Only those categories of costs identified in Rule 39(b)(1) and (2) are taxable in the Supreme Court or Court of Appeals. A party who wants such costs taxed must—within 14 days after entry of judgment—file an itemized and verified bill of costs with the clerk, with proof of service.

(4) Objections. Objections to a bill of costs must be filed within 7 days after service of the bill of costs, unless the court extends the time.

(5) Limit on Costs. The maximum amount of costs taxable under Rule 39(b)(1) and (2) is $750.

(c) Clerk to Insert Costs in Remittitur. The clerk will prepare and certify an itemized statement of costs taxed in the Supreme Court or Court of Appeals for insertion in the remittitur, but issuance of the remittitur must not be delayed for taxing costs. If the remittitur issues before costs are finally

determined, the district court clerk must—upon the Supreme Court clerk's request—add the statement of costs, or any amendment of it, to the remittitur.

(d) Costs on Appeal Taxable in the District Courts. The following costs on appeal are taxable in the district court for the benefit of the party entitled to costs under this Rule:

(1) the preparation and transmission of the record;

(2) the reporter's transcript, if necessary to determine the appeal;

(3) premiums paid for a supersedeas bond or other security to preserve rights pending appeal; and

(4) the fee for filing the notice of appeal.

REVIEWING NOTE

Former subdivision (c) is now subdivision (b). Changes to what is now subdivision (b)(1) seek to create more certainty in the copying cost rates that are allowed. Changes to what is now subdivision (b)(2) seek to reflect that counsel may travel from a location that is not where the district court is located and to have recoverable private automobile travel costs track the Internal Revenue Service standard. Changes to what is now subdivision (b)(3) clarify the existing rule that only the costs identified in what are now subdivisions (b)(1) and (b)(2) can be taxed in the appellate courts; all other costs for an appeal must be sought in the district court. Because preparation of the appendix is generally not a hard cost but rather performed by an attorney and/or staff, that has been removed from the list of costs in what is now subdivision (d).

RULE 40. PETITION FOR REHEARING

(a) Grounds for Rehearing. The court may consider rehearing in the following circumstances:

(1) When the court has overlooked or misapprehended a material fact in the record or a material question of law in the case;

(2) When the court has overlooked, misapplied, or failed to consider a statute, procedural rule, regulation, or decision directly controlling a dispositive issue in the case; or

(3) When a new rule of law, directly controlling on the disposition of the issues in the case, has issued after the court announced its order or opinion but within the time fixed for filing a petition for rehearing.

(b) Content of Petition. The petition must state with particularity the points of law or fact that the petitioner believes the court has overlooked or misapprehended and must contain such argument in support of the petition as the petitioner desires to present. Any claim that the court has overlooked or misapprehended a material fact must be supported by a reference to the page of the transcript, appendix, or record where the matter is to be found; any claim that the court has overlooked or misapprehended a material question of law or has overlooked, misapplied, or failed to consider controlling authority must be supported by a reference to the page of the brief where petitioner has raised the issue. Except as necessary to establish the grounds for rehearing set forth in Rule 40(a), matters presented in the briefs and oral arguments may not be reargued, and no point may be raised for the first time. Oral argument in support of the petition will not be permitted.

(c) Time for Filing. Unless the time is shortened or enlarged by order, any party may file a petition for rehearing within 14 days after the filing of the appellate court's decision under Rule 36. The 3-day mailing period set forth in Rule 26(c) does not apply to the time limits set by this Rule.

(d) Filing Fee. Except as otherwise provided by statute, a $150 filing fee must be paid to the clerk at the time a petition for rehearing is submitted for filing.

(e) Response to Petition and Reply. No response to a petition for rehearing may be filed unless requested by the court. The response to a petition for rehearing must be filed within 14 days after entry of the order requesting the response, unless otherwise directed by the court. A petition for rehearing will ordinarily not be granted in the absence of a request for a response. If a response to the petition is ordered, the petitioner may file a reply within 7 days after service of the response. A reply must not present matters that do not relate to the response.

(f) Form of Petition, Response, and Reply; Number of Copies; Certificate of Compliance. A petition for rehearing of a decision of the Court of Appeals or of a Supreme Court panel, or a response to such a petition, or a reply, must comply in form with Rule 32, and unless e-filed, the original must be filed with the clerk. One copy must be served on counsel for each party separately represented. The petition, response, or reply must include a certificate that the submission complies with the formatting requirements of Rule 32(a)(4)-(6) and the page or type-volume limitation of this Rule, computed in compliance with Rule 32(a)(7)(C), and must be accompanied by a completed certificate of compliance substantially similar to the Certificate of Compliance for Rules 40, 40A, and 40B Form on the Nevada Supreme Court website.

(g) Length of Petition, Response, and Reply. Except by permission of the court, a petition for rehearing, or a response to the petition, may not exceed 10 pages or 4,667 words or, if it uses a monospaced typeface, 433 lines of text. Any reply may not exceed one half of the page or type-volume limitation of the petition.

(h) Decision by Court. A court's decision to grant or deny a petition for rehearing is final and not subject to further requests for rehearing.

(i) Action by Court When Petition Granted. If a petition for rehearing is granted, the court may make a final disposition of the cause without argument or may restore it to the calendar for argument or resubmission or may make such other orders as are deemed appropriate under the circumstances of the particular case. A petition for rehearing of a decision of a Supreme Court panel must be reviewed by the panel that decided the matter. If the panel determines that rehearing is warranted, rehearing before that panel will be held. The full court must consider a petition for rehearing of an en banc decision.

(j) Untimely Petition. A petition for rehearing is timely if e-filed, mailed, or sent by commercial carrier to the clerk within the time fixed for filing. The clerk must not receive or file an untimely petition, but must return the petition unfiled or, if the petition was e-filed, must reject the petition.

(k) Unrequested Response. Absent an order requesting a response, the clerk must not receive or file a response, but must return it unfiled or, if the response was e-filed, must reject it.

(l) Petition in Criminal Appeals; Exhaustion of State Remedies. A decision by a Supreme Court panel, the en banc Supreme Court, or the Court of Appeals resolving a claim of error in a criminal case, including a claim for postconviction relief, is final for purposes of exhaustion of state remedies in subsequent federal proceedings. Rehearing is available only under the limited circumstances set forth in Rule 40(a).

REVIEWING NOTE

The proposed amendments to this Rule are both stylistic and substantive. Initially, the NRAP Commission sought to bring NRAP 40, 40A,

and 40B into harmony with one another, by utilizing similar structure and language throughout all three rules. Subdivision (a) now lists three grounds for rehearing (as opposed to just two), and subdivision (a)(3) would permit rehearing in the event a new rule of law is issued after the court's disposition, but before the rehearing deadline. Subdivision (b) clarifies that "except as necessary to establish the grounds for rehearing" matters presented in the briefs and oral arguments may not be reargued, and no point may be raised for the first time. Subdivision (c) reduces the time for filing a petition for rehearing from 18 days to 14 days, in conformity with FRAP 40. Additionally, the "answer" to a petition for rehearing is now referred to as the "response" throughout NRAP 40, in conformity with FRAP 40. In the event the court orders a response to a petition for rehearing, subdivision (e) now expressly provides for the filing of a reply within 7 days after service of the response.

RULE 40A. PETITION FOR EN BANC RECONSIDERATION OF A SUPREME COURT PANEL DECISION

(a) Grounds for En Banc Reconsideration. En banc reconsideration of a decision of a Supreme Court panel is not favored and ordinarily will not be ordered except when:

(1) reconsideration by the full court is necessary to secure or maintain uniformity of decisions of the Supreme Court or Court of Appeals, or

(2) the proceeding involves a substantial precedential, constitutional, or public policy issue.

(b) Content of Petition. A petition based on grounds that full court reconsideration is necessary to secure and maintain uniformity of the decisions of the Supreme Court or Court of Appeals must demonstrate that the panel's decision is contrary to prior, published opinions of the Supreme Court or Court of Appeals and must include specific citations to those cases. A petition based

on grounds that the proceeding involves a substantial precedential, constitutional, or public policy issue must concisely set forth the issue, must specify the nature of the issue, and must demonstrate the impact of the panel's decision beyond the litigants involved. The petition must be supported by points and authorities and must contain argument in support of these points. Except as necessary to establish the grounds for reconsideration set forth in Rule 40A(a), matters presented in the briefs and oral arguments may not be reargued in the petition, and no point may be raised for the first time. Oral argument in support of the petition will not be permitted.

(c) Time for Filing. Unless the time is shortened or enlarged by order, any party may petition for en banc reconsideration of a Supreme Court panel's decision within 14 days after the filing of the panel's decision under Rule 36 or, if the party timely filed a petition for rehearing, within 14 days after the filing of the panel's decision to deny rehearing. A petition for en banc reconsideration may not be filed while a petition for rehearing is pending before the panel. The 3-day mailing period set forth in Rule 26(c) does not apply to the time limits set by this Rule. No petition for en banc reconsideration of a Supreme Court panel's decision to grant rehearing is allowed; however, if a panel grants rehearing, any party may petition for en banc reconsideration of the panel's decision on rehearing within 14 days after the filing of the decision.

(d) Response to Petition and Reply. No response to a petition for en banc reconsideration may be filed unless requested by the court. The response to a petition for en banc reconsideration must be filed within 14 days after entry of the order requesting the response, unless otherwise directed by the court. A petition for en banc reconsideration will ordinarily not be granted in the absence of a request for a response. If a response to the petition is ordered,

the petitioner may file a reply within 7 days after service of the response. A reply must not present matters that do not relate to the response.

(e) Form of Petition, Response, and Reply; Number of Copies; Certificate of Compliance. A petition for en banc reconsideration of a Supreme Court panel's decision, a response to such a petition, or a reply must comply in form with Rule 32, and unless e-filed, the original must be filed with the clerk. One copy must be served on counsel for each party separately represented. The petition, response, or reply must include the certification required by Rule 40(f) and must be substantially similar to the Certificate of Compliance for Rules 40, 40A, and 40B Form on the Nevada Supreme Court website.

(f) Length of Petition, Response, and Reply. Except by permission of the court, a petition for en banc reconsideration, or a response to such a petition, may not exceed 10 pages or 4,667 words or, if it uses a monospaced typeface, 433 lines of text. Any reply may not exceed one half of the page or type-volume limitation of the petition.

(g) Decision by Supreme Court. Any two justices may compel the court to grant a petition for en banc reconsideration. The Supreme Court's decision to grant or deny a petition for en banc reconsideration is final and not subject to further requests for rehearing or reconsideration.

(h) Action by Supreme Court When Petition Granted. If a petition for en banc reconsideration is granted, the court may make a final disposition of the cause without argument or may place it on the en banc calendar for argument or resubmission or may make such other orders as are deemed appropriate under the circumstances of the particular case.

(i) Untimely Petition. A petition for en banc reconsideration is timely if e-filed, mailed, or sent by commercial carrier to the clerk within the time

fixed for filing. The clerk must not receive or file an untimely petition, but must return the petition unfiled or, if the petition was e-filed, must reject the petition.

(j) Unrequested Response. Absent an order requesting a response, the clerk must not receive or file a response, but must return it unfiled or, if the response was e-filed, must reject it.

(k) Petition in Criminal Appeals; Exhaustion of State Remedies. A decision of a Supreme Court panel resolving a claim of error in a criminal case, including a claim for postconviction relief, is final for purposes of exhaustion of state remedies in subsequent federal proceedings. En banc reconsideration is available only under the limited circumstances set forth in Rule 40A(a).

REVIEWING NOTE

The proposed amendments to this Rule are both stylistic and substantive. Initially, the NRAP Commission sought to bring NRAP 40, 40A, and 40B into harmony with one another, by utilizing similar structure and language throughout all three rules. Like the analogous federal rule (FRAP 35), subdivision (c) allows a party to file a petition for en banc reconsideration without first filing a petition for rehearing under Rule 40. However, a petition for en banc reconsideration may not be filed while a petition for rehearing is pending before the panel. The "answer" to a petition for en banc reconsideration is now referred to as the "response" throughout Rule 40A, in conformity with the federal rules. In the event the court orders a response to a petition for en banc reconsideration, subdivision (d) now expressly provides for the filing of a reply within 7 days after service of the response.

RULE 40B. PETITION FOR REVIEW BY THE SUPREME COURT

(a) Grounds for Review. A decision of the Court of Appeals is a final decision that is not reviewable by the Supreme Court except on petition for review. Supreme Court review is not a matter of right but of judicial discretion. The following, while neither controlling nor fully measuring the Supreme Court's discretion, are factors that will be considered in the exercise of that discretion:

(1) Whether the question presented is one of first impression of general statewide significance;

(2) Whether the decision of the Court of Appeals conflicts with a prior decision of the Court of Appeals, the Supreme Court, or the United States Supreme Court;

(3) Whether the case involves fundamental issues of statewide public importance; or

(4) Whether the question presented was raised by the parties below or decided by the Court of Appeals.

(b) Content of Petition; Question(s) Presented. A petition for review must state the question(s) presented for review and the reason(s) review is warranted and may include citation of authority in support of that contention. No citation to authority or argument may be incorporated into the petition by reference to another document. The question(s) presented for review must appear on the first page after the cover.

(c) Time for Filing. Unless the time is shortened or enlarged by order, any party may file a petition for review within 14 days after the filing of the Court of Appeals' decision under Rule 36, or its decision on rehearing under Rule 40. A petition for review may not be filed while a petition for rehearing is

pending in the Court of Appeals. The 3-day mailing period set forth in Rule 26(c) does not apply to the time limits set by this Rule.

(d) Response to Petition and Reply. No response to a petition for review may be filed unless requested by the Supreme Court. The response to a petition for review must be filed within 14 days after entry of the order requesting the response, unless otherwise directed by the court. A petition for review will not ordinarily be granted in the absence of a request for a response. If a response to the petition is ordered, the petitioner may file a reply within 7 days after service of the response. A reply must not present matters that do not relate to the response.

(e) Form of Petition, Response, and Reply; Number of Copies; Certificate of Compliance. A petition for review of a Court of Appeals' decision, a response to such a petition, or a reply must comply in form with Rule 32, and unless e-filed, an original must be filed with the clerk. One copy must be served on counsel for each party separately represented. The petition, response, or reply must include the certification required by Rule 40(f) and must be substantially similar to the Certificate of Compliance for Rules 40, 40A, and 40B Form on the Nevada Supreme Court website.

(f) Length of Petition, Response, and Reply. Except by permission of the court, a petition for review by the Supreme Court, or a response to such a petition, may not exceed 10 pages or 4,667 words or, if it uses a monospaced typeface, 433 lines of text. Any reply may not exceed one half of the page or type-volume limitation of the petition.

(g) Decision by Supreme Court. The Supreme Court may grant a petition for review on the affirmative vote of a majority of the justices. The Supreme Court's decision to grant or deny a petition is final and is not subject to further requests for rehearing or reconsideration.

(h) Action by Supreme Court When Petition Granted. The Supreme Court may limit the question(s) on review. The Supreme Court's review on the grant of a petition for review will be conducted on the record and briefs previously filed in the Court of Appeals, but the Supreme Court may require supplemental briefs on the merits of all or some of the issues for review. Unless otherwise ordered, a grant of a petition for review does not vacate the Court of Appeals' decision.

(i) Untimely Petitions. A petition for review is timely if e-filed, mailed, or sent by commercial carrier to the clerk within the time fixed for filing. The clerk of the Supreme Court must not receive or file an untimely petition, but must return the petition unfiled or, if the petition was e-filed, must reject the petition.

(j) Unrequested Response. Absent an order requesting a response, the clerk must not receive or file a response, but must return it unfiled or, if the response was e-filed, must reject it.

(k) Petition in Criminal Appeals; Exhaustion of State Remedies. A decision of the Court of Appeals resolving a claim of error in a criminal case, including a claim for postconviction relief, is final for purposes of exhaustion of state remedies in subsequent federal proceedings. Review of decisions of the Court of Appeals by the Supreme Court is available only under the limited circumstances set forth in Rule 40B(a).

REVIEWING NOTE

The proposed amendments to this Rule are both stylistic and substantive. Initially, the NRAP Commission sought to bring NRAP 40, 40A, and 40B into harmony with one another, by utilizing similar structure and language throughout all three rules. Subdivision (a) provides the Supreme Court with an additional factor to consider when deciding whether to grant

review—"[w]hether the question presented was raised by the parties below or decided by the Court of Appeals"—understanding that some parties may utilize Rule 40B to seek a second bite at the apple by raising new issues that were not previously raised or decided. Subdivision (b) adds a requirement that "[t]he question(s) presented for review must appear on the first page after the cover." Subdivision (c) changes the time for filing a petition for review from 18 days to 14 days. In the event the court orders a response to a petition for review, subdivision (d) now expressly provides for the filing of a reply within 7 days after service of the response. Subdivision (h) clarifies that "[u]nless otherwise ordered, a grant of a petition for review does not vacate the Court of Appeals' decision."

RULE 41. ISSUANCE OF REMITTITUR; STAY OF REMITTITUR

(a) Contents. A certified copy of the judgment and written decision of the court and any direction as to costs will be included with the remittitur.

(b) When Issued. The court's remittitur will issue 21 days after the entry of judgment unless the time is shortened or enlarged by order. Unless an appeal or other proceeding is an original proceeding under Rules 5 or 21 or is dismissed under Rule 42, a formal remittitur will issue.

(c) Effective Date. The remittitur is effective when issued.

(d) Stay of Remittitur.

(1) Petition for Rehearing or En Banc Reconsideration. The timely filing of a petition for rehearing or en banc reconsideration stays the remittitur until disposition of the petition, unless the court orders otherwise. If the petition is denied, the remittitur will issue 21 days after entry of the order denying the petition, unless the time is shortened or enlarged by order.

(2) Petition for Review by Supreme Court. The timely filing of a petition for review by the Supreme Court of a Court of Appeals' decision stays

the issuance of the remittitur of the Court of Appeals. Upon the issuance of an order denying a petition for review, the clerk of the Supreme Court will issue the remittitur.

(3) Application for Certiorari to the United States Supreme Court.

(A) A party may file a motion to stay the remittitur pending application to the United States Supreme Court for a writ of certiorari. The motion must be served on all parties and must show there is good cause for a stay and identify the question(s) the party expects to present to the United States Supreme Court. The motion should include a citation to where the question(s) identified were raised and resolved in Nevada state courts and, if not, state why the motion should not be denied.

(B) The stay must not exceed 120 days, unless the period is extended for cause shown. If during the period of the stay there is filed with the clerk of the Supreme Court of Nevada a notice from the clerk of the United States Supreme Court that the party who has obtained the stay has filed a petition for the writ in that court, the stay will continue until final disposition by the United States Supreme Court.

(C) The court may require a bond or other security as a condition to granting or continuing a stay of the remittitur.

(D) The clerk of the Supreme Court will issue the remittitur immediately when a copy of a United States Supreme Court order denying the petition for writ of certiorari is filed.

RULE 42. VOLUNTARY DISMISSAL

The clerk may dismiss an appeal or other proceeding upon stipulation of the parties or uncontested motion by the appellant or petitioner and payment of any fees that are due. But no remittitur or other process shall issue without

a court order. Dismissal may be on terms agreed to by the parties or as fixed by the court.

REVIEWING NOTE

To be consistent with NRAP 27(c)(3), this rule is amended to allow the clerk to also dismiss an appeal or other proceeding upon a motion for voluntary dismissal. The requirement to specify how costs are to be paid has been removed so that the clerk is also able to dismiss an appeal or other proceeding when the motion/stipulation for voluntary dismissal does not specify payment of costs.

RULE 43. SUBSTITUTION OF PARTIES

(a) Death of a Party.

(1) After Notice of Appeal Is Filed. If a party dies after a notice of appeal has been filed or while a proceeding is pending in the Supreme Court or Court of Appeals, the decedent's personal representative may be substituted as a party on motion filed by the representative or by any party with the clerk of the Supreme Court. A party's motion must be served on the representative in accordance with Rule 25. If the decedent has no representative, any party may suggest the death on the record, and the court may then direct appropriate proceedings.

(2) Before Notice of Appeal Is Filed—Potential Respondent. If a party against whom an appeal may be taken dies after entry of a judgment or order in the district court, but before a notice of appeal is filed, an appellant may proceed as if death had not occurred. After the notice of appeal is filed, substitution will be in accordance with Rule 43(a)(1).

(3) Before Notice of Appeal Is Filed—Potential Appellant. If a party entitled to appeal dies before filing a notice of appeal, the decedent's

personal representative—or, if there is no personal representative, the decedent's attorney of record—may file a notice of appeal within the time prescribed by these Rules. After the notice of appeal is filed, substitution will be in accordance with Rule 43(a)(1).

(b) Substitution for a Reason Other Than Death. If a party needs to be substituted for any reason other than death, the procedure prescribed in Rule 43(a) applies.

(c) Public Officer: Identification; Substitution.

(1) Automatic Substitution of Officeholder. When a public officer who is a party to an appeal or other proceeding in an official capacity dies, resigns, or otherwise ceases to hold office, the action does not abate. The public officer's successor is automatically substituted as a party. Proceedings following the substitution will be in the name of the substituted party, but any misnomer that does not affect the substantial rights of the parties will be disregarded. An order of substitution may be entered at any time, but the failure to enter an order will not affect the substitution.

(2) Identification of Party. A public officer who is a party to an appeal or other proceeding in an official capacity may be described as a party by the public officer's official title rather than by name; but the court may require the public officer's name to be added.

RULE 44. CASES INVOLVING CONSTITUTIONAL QUESTIONS WHERE STATE IS NOT A PARTY

If a party questions the constitutionality of an Act of the Legislature in any proceeding, including civil and criminal matters, in which the state or its agency, officer, or employee is not a party in an official capacity, the questioning party must give written notice to the clerk of the Supreme Court immediately upon the filing of the docketing statement or as soon as the

question is raised in the court. The clerk must then certify that fact to the Attorney General.

RULE 45. CLERK'S DUTIES

(a) General Provisions.

(1) Qualifications. The clerk of the Supreme Court must take the oath and post any bond required by law. Neither the clerk nor any deputy clerk may practice as an attorney or counselor in any court while in office.

(2) When Court Is Open. The clerk's office with the clerk or a deputy in attendance will be open during business hours on all days except Saturdays, Sundays, and nonjudicial days. The court may provide by rule or by order that the clerk's office will be open for specified hours on Saturdays or on particular nonjudicial days. In exceptional circumstances, the court may provide by order for closure of the court for a limited period.

(b) Records.

(1) The Docket. The clerk must maintain a docket, in the form and style prescribed by the court, and must enter therein each case. Cases will be assigned consecutive file numbers. The file number of each case must be noted on the folio of the docket whereon the first entry is made. All papers filed with the clerk and all process, orders, and judgments will be entered chronologically in the docket on the folio assigned to the case. Entries will be brief but must show the nature of each paper filed or judgment or order entered. The entry of an order or judgment will show the date the entry is made. The clerk will keep a suitable index of cases contained in the docket.

(2) Calendar. The clerk will prepare, under the direction of the court, a calendar of cases awaiting argument. In placing cases on the calendar for argument, the clerk will give preference to appeals in criminal cases and to appeals and other proceedings entitled to preference by law.

(3) Other Records. The clerk will keep such other books and records as may be required from time to time by the court.

(c) Notice of Orders or Judgments. Upon the entry of an order or judgment, the clerk will immediately serve a notice of entry by mail on each party, with a copy of any opinion, and will make a note in the docket of the mailing. Service on a party represented by counsel will be made on counsel.

(d) Custody of Records and Papers. The clerk has custody of the court's records and papers. Unless the court orders or instructs otherwise, the clerk must not permit an original record or paper to be taken from the clerk's custody. Upon disposition of the case, original papers transmitted from a court or agency must be returned to the court or agency from which they were received. The clerk must preserve a copy of any briefs or other papers that have been filed. The transcript and appendices to the briefs must be retained for 90 days after issuance of the remittitur, and then may be destroyed.

(e) Office Location; Attendance at Court Sessions.

(1) The clerk's office will be kept in Carson City, Nevada.

(2) The clerk or the clerk's deputy will attend the sessions of the court.

(f) Fees. The clerk is not required to file any paper or record in the clerk's office or docket any proceeding until the fee required by law and these Rules has been paid.

RULE 45A. SEAL OF SUPREME COURT – REPEAL

REVIEWING COMMENT

SB 63, which was passed this year, amends the statutes regarding court seals. As amended, NRS 1.140, now reads:

> 1. Each court of justice in this State shall have a seal.
> 2. The Supreme Court shall adopt rules relating to the format of a seal required by subsection 1 and the use and storage of any such seal.

As a result of this amendment, the Supreme Court will have to adopt provisions regarding court seals that were previously contained in NRS 1.140-1.190. Since the rules regarding seals will apply to all courts of justice, and not just the appellate courts, it appears that the best place to adopt those rules will be in the SCR. In order to keep all of the rules regarding seals together, the subcommittee recommends repealing this Rule and including the language from this Rule, as well as language regarding the seal for the Court of Appeals, with the other rules regarding court seals to be added to the SCR. Repealing this Rule will not require renumbering other rules in the NRAP. The following is the language that the subcommittee suggests be added to the SCR.

SEALS OF THE APPELLATE COURTS

(a) Supreme Court. The seal of the Supreme Court must contain the words "Supreme Court State of Nevada" on the upper part of the outer edge, preceded and followed by a star; and the words "Fiat Justitia" on the lower part of the outer edge, running from left to right; and in the center an eagle with its left wing displayed and the figure of the Goddess of Liberty, her left hand holding a liberty pole surmounted by a Phrygian cap, her right hand supporting a shield.

(b) Court of Appeals. The seal of the Court of Appeals is the Nevada State Seal, as described in NRS 235.010.

RULE 46. ATTORNEYS

(a) Practice Before Supreme Court or Court of Appeals—Bar Membership Required; Exceptions.

(1) Bar Membership Required. To represent a party before the Supreme Court or Court of Appeals, an attorney must be an active member of the State Bar of Nevada except as provided by SCR 42, 43, 49.1, 49.3, or 49.5 and subject to NRAP 46(a)(3).

(2) Appearance of Counsel. An attorney must appear in a case for that attorney to file documents in that case. Signing a notice of appeal or original petition or being listed as counsel for a party on the notice of appeal, original petition, or in the case appeal statement filed pursuant to Rule 3(f) will be treated as a notice of appearance for that attorney. Otherwise, counsel for each party must file a formal written notice of appearance as counsel of record on appeal within 14 days after service of the notice of appeal. An attorney who will participate in oral argument of a case must have filed a written notice of appearance with the clerk of the Supreme Court no later than 7 days before the date set for oral argument.

(3) Foreign Counsel. If foreign counsel has been granted permission to appear under SCR 42 upon a motion in district court, that attorney must file a copy of the district court's order with the clerk of the Supreme Court. If foreign counsel appears before the Supreme Court or Court of Appeals in the first instance, that attorney must file a motion in the Supreme Court or Court of Appeals as provided by SCR 42. If foreign counsel is associated on the briefs or any other documents submitted for filing, all such briefs and documents must be signed by Nevada counsel, who will be responsible to the court for the content. If foreign counsel is associated upon oral argument, Nevada counsel must be present during oral argument and will be responsible to the court for all matters presented.

(b) Reserved.

(c) Appointment of Counsel—Indigent Criminal, Habeas Corpus Cases. In original proceedings before the court, only the court may appoint counsel or remand for the appointment of counsel to represent indigent criminal defendants and indigent habeas corpus petitioners.

(d) Withdrawal, Substitution, or Discharge of Attorney in Criminal Cases. The withdrawal, substitution, or discharge of an attorney in criminal cases pending before the Supreme Court or Court of Appeals is governed by this Rule.

(1) In General. After the filing of a notice of appeal or petition, any stipulation or motion that effects a change in the representation of a party to the appeal or petition must be filed with the clerk of the Supreme Court.

(2) Substitution. A substitution or change of counsel may be effected by serving and filing a substitution in the Supreme Court or Court of Appeals, signed by the affected attorneys and the client or, in lieu of the client's signature, an affidavit or declaration of counsel stating that the client has been informed of and consents to the substitution. The Supreme Court or Court of Appeals may disapprove a nonconforming substitution.

(3) Withdrawal.

(A) An attorney who has been incorrectly added as counsel for a respondent or real party in interest upon docketing of the case can seek withdrawal from the case by filing and serving upon the appellant or petitioner a notice, within 14 days of docketing of the case, stating the attorney does not represent the respondent or real party in interest. If known, the notice must state the current address for the respondent or real party in interest. Within 14 days of service of such a notice, the appellant or petitioner must serve the respondent or real party in interest with a copy of the notice of appeal or petition and file proof of such service with the court. If no such notice is filed within 14 days of docketing of the case, withdrawal from the case may only be sought as set forth in Rule 46(d)(3)(B) and (C).

(B) The attorney must file a motion to withdraw with the clerk of the Supreme Court and serve a copy of the motion on the attorney's client and

any adverse party. The motion must clearly state whether counsel was appointed or retained and the reasons for the motion. Unless the motion is filed after judgment or final determination as provided in SCR 46, the motion must be accompanied by:

(i) in a direct appeal from a judgment of conviction in which the defendant is represented by retained counsel, an affidavit or signed statement from the defendant stating that the defendant has discharged retained counsel, the grounds for that discharge, and whether the defendant qualifies for appointment of new counsel; or

(ii) in a direct appeal from a judgment of conviction in which the defendant is represented by appointed counsel, an affidavit or signed statement from the defendant stating that the defendant consents to appointed counsel's being relieved and requesting appointment of substitute counsel; or

(iii) in a postconviction appeal, an affidavit or signed statement from the defendant stating that the defendant wants to proceed without counsel or with substitute counsel retained by defendant.

(C) A motion filed under this Rule that is not accompanied by defendant's affidavit or signed statement must set forth the reasons for the omission. A motion that is filed after judgment or final determination as provided in SCR 46 will only be granted if the Supreme Court or Court of Appeals has issued a final decision in the matter and the time for filing a petition for rehearing has expired.

(4) Death or Suspension. Any party to a criminal appeal may notify the Supreme Court or Court of Appeals in writing when an attorney representing a party dies, or is removed or suspended, or ceases to act as an attorney.

(e) Withdrawal, Substitution, or Discharge of Attorney in Civil Cases. The withdrawal, substitution, or discharge of an attorney in a civil case pending before the Supreme Court or Court of Appeals is governed by this Rule.

(1) In General. After the filing of a notice of appeal or petition, any stipulation or motion that effects a change in the representation of a party to the appeal or petition must be filed with the clerk of the Supreme Court.

(2) Substitution. A substitution or change of counsel may be effected by serving and filing a substitution with the clerk of the Supreme Court, signed by the client, the withdrawing attorney, and the substituted attorney. The Supreme Court or Court of Appeals may disapprove a nonconforming substitution.

(3) Withdrawal.

(A) An attorney who has been incorrectly added as counsel for a respondent or real party in interest upon docketing of the case can seek withdrawal from the case by filing and serving upon the appellant or petitioner a notice, within 14 days of docketing of the case, stating the attorney does not represent the respondent or real party in interest. If known, the notice must state the current address for the respondent or real party in interest. Within 14 days of service of such a notice, the appellant or petitioner must serve the respondent or real party in interest with a copy of the notice of appeal or petition and file proof of such service with the court. If no such notice is filed within 14 days of docketing of the case, withdrawal from the case may only be sought as set forth in Rule 46(e)(3)(B).

(B) The withdrawing attorney must file a motion and serve a copy of the motion on the attorney's client and any adverse party. The motion must clearly state the reasons for the attorney's withdrawal consistent with SCR 46

and RPC 1.16. A motion that is filed after judgment or final determination as provided in SCR 46 will only be granted if the Supreme Court or Court of Appeals has issued a final decision in the matter and the time for filing a petition for rehearing has expired.

(4) Suspension. When an attorney is suspended or ceases to act as an attorney, the attorney must notify the clerk of the Supreme Court in writing and serve a copy of the notice on the attorney's client and any adverse parties. The notice must identify the name and address of any new counsel retained by the client or the current address for the client if no new counsel has been retained.

(5) Death. When an attorney dies, the attorney's client must promptly notify the clerk of the Supreme Court in writing and serve a copy of the notice on any adverse parties. The notice must state that the client has retained new counsel or that the client will proceed without counsel if such is permitted under Rule 46A.

REVIEWING NOTE

Additions were made to subdivision (a)(2) to clarify that an attorney must first have appeared in a case before they can file a document in that case and to expand the kinds of documents that will be treated as a notice of appearance. Subdivisions (d)(3) and (e)(3) were also added to allow an attorney who was incorrectly added to the case for a respondent or real party in interest upon docketing to seek withdrawal by filing a notice.

RULE 46A. PARTIES APPEARING PRO SE

(a) In General. Except as otherwise provided in this Rule, a party may appear pro se and file written briefs and other papers submitted in accordance with these Rules. A party who is represented by counsel must proceed through

counsel and is not permitted to file written briefs or other papers, in pro se, with the exception of a motion to remove counsel.

(b) Exceptions.

(1) Direct Appeal From a Judgment of Conviction. A defendant who is appealing from a judgment of conviction may not appear pro se.

(2) Corporations and Other Entities. A corporation or other entity may not appear pro se.

(c) Response Not Required. An opposing party is not required to respond to documents, including briefs, filed by a party appearing pro se unless ordered to do so by the Supreme Court or Court of Appeals. Except for motions described in Rules 27(b) and 46(d), the court generally will not grant relief without providing an opportunity to file a response.

(d) Return of Documents. The clerk of the Supreme Court will return any document submitted in violation of this Rule.

RULE 47. RULES OF APPELLATE PRACTICE

(a) Promulgation of Rules by the Supreme Court. The Supreme Court by action of a majority of the justices, after giving appropriate public notice and opportunity for comment, may make and amend these Rules governing practice in the Supreme Court and Court of Appeals. In all cases not provided for by rule, the Supreme Court or Court of Appeals may regulate its practice in any manner consistent with law and justice. The clerk of the Supreme Court will cause a notice of entry of an order amending these Rules to be published in the official publication of the State Bar of Nevada.

(b) Drafting and Printing of Orders Amending Rules; Marking of New and Old Matter. In orders amending the Nevada Rules of Appellate Procedure, new matter will be indicated by underscoring or italics. Matter to be omitted will be indicated by brackets and boldface and strikethrough type.

In subsequent orders all matter appearing as omitted and bracketed in previously entered orders will be omitted entirely.

RULE 48. TITLE

These Rules shall be known and cited as the Nevada Rules of Appellate Procedure, or abbreviated NRAP.

EXHIBIT B

NEVADA RULES OF APPELLATE PROCEDURE

I. APPLICABILITY OF RULES

RULE 1. SCOPE, CONSTRUCTION OF RULES

(a) Scope of Rules. These Rules govern procedure in the Supreme Court of Nevada and the Nevada Court of Appeals.

(b) Rules Not to Affect Jurisdiction. These Rules **[~~shall~~]** must not be construed to extend or limit the jurisdiction of the Supreme Court or the Court of Appeals as established by law.

(c) Construction of Rules. These Rules **[~~shall~~]** must be liberally construed to secure the proper and efficient administration of the business and affairs of the courts and to promote and facilitate the administration of justice by the courts.

(d) Effect of Rule and Subdivision Headings. Rule and subdivision headings set forth in these Rules **[~~shall~~]** must not in any manner affect the scope, meaning, or intent of any of the provisions of these Rules.

(e) Definitions of Words and Terms. In these Rules, unless the context or subject matter otherwise requires:

(1) "Appellant" includes, if appropriate, a petitioner.

(2) "Case" includes action and proceeding.

(3) "Clerk" and "clerk of the Supreme Court" means the person appointed to serve as clerk of both the Supreme Court and Court of Appeals.

(4) "Court" means the Supreme Court or Court of Appeals.

(5) "Party," "applicant," "petitioner," or any other designation of a party includes such party's attorney of record. Whenever under these Rules a notice or other paper is required to be given or served on a party, such notice or service

[~~shall~~] must be made on **[~~his~~]** the party's attorney of record if **[he]** the party has one.

(6) "Person" includes and applies to corporations, firms, associations, and all other entities, as well as natural persons.

(7) "Pro se" or "unrepresented" refers to a party acting on his or her own behalf without the assistance of counsel.

(8) "Postconviction appeal" includes any appeal from an order resolving a postconviction challenge to a judgment of conviction, sentence, or the computation of time served under a judgment of conviction, including, but not limited to, proceedings instituted under NRS Chapter 34.

(9) "Shall" and "must" are **[is]** mandatory and "may" is permissive.

(10) The past, present, and future tense **[~~shall~~]** each include the others; the masculine, feminine, and neuter gender **[~~shall~~]** include the others; and the singular and plural numbers **[~~shall~~]** each include the other.

REVIEWING NOTE

The proposed amendments to the language of this Rule are intended to make style and terminology consistent throughout the Rules. The only substantive edits are the addition of the term "unrepresented" in subdivision (e)(7) to reflect the use of that term in many of the rules, and the addition of the term "must" in subdivision (e)(9) to reflect the replacement of "shall" with "must" in many of the rule amendments.

RULE 2. SUSPENSION OF RULES

On the court's own or a party's motion, the court may—to expedite its decision or for other good cause—suspend any provision of these Rules in a particular case and order proceedings as the court directs, except as otherwise provided in Rule 26(b).

II. APPEALS FROM JUDGMENTS AND ORDERS OF DISTRICT COURTS

RULE 3. APPEAL—HOW TAKEN

(a) Filing the Notice of Appeal.

(1) Except for automatic appeals from a judgment of death under NRS 177.055, an appeal permitted by law from a district court may be taken only by filing a notice of appeal with the district court clerk within the time allowed by Rule 4.

(2) An appellant's failure to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for the court to act as it deems appropriate, including dismissing the appeal.

(3) **[~~Deficient Notice of Appeal.~~]** The district court clerk must file an appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay **[~~the~~]** any district court fees or Supreme Court filing fee. The district court clerk **[~~shall~~]** must apprise the appellant of the deficiencies in writing, and **[~~shall~~]** must send the notice of appeal to the Supreme Court in accordance with **[subdivision]** Rule 3(g) with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court **[~~shall~~]** must docket the appeal in accordance with Rule 12.

(b) Joint or Consolidated Appeals.

(1) When two or more parties are entitled to appeal from a district court judgment or order, and their interests make joinder practicable, they may file a joint notice of appeal. They may then proceed on appeal as a single appellant.

(2) When the parties have filed separate timely notices of appeal, the appeals may be joined or consolidated by the court upon its own motion or upon motion of a party.

(c) Contents of the Notice of Appeal.

(1) The notice of appeal **[~~shall~~]** must:

(A) specify the party or parties taking the appeal by naming each one in the caption or body of the notice, but an attorney representing more than one party may describe those parties with such terms as "all plaintiffs," "the defendants," "the plaintiffs A, B, et al.," or "all defendants except X";

(B) designate the judgment, order, or part thereof being appealed; and

(C) name the court to which the appeal is taken.

(2) A notice of appeal may identify multiple separately appealable determinations issued in the same underlying matter.

(3) In a class action, whether or not the class has been certified, the notice of appeal is sufficient if it names one person qualified to bring the appeal as representative of the class.

[~~(3)~~] (4) **[~~Form 1 in the Appendix of Forms~~]** The Notice of Appeal Form on the Nevada Supreme Court website is a suggested form of a notice of appeal.

(d) Serving the Notice of Appeal.

(1) In General. The appellant **[~~shall~~]** must serve the notice of appeal on all parties to the action in the district court. Service on a party represented by counsel **[~~shall~~]** must be made on counsel. If a party is not represented by counsel, the appellant **[~~shall~~]** must serve the notice of appeal on the party at the party's last known address. **[~~The appellant must note, on each copy, the date when the notice of appeal was filed.~~]** Unless the appellant serves a file-stamped copy of the notice of appeal, the notice of appeal served must indicate the date when it was filed or submitted for filing. The notice of appeal

filed with the district court clerk **[~~shall~~]** must contain an acknowledgment of service or proof of service that conforms to the requirements of Rule 25(d).

(2) Service in Criminal Appeals. When a defendant in a criminal case appeals, **[~~appellant's~~]** the defendant's counsel **[~~shall~~]** must also serve a copy of the notice of appeal on the defendant, either by personal service or by mail addressed to the defendant. In criminal appeals governed by Rule 3C, **[~~appellant's~~]** trial counsel must comply with the provisions of this Rule and Rule 3C(c) governing service of the notice of appeal.

(e) Payment of Fees. Except where provided by statute, upon filing a notice of appeal, the appellant must pay the district court clerk the Supreme Court filing fee and any fees charged by the district court. **[~~Except for amended notices of appeal filed under Rule 4(a)(7), the~~]** The Supreme Court filing fee is $250 for each notice of appeal filed. No filing fee is required for amended notices of appeal filed under Rule 4(a)(8).

(f) Case Appeal Statement.

(1) Appellant's Duty to File Case Appeal Statement. Upon filing a notice of appeal, the appellant **[~~shall~~]** must also file with the district court clerk a completed case appeal statement that is signed by appellant's counsel.

(2) District Court's Duty to Complete Case Appeal Statement. When the appellant is not represented by counsel, the district court clerk **[~~shall~~]** must complete and sign the case appeal statement.

(3) Contents of Case Appeal Statement. The case appeal statement must contain the following information:

(A) the district court case number and caption showing the names of all parties to the proceedings below, but the use of et al. to denote parties is prohibited;

(B) the name of the judge who entered the order or judgment being appealed;

(C) the name of each appellant and the name and address of counsel for each appellant;

(D) the name of each respondent and the name and address of appellate counsel, if known, for each respondent, but if the name of a respondent's appellate counsel is not known, then the name and address of that respondent's trial counsel;

(E) whether an attorney identified in response to **[~~subparagraph~~]** Rule 3(f)(3)(C) or (D) is not licensed to practice law in Nevada, and if so, whether the district court granted that attorney permission to appear under SCR 42, including a copy of any district court order granting that permission;

(F) whether the appellant was represented by appointed counsel in the district court, and whether the appellant is represented by appointed counsel on appeal;

(G) whether the district court granted the appellant leave to proceed in forma pauperis, and if so, the date of the district court's order granting that leave;

(H) the date that the proceedings commenced in the district court;

(I) a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court;

(J) whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court or Court of Appeals and, if so, the caption and docket number of the prior proceeding;

(K) whether the primary issue on appeal involves child custody, guardianship of minors, parenting time, or visitation; and

(L) in civil cases, whether the appeal involves the possibility of settlement.

(4) Form Case Appeal Statement. A case appeal statement must substantially comply with **[~~Form 2 in the Appendix of Forms~~]** the Case Appeal Statement Form on the Nevada Supreme Court website.

(g) Forwarding Appeal Documents to Supreme Court.

(1) District Court Clerk's Duty to Forward.

(A) Upon the filing of the notice of appeal, the district court clerk **[~~shall~~]** must immediately forward to the clerk of the Supreme Court the required filing fee, together with **[~~3~~]** a certified, file-stamped **[~~copies~~]** copy of the following documents:

(i) the notice of appeal;

(ii) the case appeal statement;

(iii) any transcript request form filed with the notice of appeal;

(iv) the district court docket entries;

(v) the civil case cover sheet, if any;

(vi) the judgment(s) or order(s) being appealed;

(vii) any notice of entry of the judgment(s) or order(s) being appealed;

(viii) any certification order directing entry of judgment in accordance with NRCP 54(b); the minutes of the district court proceedings; and

(ix) a list of exhibits offered into evidence, if any.

(B) If, at the time of filing of the notice of appeal, any of the enumerated documents have not been filed in the district court, the district court clerk **[~~shall~~]** must nonetheless forward the notice of appeal together with all documents then on file with the clerk.

(C) The district court clerk **[~~shall~~]** must promptly forward any later docket entries to the clerk of the Supreme Court.

(2) Appellant's Duty. An appellant **[~~shall~~]** must take all action necessary to enable the district court clerk to assemble and forward the documents enumerated in **[~~this subdivision~~]** Rule 3(g)(1).

REVIEWING NOTE

With a few exceptions, the amendments to this Rule are mostly intended to be stylistic.

Subdivision (c)(2) was added to clarify that a party may identify multiple separately appealable determinations in a single notice of appeal.

In subdivision (d)(1), the language "or submitted for filing" was added to account for the fact that it is the clerk who controls the filing of a document and a party may not know the actual filing date if they simultaneously submit a notice of appeal for filing with the district court and serve the opposing parties with the notice of appeal.

Subdivision (f)(3)(E) was updated to match the requirement on the Case Appeal Statement Form. Subdivision (f)(3)(K) was amended to include additional types of appeals that must be noted in the case appeal statement to make it easier to identify appeals that will be subject to expedited treatment under NRAP 16.

Subdivision (g)(1)(A). Because NRAP 3C requires an appellant to file and serve the transcript request form on the same date the notice of appeal is filed, subdivision (g)(1)(A) was updated to require the district court clerk to transmit any transcript request form that may have been filed with the notice of appeal.

RULE 3A. CIVIL ACTIONS: STANDING TO APPEAL; APPEALABLE DETERMINATIONS

(a) Standing to Appeal. A party who is aggrieved by an appealable judgment or order may appeal from that judgment or order, with or without first moving for a new trial.

(b) Appealable Determinations. An appeal may be taken from the following judgments and orders of a district court in a civil action:

(1) A final judgment entered in an action or proceeding commenced in the court in which the judgment is rendered.

(2) **[~~An~~]** A post-judgment order granting or denying a motion **[~~for a new trial~~]** under NRCP 50(b), 52(b), or 59, provided all such motions are resolved as required by Rule 4(a)(5).

(3) An order granting or refusing to grant an injunction or dissolving or refusing to dissolve an injunction.

(4) An order appointing or refusing to appoint a receiver or vacating or refusing to vacate an order appointing a receiver.

(5) An order dissolving or refusing to dissolve an attachment.

(6) An order changing or refusing to change the place of trial **[~~only when a notice of appeal from the order is filed within 30 days~~]** of an action or proceeding.

[~~(A) Such an order may only be reviewed upon a timely direct appeal from the order and may not be reviewed on appeal from the judgment in the action or proceeding or otherwise. On motion of any party, the court granting or refusing to grant a motion to change the place of trial of an action or proceeding shall enter an order staying the trial of the action or proceeding until the time to appeal from the order granting or refusing to grant the motion to change the~~

~~place of trial has expired or, if an appeal has been taken, until the appeal has been resolved.~~

~~(B)~~] Whenever an appeal is taken from such an order, the clerk of the district court [~~shall~~] must forthwith certify and transmit to the clerk of the Supreme Court, as the record on appeal, the original papers on which the motion was heard in the district court and, if the appellant or respondent demands it, a transcript of any proceedings had in the district court. The district court [~~shall~~] must require its court reporter to expedite the preparation of the transcript [~~in preference to any other request for a transcript in a civil matter~~]. When the appeal is docketed in the [~~court~~] Supreme Court, it stands submitted without further briefs or oral argument unless the court otherwise orders.

(7) [~~An order entered in a proceeding~~] A final order that did not arise in a juvenile court [~~that finally establishes or alters the custody of minor children~~] and that pertains to child custody, guardianship of minors, parenting time, visitation, or relocation of a minor, whether from initial proceedings or proceedings after the first final order. An order will be deemed final when all pending issues of child custody, guardianship of minors, parenting time, visitation, or relocation of a minor are resolved.

(8) A special order entered after final judgment, [~~excluding an order granting a motion to set aside a default judgment under NRCP 60(b)(1) when the motion was filed and served within 60 days after entry of the default judgment~~] including a post-judgment order awarding or refusing attorney fees or costs or granting or denying relief under NRCP 60(b), or any other post-judgment order affecting the rights of a party incorporated in the judgment.

(9) An interlocutory **[~~judgment,~~]** order or decree in an action to redeem real or personal property from a mortgage or lien that determines the right to redeem and directs an accounting.

(10) An interlocutory **[~~judgment~~]** order in an action for partition that determines the rights and interests of the respective parties and directs a partition, sale, or division.

(11) An order holding a party in contempt, whether designated as civil or criminal, if the order imposes or threatens a sentence of imprisonment.

(12) An order certified as final under NRCP 54(b).

(13) Any other appeal provided for by statute.

REVIEWING NOTE

Revised Rule 3A preserves the purpose and structure of the former rule—to describe who may appeal what.

Subdivision (b) addresses only independently appealable orders. Under the merger doctrine, the notice of appeal encompasses all orders—such as interlocutory or temporary orders—that, for purposes of appeal, merge into the designated judgment or appealable order. It is not necessary to designate those orders in the notice of appeal. Subdivision (b)(2) clarifies that a party may challenge an order disposing of motions under Rule 50(b), 52(b), and 59, consistent with Rule 4(a)(5)(B)(ii), which also governs the timing of such a notice of appeal. Subdivision (b)(6) now treats an order changing or refusing to change the place of trial like other appealable orders—i.e., appealable no later than 30 days after written notice of entry of the order (not 30 days "from the order") and subject to a stay in accordance with Rule 8 (not an automatic stay).

Subdivision (b)(7) clarifies appeals in family-law cases. A "final order" resolving child custody, guardianship of minors, parenting time, visitation, or

relocation of a minor stands in contrast to a temporary order. A case may involve multiple "final," non-temporary orders, and this subdivision clarifies that all such final orders are appealable. Other orders entered before a final judgment resolving all claims in initial proceedings, such as those for alimony, child support, or property division, merge into the final judgment and are appealed at that time. Where an order in initial proceedings resolves some but not all of the claims, the district court may certify its order as final under NRCP 54(b). A final order in post-judgment proceedings that does not involve child custody, guardianship of minors, parenting time, visitation, or relocation of a minor may nonetheless be appealed as a special order after final judgment under subdivision (b)(8).

Subdivision (b)(11) is new and creates an immediate right of appeal for a party held in contempt with an imposed or threatened sentence of imprisonment. This provision clarifies that the threat to personal liberty—not the designation of an order as "civil" or "criminal"—triggers the right of appeal. Non-parties, such as an attorney or witness, may seek appellate review of a contempt order only through a writ petition or in combination with another appealable order. Subdivisions (b)(12) and (b)(13) are new, harmonizing Rule 3A with certification under NRCP 54(b) and statutory appeals.

RULE 3B. CRIMINAL ACTIONS: RULES GOVERNING

Appeals from district court determinations in criminal actions **[~~shall be~~]** are governed by these Rules and by NRS 176.09183, NRS 177.015 to 177.305, NRS 34.560, and NRS 34.575. All appeals in capital cases are also subject to the provisions of SCR 250. Rule 3C applies to **[~~all other~~]** certain direct **[~~and postconviction criminal~~]** appeals **[~~, except those matters specifically excluded by~~]** as set forth in Rule 3C(a).

RULE 3C. FAST TRACK CRIMINAL APPEALS

(a) Applicability.

(1) This Rule applies to an appeal from **[~~a district court judgment or order entered in a criminal or postconviction proceeding, whether the appellant is the State or the defendant~~]**:

(A) a judgment of conviction pursuant to a plea of guilty, guilty but mentally ill, or nolo contendere provided that the defendant was represented by counsel in the district court and was not sentenced to death; and

(B) an order or amended judgment of conviction revoking or modifying probation provided that the defendant was represented by counsel in the district court.

(2) [~~The Supreme Court may exercise its discretion and apply this Rule to appeals arising from criminal and postconviction proceedings that are not subject to this Rule.~~] This Rule does not apply to an appeal filed in accordance with Rule 4(c).

[~~(3) Unless the court otherwise orders, an appeal is not subject to this Rule if:~~

~~(A) the appeal challenges an order or judgment in a case involving a category A, category B, or non-probationable category C felony, as described in NRS 193.130(2)(a), (b), or (c);~~

~~(B) the appeal is brought by a defendant or petitioner who was not represented by counsel in the district court; or~~

~~(C) the appeal is filed in accordance with Rule 4(c).~~]

(b) Responsibilities of Trial Counsel.

(1) Definition. For purposes of this Rule, "trial counsel" means the attorney or office that **[~~who~~]** represented the defendant **[~~or postconviction petitioner~~]** in district court in the underlying proceedings that are the subject

of the appeal or the State Public Defender following a notice of substitution filed under Rule 3C(b)(4).

(2) Responsibilities. Trial counsel **[~~shall~~]** must file the notice of appeal, rough draft transcript request form, docketing statement, and fast track brief(s) **[~~and fast track statement and consult with appellate counsel for the case regarding the appellate issues that are raised~~]**. Trial counsel **[~~shall~~]** must arrange their calendars and adjust their public or private contracts for compensation to accommodate the additional duties imposed by this Rule.

(3) Withdrawal. To withdraw from representation during the appeal, trial counsel **[~~shall~~]** must file with the clerk a motion to withdraw from representation that complies with Rule 46. The motion **[~~shall~~]** will be considered only after trial counsel has **[~~filed the notice of appeal, rough draft transcript request and fast track statement~~]** complied with Rule 3C(b)(2). **[~~The granting of such motions shall be conditioned upon trial counsel's full cooperation with appellate counsel during the appeal.~~]**

(4) Substitution of State Public Defender as Trial Counsel. The State Public Defender may be substituted as "trial counsel" if the judgment or order being appealed was entered by a court in a county that has opted to have the State Public Defender provide indigent appellate representation. The attorney or office that represented the defendant in district court must file the notice of appeal, rough draft transcript request form, and a notice of substitution of counsel. The notice of substitution of counsel must be filed in the district court on the same date as the notice of appeal and the rough draft transcript request form.

(c) Notice of Appeal. When **[~~an appellant~~]** a defendant elects to appeal from a district court order or judgment governed by this Rule,

[~~appellant's~~] the defendant's trial counsel **[~~shall~~]** must serve and file a notice of appeal pursuant to applicable rules and statutes.

(d) Rough Draft Transcript. A rough draft transcript is a computer-generated transcript that can be expeditiously prepared **[~~in a condensed fashion~~]**, but is not proofread, corrected, or certified to be an accurate transcript.

(1) Format. For the purposes of this Rule, a rough draft transcript **[~~shall~~]** must:

(A) **[~~B~~]**be printed on paper 8 1/2 by 11 inches in size, **[~~double-sided,~~]** with the words "Rough Draft Transcript" printed on the bottom of each page;

(B) **[~~Be produced with a yellow cover sheet;~~]**

[~~(C)~~] **[~~I~~]**include a concordance indexing key words in the transcript; and

[~~(D)~~] (C) **[~~I~~]**include an acknowledgment by the court reporter or recorder that the document submitted under this Rule is a true original or copy of the rough draft transcript.

(2) [~~Notification of Court Reporter or Recorder. When a case may be subject to this Rule, the presiding district court judge shall notify the court reporter or recorder for the case before trial that a rough draft transcript may be required.~~] **Audio or Video Recorded Proceedings.** Relevant portions of the district court proceedings that were audio recorded or video recorded must be submitted in typewritten form. The court will not accept audio or video recordings in lieu of a rough draft transcript.

(3) Request for Rough Draft Transcript.

(A) Filing and Service.

(i) When a rough draft transcript is necessary for an appeal, trial counsel **[~~shall~~]** must file a rough draft transcript request form with the district court and **[~~shall~~]** serve a copy of the request form upon the court reporter or recorder and opposing counsel.

(ii) Trial counsel **[~~shall~~]** must serve and file the rough draft transcript request form on the same date the notice of appeal is served and filed.

(iii) Trial counsel **[shall]** must file with the clerk **[~~2 file-stamped copies~~]** a copy of the rough draft transcript request form and proof of service of the form upon the court reporter or recorder and opposing counsel.

(B) Form. The rough draft transcript request **[~~shall~~]** must substantially comply with **[~~Form 5 in the Appendix of Forms~~]** the Rough Draft Transcript Request Form on the Nevada Supreme Court website.

(C) Necessary Transcripts. Counsel **[~~shall~~]** must order transcripts of only those portions of the proceedings that counsel reasonably and in good faith believes are necessary to determine whether appellate issues are present. **[~~In particular, transcripts of jury voir dire, opening statements, closing arguments, and the reading of jury instructions shall not be requested unless pertinent to the appeal.~~]**

(D) No Transcripts. If no transcript is to be requested, trial counsel **[~~shall~~]** must serve and file with the clerk a certificate to that effect within the same period that a rough draft transcript request form must be served and filed under **[~~subparagraph~~]** Rule 3C(d)(3)(A)(ii). Such a certificate **[~~shall~~]** must substantially comply with **[~~Form 14 in the Appendix of Forms~~]** the Certificate of No Transcript Request Form on the Nevada Supreme Court website.

(E) Court Reporter or Recorder's Duty. The court reporter or recorder must:

(i) **[~~The court reporter or recorder shall submit~~]** submit an original rough draft transcript, as requested by appellant's or respondent's counsel, to the district court no more than 21 days after the date that the request is served**[~~.~~]**;

(ii) **[~~The court reporter or recorder shall also deliver~~]** deliver one **[~~certified copies~~]** copy of the rough draft transcript to the requesting attorney and one copy of the rough draft transcript to counsel for each party appearing separately no more than 21 days after the date **[~~of service of~~]** the request is served; and**[~~.~~]**

(iii) **[~~The court reporter or recorder shall deliver an additional certified copy of the rough draft transcript to the requesting attorney for inclusion in the appendix. Within~~]** within 7 days after delivering the **[~~certified~~]** copies of the rough draft transcript, **[~~the court reporter or recorder shall~~]** file with the clerk a certificate **[~~acknowledging~~]** of delivery that substantially complies with the Notice of Completion and Delivery of Transcript Form on the Nevada Supreme Court website **[~~of the completed transcript~~]** and **[~~specifying~~]** specifies the transcripts that have been delivered and the date that they were delivered to the requesting party. **[~~Form 15 in the Appendix of Forms is a suggested form of certificate of delivery.~~]**

[~~(iii) Relevant portions of the trial or hearing that were audio recorded or video recorded shall be submitted in typewritten form. The court will not accept audio or videotapes in lieu of a rough draft transcript.~~]

(4) Supplemental Request for Rough Draft Transcript.

(A) Opposing counsel may make a supplemental request for portions of the rough draft transcript that were not previously requested. The request **[~~shall~~]** must be made no more than **[~~3~~]** 7 days after opposing counsel is served with the transcript request made under Rule 3C(d)(3)(A).

(B) In all other respects, opposing counsel **[~~shall~~]** must comply with the provisions of this Rule governing a rough draft transcript request when making a supplemental rough draft transcript request.

(5) Sufficiency of the Rough Draft Transcript. Trial counsel **[~~shall~~]** must review the sufficiency of the rough draft transcript. If a substantial question arises regarding **[~~an inaccuracy in~~]** the sufficiency of a rough draft transcript, counsel may file a motion and the court may order that a certified transcript be produced.

(6) Exceptions. The provisions of Rule 3C(d)(1)(B) **[~~shall~~]** do not apply to preparation of transcripts produced by means other than computer-generated technology. But time limits and other procedures governing requests for and preparation of transcripts produced by means other than computer-generated technology **[~~shall~~]** must conform with the provisions of this Rule respecting rough draft transcripts.

(e) Filing of Fast Track [~~Statement~~] Opening Brief, Appendix, and Fast Track Reply Brief.

(1) Fast Track [~~Statement~~] Opening Brief.

[~~(A) Time for Serving and Filing.~~] Within 40 days from the date that the appeal is docketed in the court under Rule 12, appellant's trial counsel **[~~shall serve and~~]** must file and serve a fast track **[~~statement~~]** opening brief that **[~~substantially~~]** complies with **[~~Form 6 in the Appendix of Forms~~]** Rule 28(a), except that it need not include a table of contents or table of authorities, and Rules 28(e) and 32.

~~[(B) Length and Contents. Except by court order granting a motion filed in accordance with Rule 32(a)(7)(D), the fast track statement shall not exceed 16 pages in length or shall comply with the type volume limitations stated in Rule 3C(h)(2). The fast track statement shall include the following:~~

~~(i) A statement of jurisdiction for the appeal;~~

~~(ii) A statement of the case and procedural history of the case;~~

~~(iii) A concise statement summarizing all facts material to a consideration of the issues on appeal;~~

~~(iv) An outline of the alleged error(s) of the district court;~~

~~(v) A statement describing how the alleged issues on appeal were preserved during trial;~~

~~(vi) Legal argument, including authorities, pertaining to the alleged error(s) of the district court;~~

~~(vii) Where applicable, a statement regarding the sufficiency of the rough draft transcript;~~

~~(viii) Where applicable, a reference to all related or prior appeals, including the appropriate citations for those appeals; and~~

~~(ix) A statement, setting forth whether the matter should be retained by the Supreme Court or assigned to the Court of Appeals, including reference to any appropriate provisions in Rule 17. If the appellant believes that the Supreme Court should retain the case despite its presumptive assignment under Rule 17 to the Court of Appeals, the statement shall identify the specific issue(s) or circumstance(s) that warrant retaining the case and an explanation of their importance or significance.]~~

~~[(C) References to the Appendix. Every assertion in the fast track statement regarding matters in a rough draft transcript or other document shall cite to the page and volume number, if any, of the appendix that supports the assertion.]~~

~~[(D) Number of Copies to Be Filed and Served. An original and 1 copy of the fast track statement shall be filed with the clerk of the court, and 1 copy shall be served on counsel for each party separately represented.]~~

(2) Appendix.

(A) Joint Appendix. Counsel have a duty to confer and attempt to reach an agreement concerning a possible joint appendix to be filed with the fast track ~~[statement]~~ opening brief.

(B) Appellant's Appendix. In the absence of an agreement respecting a joint appendix, the appellant ~~[shall]~~ must ~~[prepare and]~~ file and serve an ~~[original and 1 copy of a separate]~~ appellant's appendix with the fast track ~~[statement]~~ opening brief. ~~[Appellant shall serve a copy of the appendix on counsel for each party separately represented.]~~

(C) Form and Content. The ~~[preparation]~~ form and contents of appendices ~~[shall]~~ must comply with Rules 30 and 32 ~~[and shall be paginated sequentially]~~.

(3) Fast Track Reply Brief. The appellant may file and serve a reply to the ~~[Fast Track Response that shall be entitled "Reply to Fast Track Response]~~ fast track answering brief within 14 days after the fast track answering brief is served.~~[".]~~ The reply brief ~~[shall be no longer than 5 pages or shall comply with the type-volume limitations stated in Rule 3C(h)(2). The reply must be limited to answering matters set forth in the Fast Track Response]~~ must comply with Rule 28(c), except that it need

not include a table of contents, and Rules 28(e) and 32. **[~~The reply must be filed within 14 days of service of the Fast Track Response.~~]**

(f) Filing of Fast Track [~~Response~~] Answering Brief and Appendix.

(1) Fast Track [~~Response~~] Answering Brief.

[~~(A) Time for Service and Filing.~~] Within 21 days from the date **[~~a fast track statement~~]** the fast track opening brief is served, the respondent **[~~shall serve and~~]** must file and serve a fast track **[~~response~~]** answering brief that **[~~substantially~~]** complies with **[~~Form 7 in the Appendix of Forms~~]** Rule 28(b), except that it need not include a table of contents or table of authorities, and Rules 28(e) and 32.

[~~(B) Length and Contents. Except by court order granting a motion filed in accordance with Rule 32(a)(7)(D), the fast track response shall not exceed 11 pages in length or shall comply with the type-volume limitations stated in Rule 3C(h)(2). The fast track response shall include additional authority and factual information necessary to rebut the contentions in the fast track statement. The fast track response also shall include a statement, setting forth whether the matter should be retained by the Supreme Court or assigned to the Court of Appeals, including reference to any appropriate provisions in Rule 17. If the respondent believes that the Supreme Court should retain the case despite its presumptive assignment under Rule 17 to the Court of Appeals, the statement shall identify the specific issue(s) or circumstance(s) that warrant retaining the case and an explanation of their importance or significance.~~]

~~[(C) References to the Appendix. Every assertion in the fast track response regarding matters in a rough draft transcript or other document shall cite to the page and volume number, if any, of the appendix that supports the assertion.]~~

~~[(D) Number of Copies to Be Filed and Served. An original and 1 copy of the fast track response shall be filed with the clerk, and 1 copy shall be served on counsel for each party separately represented.]~~

(2) Appendix.

(A) Joint Appendix. Counsel have a duty to confer and attempt to reach an agreement concerning a possible joint appendix.

(B) Respondent's Appendix. In the absence of an agreement respecting a joint appendix, the respondent **[~~shall~~]** must **[~~prepare and~~]** file and serve **[~~an original and 1 copy of a separate~~]** a respondent's appendix with the fast track **[~~response~~]** answering brief. **[~~Respondent shall serve a copy of the appendix on counsel for each party separately represented.~~]**

(C) Form and Contents. The **[~~preparation~~]** form and contents of appendices **[~~shall~~]** must comply with Rules 30 and 32 **[~~and shall be paginated sequentially~~]**.

~~[(g) Filing of Supplemental Fast Track Statement and Response.~~

~~(1) Supplemental Fast Track Statement.~~

~~(A) When Permitted; Length. A supplemental fast track statement of not more than 5 pages or its equivalent calculated under the type volume limitation provisions of Rule 3C(h)(2) may be filed when appellate counsel differs from trial counsel and can assert~~

~~material issues that should be considered but were not raised in the fast track statement.~~

~~(B) Time for Service and Filing; Number of Copies. When permitted under subparagraph (A), an original and 1 copy of a supplemental fast track statement shall be filed with the clerk, and 1 copy shall be served upon opposing counsel, no more than 21 days after the fast track statement is filed or appellate counsel is appointed, whichever is later.~~

~~(2) Supplemental Fast Track Response. No later than 14 days after a supplemental fast track statement is served, the respondent may file and serve a response of not more than 5 pages or its equivalent calculated under the type-volume limitation provisions of Rule 3C(h)(2).]~~

~~[(h) Format; Type Volume Limitation; Certificate of Compliance.~~

~~(1) Format. Fast track filings shall comply with the formatting requirements of Rule 32(a)(4) (6), and Rule 32(a)(7)(D) shall apply in computing permissible length.~~

~~(2) Type Volume Limitation. The size of a fast track filing may be calculated by type-volume in lieu of page limitation. Using a type-volume limitation, a fast track statement is acceptable if it contains no more than 7,267 words or 693 lines of text. A fast track response is acceptable if it contains no more than two-thirds the type volume specified for a fast track statement (4,845 words or 462 lines of text); and a fast track reply or supplement is acceptable if it contains no more than 2,333 words or 216 lines of text.~~

~~(3) Certificate of Compliance. Fast track filings must include a certificate of compliance in substantially the form required by Rule~~

~~32(a)(8). A certificate that includes the first two paragraphs under "Verification" in Forms 6 and 7 of the Appendix of Forms will be regarded as sufficient to meet the requirements of this Rule.]~~

[~~(i)~~] (g) Extensions of Time.

(1) Preparation of Rough Draft Transcript.

(A) Seven-Day Telephonic Extension. A court reporter or recorder may request by telephone a 7-day extension of time to prepare a rough draft transcript if the preparation requires more time than is allowed under this Rule. If good cause is shown, the clerk or a designated deputy may grant the request by telephone or by written order of the clerk.

(B) Additional Extensions by Motion. Subsequent extensions of time for filing rough draft transcripts **[~~shall~~]** will be granted only upon motion to the court. The motion **[~~shall~~]** must justify the requested extension in light of the time limits provided in this Rule, and **[~~shall~~]** must specify the exact length of the extension requested. Extensions of time for the filing of rough draft transcripts **[~~shall~~]** will be granted only upon demonstration of good cause. Sanctions may be imposed if a motion is brought without reasonable grounds.

(2) Fast Track [~~Statement and Response; Supplemental Statement and Response~~] Briefs.

(A) Seven-Day Telephonic Extension. Counsel may request by telephone a 7-day extension of time for filing **[~~fast track statements and responses, and supplemental fast track statements and responses~~]** fast track briefs and related documents. If good cause is shown, the clerk may grant the request by telephone or by written order of the clerk.

(B) Extensions of Time Due to Transcript Unavailability. When an extension of time has been granted to a court reporter or recorder

under this Rule, the court will extend the time for filing the brief to 21 days after the date set for the transcript to be filed.

[~~(B)~~] (C) **Additional Extensions by Motion.** Subsequent extensions of time for filing fast track **[~~statements and responses,~~]** briefs **[~~and supplemental fast track statements and responses shall~~]** will be granted only upon motion to the court. The motion **[~~shall~~]** must justify the requested extension in light of the time limits provided in this Rule, and **[~~shall~~]** must specify the exact length of the extension requested. Extensions of time **[~~for the filing of fast track statements and responses, and supplemental fast track statements and responses shall~~]** under this provision will be granted only upon demonstration of **[~~extreme need or merit~~]** good cause. Sanctions may be imposed if a motion is brought without reasonable grounds.

[~~(j)~~] (h) **Amendments to [~~Statements and Responses~~] Briefs.** Leave to amend fast track **[~~statements and responses, or supplemental fast track statements and responses shall~~]** briefs will be granted only upon motion to the court. A motion to amend **[~~shall~~]** must justify the absence of the offered arguments in the party's initial **[~~or supplemental fast track statement or response~~]** brief. The motion **[~~shall~~]** will be granted only upon demonstration of **[~~extreme need or merit~~]** good cause.

[~~(k) Full Briefing, Calendaring or Summary Disposition.~~

~~(1) Based solely upon review of the rough draft transcript, fast track statement, fast track response, and any supplemental documents, the court may summarily dismiss the appeal, may affirm or reverse the decision appealed from without further briefing or argument, may order the appeal to be fully briefed and argued or submitted for decision without argument, may order that briefing and~~

~~any argument be limited to specific issues, or may direct the appeal to proceed in any manner reasonably calculated to expedite its resolution and promote justice.~~

~~(2) Motion for Full Briefing.~~

~~(A) A party may seek leave of the court to remove an appeal from the fast track program and direct full briefing. A motion for full briefing shall be granted unless it is filed solely for purposes of delay. It may be filed in addition to or in lieu of the fast track pleading.~~

~~(B) The motion must identify specific reasons why the appeal is not appropriate for resolution in the fast track program. Such reasons may include, but are not limited to, the following circumstances:~~

~~(i) The case raises one or more issues that involve substantial precedential, constitutional, or public policy questions; and/or~~

~~(ii) The case is legally or factually complex.~~

~~(C) No opposition may be filed unless ordered by the court.~~

~~(3) If the court orders an appeal to be fully briefed, and neither party objects to the sufficiency of the rough draft transcripts to adequately inform this court of the issues raised in the appeal, counsel are not required to file certified transcript request forms under Rule 9(a). If a party's brief will cite to a transcript not previously included in an appendix submitted to this court, that party shall file and serve a transcript request form in accordance with Rule 9 within the time specified for filing the brief in the court's briefing order. If a party's brief will cite to documents not previously filed in the court, that~~

~~party shall file and serve an appropriately documented supplemental appendix with the brief.~~]

[~~(l)~~] (i) **Withdrawal of Appeal.** If an appellant no longer desires to pursue an appeal after the notice of appeal is filed, counsel responsible for the appeal at that time [~~shall~~] must file with the clerk a notice of withdrawal of appeal. The notice of withdrawal of appeal [~~shall~~] must substantially comply with [~~Form 8 in the Appendix of Forms~~] the Notice of Withdrawal of Appeal Form on the Nevada Supreme Court website.

[~~(m)~~] (j) **Court Reporter or Recorder Protection and Compensation.**

(1) Liability. Court reporters or recorders [~~shall~~] are not [~~be~~] subject to civil, criminal, or administrative causes of action for inaccuracies in a rough draft transcript unless: [~~the court reporter or recorder willfully:~~]

(A) the court reporter or recorder willfully [~~F~~]fails to take full and accurate stenographic notes of the criminal proceeding for which the rough draft transcript is submitted, or willfully and improperly alters stenographic notes from the criminal proceeding, or willfully transcribes audio[-] or video[~~tapes~~] recordings inaccurately; and

(B) [~~S~~]such willful conduct proximately causes injury or damage to the party asserting the action, and that party demonstrates that appellate or postconviction relief was granted or denied based upon the court reporter's or recorder's inaccuracies.

(2) Compensation. Court reporters [~~shall~~] must be compensated as follows:

(A) For preparing a rough draft transcript, the court reporter [~~shall~~] must receive 100 percent of the rate established by NRS 3.370 for each transcript page as defined by NRS 3.370 and $25 for costs. Costs include the

cost of delivery of the original and copies of the rough draft transcript. In the event that overnight delivery is required to or from outlying areas, that cost **[~~shall be~~]** is additional.

(B) In the event a certified transcript is ordered after the rough draft transcript is prepared, the court reporter **[~~shall~~]** must receive an additional fee equal to 25 percent of the amount established by NRS 3.370 for the already prepared rough draft portion of the transcript. Any portions not included with the rough draft transcript will be compensated by the amount established by NRS 3.370.

[~~(n)~~] (k) **Sanctions.** Any attorney, court reporter, or court recorder who lacks due diligence in compliance with this Rule may be subject to sanctions by the court. **[~~Sanctionable actions include, but are not limited to, failure of trial counsel to file a timely fast track statement or fast track response; failure of trial counsel to fully cooperate with appellate counsel during the course of the appeal; and failure of counsel to raise material issues or arguments in a fast track statement, response, supplemental statement or supplemental response.~~]**

[~~(o)~~] (l) **Conflict.** The provisions of this Rule **[~~shall~~]** prevail over conflicting provisions of any other Rule.

RULE 3D. JUDICIAL DISCIPLINE: RIGHT TO APPEAL; HOW TAKEN; RULES GOVERNING

[~~(a) Definitions. As used in this Rule:~~

~~(1) "Respondent" means any Supreme Court justice, Court of Appeals judge, district judge, justice of the peace, or municipal court judge or referee, master, or commissioner who is the subject of any disciplinary or removal proceedings instituted before the commission on judicial discipline.~~

~~(2) "Service" means service by personal delivery or by registered mail or certified mail, return receipt requested.]~~

[~~(b)~~] (a) **[~~Who May Appeal~~]** Appealable Decisions. Any Supreme Court justice, Court of Appeals judge, district judge, justice of the peace, or municipal court judge or referee, master, commissioner, or other judicial officer ("Judicial Officer") who is the subject of any disciplinary or removal proceedings instituted before the **[e]**Commission on **[j]**Judicial **[~~d~~]**Discipline ("Commission") may appeal to the Supreme Court; **[~~from the orders set forth in Rule 3D(c).~~]**

[~~(c) Appealable Decisions. An appeal may be taken:~~]

(1) **[~~F~~]**from an order of suspension from the exercise of office under NRS 1.4675**[~~.~~]**; and

(2) **[~~F~~]**from an order of censure, removal, retirement, or other form of discipline.

[~~(d)~~] (b) **Notice of Appeal.** An appeal to the Supreme Court from a **[e]**Commission order **[~~shall~~]** must be taken by filing a notice of appeal with the clerk of the **[e]**Commission and serving a copy of the notice on the prosecuting counsel, if any. Filing and service of the notice of appeal must be made within 30 days after service on the **[~~respondent~~]** Judicial Officer of the **[e]**Commission's formal order of suspension, censure, removal, retirement, or other discipline, together with its formal findings of fact and conclusions of law. Upon the filing of the notice of appeal, the clerk of the **[e]**Commission **[~~shall~~]** must immediately transmit to the clerk of the Supreme Court **[~~2~~]** a file-stamped **[~~copies~~]** copy of the notice of appeal.

[~~(e) Transcripts. Any request for all or part of a transcript must be made in accordance with rules adopted by the commission in regard thereto.~~]

[(f)] (c) Applicable Rules. [In all other respects an] An appeal from a **[e]**Commission order **[shall]** will proceed in the same manner as a civil appeal except that:

(1) the provisions of Rule 4(f) for expediting criminal appeals **[shall]** will apply to all appeals from orders or actions taken by the **[e]**Commission.

(2) any request for all or part of a transcript must be made in accordance with the Procedural Rules of the Commission.

➥ Other provisions in the Nevada Rules of Appellate Procedure apply to appeals from a **[e]**Commission order, unless this Rule expressly provides to the contrary or application of a particular rule is clearly impracticable, inappropriate, or inconsistent. All references to the district court in applicable portions of the Nevada Rules of Appellate Procedure must be deemed references to the **[e]**Commission.

[(g)] (d) Interlocutory Orders. Review of interlocutory orders of the **[e]**Commission, which are considered either by the Judicial Officer or the Commission's prosecuting officer **[or the respondent judge]** to be without or in excess of jurisdiction, may be sought by way of petition for an appropriate extraordinary writ pursuant to Rule 21.

[(h) Disqualification of Supreme Court Justices. Any justice who sat on the commission is disqualified from participating in the consideration or decision of an appeal from an action that was taken by the commission during his or her membership on the commission.]

REVIEWING NOTE

The amendments to this Rule are intended to be stylistic only, with the exception of subdivision (b), which changes the Rule to only require one file-stamped copy. The Procedural Rules of the Nevada Commission on Judicial Discipline Commission, which were amended in 2018, are available

at https://judicial.nv.gov/uploadedFiles/judicialnvgov/content/Discipline/Rules/June_2018_Revised_Procedural_Rules_of_the_NCJD_FINAL.pdf. Notably, the Commission's procedural rules provide a 15-day timeline to appeal, whereas this Rule provides a 30-day window. We recommend either a change to this Rule or the Commission's rules to ensure both deadlines are the same.

RULE 3E. FAST TRACK CHILD CUSTODY APPEALS

(a) Applicability. This Rule applies to appeals and cross-appeals from district court orders primarily pertaining to child custody, guardianship of minors, parenting time, or visitation.

(b) Responsibilities of Appellant. The **[A]**appellant and cross-appellant are responsible for filing the notice of appeal, case appeal statement, docketing statement, a transcript request form, and a fast track **[~~statement~~]** opening brief for the case identifying the appellate issues that are raised. An appellant and/or cross-appellant who is proceeding without counsel need not prepare a case appeal statement, as the district court clerk will prepare this document in accordance with Rule 3(f)(2).

(c) [~~Request for~~] Transcripts [~~or Rough Draft Transcripts~~].

(1) Rough Draft Transcript; Format. For the purposes of this Rule, a rough draft transcript is a computer-generated transcript that can be expeditiously prepared **[~~in a condensed fashion~~]**, but is not proofread, corrected, or certified to be an accurate transcript. A rough draft transcript **[~~shall~~]** must:

(A) be printed on paper 8 1/2 by 11 inches in size**[~~, double-sided,~~]** with the words "Rough Draft Transcript" printed on the bottom of each page;

[~~(B) be produced with a yellow cover sheet;~~]

[~~(C)~~] (B) include a concordance, indexing key words **[~~contained~~]** in the transcript; and

[~~(D)~~] (C) include an acknowledgment by the court reporter or recorder that the document submitted pursuant to this Rule is an **[~~true~~]** original or accurate copy of the rough draft transcript.

(2) Audio or Video Recorded Proceedings. Relevant portions of the district court proceedings that were audio recorded or video recorded must be submitted in typewritten form. The court will not accept audio or video recordings in lieu of a rough draft transcript.

[~~(2)~~] (3) **Transcript Requests.**

(A) Filing and [~~Serving Request Form~~] Service. **[~~The parties have a duty to confer and attempt to reach an agreement concerning the transcripts necessary for the court's review on appeal.~~]**

(i) When a transcript is necessary for an appeal, the appellant **[~~shall~~]** must file the transcript or rough draft transcript request form with the district court and **[~~shall~~]** must serve a copy of the request form upon the court reporter or recorder and the opposing party.

(ii) The **[~~A~~]**appellant **[~~shall~~]** must file and serve the request form within 14 days of the date that the Supreme Court approves the settlement conference report indicating that the parties were unable to settle or, if the case was exempted or removed from the settlement program, within 14 days of the date that the case was exempted or removed from the settlement program.

[~~(iii)~~] Within the same time period, the **[~~A~~]**appellant **[~~shall~~]** must file with the clerk of the Supreme Court **[~~2~~]** 1 file-stamped **[~~copies~~]** copy of the transcript or rough draft transcript request form and proof of service of the form upon the court reporter or recorder and the opposing party.

(B) Form. The transcript request form **[~~shall~~]** must substantially comply with the Rough Draft Transcript Request Form or the Certified Transcript Request Form on the Nevada Supreme Court website. **[~~Form 3 or 11 in the Appendix of Forms unless the party filing the form is proceeding pro se, in which case the transcript request form shall substantially comply with Form 17 in the Appendix of Forms.~~]**

(C) Necessary Transcripts. The appellant must order transcripts of only those portions of the proceedings that the appellant reasonably and in good faith believes are necessary to determine the appellate issues.

(D) No Transcripts. If no transcript is to be requested, the appellant **[~~shall~~]** must file with the clerk of the Supreme Court and serve the opposing party with a certificate to that effect within the same period that the transcript request form must be filed and served under **[~~this subsection~~]** Rule 3E(c)(3)(A)(ii). Such a certificate **[~~shall~~]** must substantially comply with **[~~Form 14 in the Appendix of Forms~~]** the Certificate of No Transcript Request Form on the Nevada Supreme Court website.

[~~(B) Appellant shall order transcripts of only those portions of the proceedings that appellant reasonably and in good faith believes are necessary to determine the appellate issues.~~]

[~~(C)~~] (4) Court Reporter or Recorder's Duty. The court reporter or recorder **[~~shall~~]** must:

(A) submit an original certified transcript or rough draft transcript, as requested by the appellant, to the district court no more than 21 days after the date that the request is served**[~~.~~]**;

(B) **[~~The court reporter or recorder shall also~~]** deliver **[~~certified copies~~]** one copy of the transcript or rough draft transcript to the

requesting **[~~and opposing parties~~]** attorney and one copy of the transcript or rough draft transcript to counsel for each party appearing separately no more than 21 days after the date when the request is served**[~~.~~]**; and

(C) **[W]**within 7 days after delivering the **[~~certified~~]** copies of the transcript or rough draft transcript, **[~~the court reporter or recorder shall file with the clerk of the Supreme Court a certificate acknowledging delivery of the completed transcript and specifying the transcripts that have been delivered and the date that they were delivered to the requesting party. Form 15 in the Appendix of Forms is a suggested form of certificate of delivery. The preparation of transcripts shall conform with the provisions of this Rule.~~]** file with the clerk a certificate of delivery that substantially complies with the Notice of Completion and Delivery of Transcript Form on the Nevada Supreme Court website and specifies the transcripts that have been delivered and the date that they were delivered to the requesting party.

[~~(D) When a transcript request form is submitted by a pro se party who is proceeding in forma pauperis, the court reporter or recorder shall take no action on the request unless directed to do so by the Supreme Court or Court of Appeals in accordance with Rule 9(b).~~]

[~~(E) Relevant portions of the trial or hearing that were audio recorded or video recorded shall be submitted in typewritten form. The court will not accept audio or videotapes in lieu of transcripts.~~]

[~~(3)~~] (5) Supplemental Request for Transcripts or Rough Draft Transcripts.

(A) **[~~The~~]** An opposing party may make a supplemental request for portions of the transcript or rough draft transcript that were not previously requested. The request **[~~shall~~]** must be made no more than 7 days after the appellant served the transcript request made pursuant to **[~~subsection~~]** Rule 3E(c)**[~~(2)~~]**(3) **[~~of this Rule~~]**.

(B) In all other respects, the opposing party **[~~shall~~]** must comply with the provisions of this Rule governing a transcript or rough draft transcript request when making a supplemental transcript request.

[~~(4)~~] (6) Sufficiency of the Rough Draft Transcript. In the event that the appellant elects to use rough draft transcripts, the appellant **[~~shall be~~]** is responsible for reviewing the sufficiency of the rough draft transcripts. **[~~In the event that~~]** If a substantial question arises regarding the sufficiency of a rough draft transcript**[~~'s accuracy~~]**, a party may file a motion and the court may order **[~~the production of~~]** that a certified transcript be produced.

(7) Transmission of Transcripts. Parties represented by counsel must include copies of all transcripts that are necessary to the review of the issues presented on appeal in the appendix as provided in Rule 30. Pro se parties who have not been granted in forma pauperis status must file a copy of each requested transcript with the clerk of the Supreme Court within 14 days of receipt of the transcript from the court reporter or court recorder.

(d) Filing Fast Track [~~Statement, Response, Reply, and~~] Opening Brief, Appendix, and Fast Track Reply Brief.

(1) [~~Filing~~] Fast Track [~~Statement~~] Opening Brief. Within **[~~40~~]** 60 days after the Supreme Court approves the settlement conference report indicating that the parties were unable to settle the case or, if the appeal is removed or exempted from the settlement program, within **[40]** 60 days after the appeal is removed or exempted, the appellant and cross-appellant **[~~shall~~]**

must file and serve, pursuant to Rule 25, ~~[an original and 1 copy of both a fast track statement form and an appendix with the clerk of the Supreme Court and serve 1 copy of the fast track statement and appendix on the opposing party.]~~ their fast track opening brief on the opposing party. The fast track ~~[statement]~~ opening brief must substantially comply with Rule 28(a), except that it need not include a table of contents or table of authorities if the brief is no more than 20 pages or 9,334 words or, if it uses a monospaced typeface, no more than 866 lines of text, and with Rules 28(e) and 32. ~~[shall substantially comply with Form 12 in the Appendix of Forms. The fast track statement shall not exceed 16 pages in length or shall comply with the type-volume limitations stated in Rule 3E(c)(2). The fast track statement shall include the following:~~

~~(A) A statement of jurisdiction for the appeal;~~

~~(B) A statement of the case and procedural history of the case;~~

~~(C) A concise statement summarizing all facts material to a consideration of the issues on appeal;~~

~~(D) An outline of the alleged district court error(s);~~

~~(E) Legal argument, including authorities, pertaining to the alleged error(s) of the district court;~~

~~(F) When applicable, a statement regarding the sufficiency of the rough draft transcript;~~

~~(G) When applicable, a reference to all related or prior appeals, including the appropriate citations for those appeals; and~~

~~(H) A statement, setting forth whether the matter should be retained by the Supreme Court or assigned to the Court of Appeals, including reference to any appropriate provisions in Rule 17. If the appellant believes that the Supreme Court should retain the case~~

~~despite its presumptive assignment under Rule 17 to the Court of Appeals, the statement shall identify the specific issue(s) or circumstance(s) that warrant retaining the case and an explanation of their importance or significance.]~~

~~[(2) Filing Fast Track Response. Within 21 days from the date a fast track statement is served, the respondent and cross respondent shall file an original and 1 copy of a fast track response and serve 1 copy of the fast track response on the opposing party. The fast track response shall substantially comply with Form 13 in the Appendix of Forms. The fast track response shall not exceed 11 pages in length or shall comply with the type-volume limitations stated in Rule 3E(c)(2). The fast track response shall include additional authority and factual information necessary to rebut the contentions in the fast track statement. In cases involving a pro se appellant and/or cross-appellant, Rule 46A(c) shall not apply and the respondent/cross-respondent shall file a fast track response as required by this Rule.]~~

~~[(3) Fast Track Reply. The appellant may file a reply to the fast track response that shall be entitled "Reply to Fast Track Response." The reply shall be no longer than 5 pages or shall comply with the type-volume limitations stated in Rule 3E(c)(2). The reply must be limited to answering matters set forth in the fast track response. The reply must be filed within 14 days of service of the fast track response.]~~

~~[(4) Expanded Fast Track Statement, Response, or Reply. A party may seek leave of the court to expand the length of the fast track statement, response, or reply. The requesting party must demonstrate that the complexity of the case and the issues presented warrant~~

~~granting the request. A request for expansion must be filed at least 14 days before the fast track statement, response, or reply is otherwise due, and must specify the number of additional pages requested.~~]

[~~(5)~~] (2) **Appendix.**

(A) Joint Appendix. [~~The parties~~] Counsel have a duty [~~under Rule 30~~] to confer and attempt to reach an agreement concerning a possible joint appendix to be filed with the fast track [~~statement~~] opening brief.

(B) Appellant's Appendix. In the absence of an agreement respecting a joint appendix, the appellant [~~shall~~] must prepare and file a separate appendix with the fast track [~~statement~~] opening brief. [~~and respondent may prepare and file a separate appendix with the fast track response brief.~~]

(C) Form and Content. The [~~preparation~~] form and contents of appendices [~~shall~~] must comply with Rules 30 and 32. [~~and shall be paginated sequentially. Every assertion in the fast track statement or response regarding matters in an appendix shall cite to the specific page number that supports that assertion.~~]

[~~(6)~~] (D) **Pro Se Appellant; Appendix.** A pro se appellant or cross-appellant [~~shall~~] may not file an appendix. If the court's review of the record is necessary in such a case, the court may direct that [~~the~~] a partial or complete record be transmitted as provided in Rule 11(a)(2). Pro se parties are encouraged, but not required, to support assertions made in the fast track [~~statement~~] opening brief or [~~response~~] answering brief regarding matters in the record by citing to the specific page number in the record that supports the assertions.

(3) Fast Track Reply Brief. The appellant may file and serve, pursuant to Rule 25, a reply to the fast track answering brief within 14 days

after the fast track answering brief is served. The reply must comply with Rule 28(c), except that it need not include a table of contents if the brief is no more than 10 pages or 4,667 words or, if it uses a monospaced typeface, no more than 433 lines of text, and with Rules 28(e) and 32.

(e) Fast Track Answering Brief and Appendix.

(1) Fast Track Answering Brief. Within 21 days from the date a fast track opening brief is served, the respondent and cross-respondent must file and serve their fast track answering brief on the opposing party pursuant to Rule 25. The fast track answering brief must substantially comply with Rule 28(b), except that it need not include a table of contents or table of authorities if the brief is no more than 20 pages or 9,334 words or, if it uses a monospaced typeface, no more than 866 lines of text, and with Rules 28(e) and 32.

(2) Appendix.

(A) Joint Appendix. Counsel have a duty to confer and attempt to reach an agreement concerning a possible joint appendix.

(B) Respondent's Appendix. In the absence of an agreement respecting a joint appendix, the respondent must file and serve a respondent's appendix with the fast track answering brief unless the respondent is pro se.

(C) Form and Contents. The form and contents of appendices must comply with Rules 30 and 32.

(f) Expanded Fast Track Opening Brief, Answering Brief, or Reply Brief. When a case presents complex issues, a party may seek leave of the court to expand the length of the fast track opening brief, answering brief, or reply brief pursuant to Rule 32(a)(7)(D).

~~**[(c) Format; Type-Volume Limitation; Certificate of Compliance.**~~

~~**(1) Format. Fast track filings shall comply with the formatting requirements of Rule 32(a)(4)-(6), and Rule 32(a)(7)(C) shall apply in**~~

~~computing permissible length, and Rule 32(a)(8) shall apply with regard to handwritten documents by pro se parties.~~

~~(2) Type-Volume Limitation. The size of a fast track filing may be calculated by type volume in lieu of page limitation. Using a type-volume limitation, a fast track statement is acceptable if it contains no more than 7,267 words or 693 lines of text. A fast track response is acceptable if it contains no more than two-thirds the type volume specified for a fast track statement (4,845 words or 462 lines of text); and a fast track reply or supplement is acceptable if it contains no more than 2,333 words or 216 lines of text.~~

~~(3) Certificate of Compliance. Fast track filings must include a certificate of compliance in substantially the form required by Rule 32(a)(8). A certificate that includes the first two paragraphs under "Verification" in Forms 6 and 7 of the Appendix of Forms will be regarded as sufficient to meet the requirements of this Rule.]~~

[~~(f)~~] (g) Extensions of Time.

(1) Preparation of Transcripts or Rough Draft Transcripts.

(A) Seven-Day Telephonic Extension. A court reporter or recorder may request, by telephone, a 7-day extension of time for the preparation of a transcript or rough draft transcript if such preparation requires more time than is allowed under this Rule. If good cause is shown, the clerk or a designated deputy may grant the request by telephone or by written order of the clerk. **[~~The clerk of the Supreme Court or designated deputy may, for good cause, grant such requests by telephone or by written order.~~]**

(B) Additional Extensions by Motion. Subsequent extensions of time for filing transcripts or rough draft transcripts will be granted only

upon motion to the court. The motion must justify the requested extension in light of the time limits provided in this Rule, and must specify the exact length of the extension requested. Extensions of time for the filing of transcripts or rough draft transcripts will be granted only upon demonstration of good cause. Sanctions may be imposed if a motion is brought without reasonable grounds.

(2) Case Appeal Statements; Docketing Statements; Fast Track [~~Statements or Responses~~] Opening Briefs, Answering Briefs, or Reply Briefs.

(A) Seven-Day Telephonic Extension. Either party may request, by telephone, a 7-day extension of time for filing a case appeal statement, docketing statement, fast track **[~~statement, response, or reply~~]** opening brief, answering brief, or reply brief and related documents. If good cause is shown, the clerk may grant the request by telephone or by written order of the clerk. **[~~The clerk of the Supreme Court or designated deputy may, for good cause, grant such requests by telephone or by written order.~~]**

(B) Extensions of Time Due to Transcript Unavailability. When an extension of time has been granted to a court reporter or recorder under this Rule, the court will extend the time for filing the brief to 21 days after the date set for the transcript to be filed.

(C) Additional Extensions by Motion. Subsequent extensions of time for filing fast track briefs will be granted only upon motion to the court. The motion must justify the requested extension in light of the time limits provided in this Rule and must specify the exact length of the extension requested. Extensions of time under this provision will be granted only upon demonstration of good cause. Sanctions may be imposed if a motion is brought without reasonable grounds.

[~~(3) Subsequent Request for Extensions. Any subsequent request for an extension of time must be made by written motion to the court. The motion must justify the requested extension in light of the time limits provided in this Rule, and shall specify the exact length of the extension requested. Extensions of time for the filing of fast track statements, responses, and replies shall be granted only upon demonstration of extreme need or merit. Sanctions may be imposed if a subsequent motion for an extension of time is brought without reasonable grounds.~~]

(h) Amendments to Briefs. Leave to amend fast track briefs will be granted only upon motion to the court. A motion to amend must justify the absence of the offered arguments in the party's initial brief. The motion will be granted only upon demonstration of good cause.

(i) Withdrawal of Appeal. If an appellant no longer desires to pursue an appeal after the notice of appeal is filed, the appellant must file with the clerk of the Supreme Court a notice of withdrawal of appeal.

[~~(g)~~] (j) Appeal Disposition[~~, Full Briefing,~~] or Calendaring.

(1) Based solely upon review of the transcripts or rough draft transcripts, fast track **[~~statement~~]** opening brief, fast track **[~~response~~]** answering brief, reply brief, and any other documents filed with the court, the court may resolve the matter. **[~~or direct full briefing.~~]**

(2) A party may seek leave of the court to remove an appeal from the fast track program and **[~~direct full briefing~~]** extend deadlines. The motion must demonstrate that the specific issues raised in the appeal are complex and/or too numerous for resolution in the fast track program or that the orders pertaining to child custody, guardianship of minors, parenting time, or visitation are not a primary issue on appeal. **[~~If the moving party is~~**

~~represented by counsel, the movant must attach a written waiver from the client certifying that counsel has discussed the implications of full briefing and that the client waives expeditious resolution of the appeal.]~~

(3) If the court **[~~orders an appeal to be fully briefed~~]** removes an appeal from the fast track program, the parties are not required to file transcript request forms pursuant to Rule 9(a) unless otherwise ordered. If a party's brief cites to a transcript not previously filed in the court, that party **[~~shall~~]** must cause a supplemental transcript to be prepared and filed in the district court and the appellate court under Rule 9 within the time specified for filing the brief in the court's briefing order. If a represented party's brief cites to documents not previously filed in the court, that party **[~~shall~~]** must file and serve an appropriately documented supplemental appendix with the brief. In accordance with Rule 30(i), pro se parties **[~~shall~~]** must not file an appendix, but when the court's review of the record is necessary in a pro se appeal, the court may direct that the complete record be transmitted as provided in Rule 11(a)(2).

(4) Subject to extensions, and if the court does not **[~~order full briefing~~]** remove an appeal from the fast track program, the court **[~~shall~~]** must attempt to dispose of all fast track child custody appeals within 90 days of the date the **[~~fast track response is filed~~]** case is transferred to the Court of Appeals. If a fast track child custody appeal is retained by the Supreme Court, the court must attempt to dispose of it within 90 days of the date the case is submitted for a decision.

[~~(h)~~] (k) Court Reporter or Recorder Protection and Compensation. [~~When preparing and submitting rough draft transcripts under this Rule,~~]

(1) Liability. Court reporters or recorders **[shall]** are not **[be]** subject to civil, criminal, or administrative causes of action for inaccuracies in a rough draft transcript unless: **[the court reporter or recorder willfully]**

(A) the court reporter or recorder willfully fails to take full and accurate stenographic notes of the proceeding for which the rough draft transcript is submitted, or willfully and improperly alters stenographic notes from the proceeding, or willfully transcribes audio**[-]** or video**[tapes]** recordings inaccurately; and

(B) such willful conduct proximately causes injury or damage to a party **[asserting the action]**, and that party demonstrates that appellate relief was likely granted or denied based upon the court reporter's or recorder's inaccuracies.

(2) Compensation. Court reporters **[shall]** must be compensated as follows:

(A) For **[the preparation of]** preparing a transcript or rough draft transcript, the court reporter **[shall]** must receive 100 percent of the rate established by NRS 3.370 for each transcript page and for costs. A party ordering transcripts or copies must pay the court reporter's fee. No reporter may be required to perform any service in a civil case until the fees have been paid to **[him or her,]** the court reporter or deposited with the court clerk.

(B) In the event that a certified transcript is ordered after the rough draft transcript is prepared, the court reporter **[shall]** must receive an additional fee as established by NRS 3.370.

[(i)] (l) Sanctions. Any party, attorney, court reporter, or court recorder who lacks due diligence in compliance with this Rule may be subject to sanctions by the court. Sanctionable actions include, but are not limited to, failure of the appellant to timely file a fast track **[statement]** opening brief or

the respondent's failure to file a fast track [~~response~~] answering brief.[~~; and failure of a party to raise material issues or arguments in a fast track statement or response.~~]

[~~(j)~~] (m) **Conflict.** The provisions of this Rule [~~shall~~] must prevail over conflicting provisions of any other Rule.

RULE 4. APPEAL—WHEN TAKEN

(a) Appeals in Civil Cases.

(1) Time and Location for Filing a Notice of Appeal. Except as provided in Rule 4(a)(5)-(6), in [~~In~~] a civil case in which an appeal is permitted by law from a district court, the notice of appeal required by Rule 3 [~~shall~~] must be filed with the district court clerk[~~. Except as provided in Rule 4(a)(4), a notice of appeal must be filed after entry of a written judgment or order, and~~] no later than 30 days after [~~the date that~~] written notice of entry of the judgment or order appealed from is served. If an applicable statute provides that a notice of appeal must be filed within a different time period, the notice of appeal required by these Rules must be filed within the time period established by the statute.

(2) Filing Before Entry of Judgment. A notice of appeal filed after the court announces a decision or order—but before the entry of the judgment or order—is treated as filed on the date of and after the entry.

[~~(2)~~] (3) **Multiple Appeals.** If one party timely files a notice of appeal, any other party may file [~~and serve~~] a notice of appeal [~~within~~] no later than 14 days after the date when the first notice was served, or within the time otherwise prescribed by Rule 4(a), whichever period [~~last expires~~] ends later.

[~~(3)~~] (4) **Entry Defined.** A judgment or order is entered for purposes of this Rule when it is signed by the judge or by the clerk, as the case may be, and filed with the clerk. A notice or stipulation of dismissal filed under NRCP

41(a)(1) has the same effect as a judgment or order signed by the judge and filed by the clerk and constitutes entry of a judgment or order for purposes of this Rule. If that notice or stipulation dismisses all unresolved claims pending in an action in the district court, the notice or stipulation constitutes entry of a final judgment or order for purposes of this Rule.

[~~(4)~~] (5) Effect of Certain Motions on a Notice of Appeal.

(A) If a party timely files in the district court any of the following motions under the Nevada Rules of Civil Procedure, **[~~the time to file a notice of appeal runs for all parties from entry of an order disposing of the last such remaining motion, and~~]** the notice of appeal must be filed no later than 30 days **[~~from the date of~~]** after service of written notice of entry of **[~~that~~]** the order disposing of the last such remaining motion:

[~~(A)~~] (i) **[~~a motion~~]** for judgment under Rule 50(b);

[~~(B)~~] (ii) **[~~a motion under Rule 52(b)~~]** to amend or make additional findings of fact under Rule 52(b), whether or not granting the motion would alter the judgment;

[~~(C)~~] (iii) **[~~a motion under Rule 59~~]** to alter or amend the judgment under Rule 59;

[~~(D)~~] (iv) **[~~a motion~~]** for a new trial under Rule 59; or

(v) for relief under Rule 60 if the motion is filed no later than 28 days after service of written notice of entry of the judgment or order.

(B) Notices of appeal involving motions listed in Rule 4(a)(5)(A) are governed by the following:

(i) If a party files a notice of appeal after the court announces or enters a judgment—but before it disposes of any motion listed in Rule 4(a)(5)(A)—the notice becomes effective to appeal a judgment or order, in whole

or in part, when the order disposing of the last such remaining motion is entered.

(ii) A party intending to challenge an order disposing of any motion listed in Rule 4(a)(5)(A), or a judgment's alteration or amendment upon such a motion, must file a notice of appeal, or an amended notice of appeal—in compliance with Rule 3(c)—within the time prescribed by this Rule measured from the service of written notice of entry of the order disposing of the last such remaining motion.

~~[(5) Appeal From Certain Amended Judgments and Post-Judgment Orders. An appeal from a judgment substantively altered or amended upon the granting of a motion listed in Rule 4(a)(4), or from an order granting or denying a new trial, is taken by filing a notice of appeal, or amended notice of appeal, in compliance with Rule 3. The notice of appeal or amended notice of appeal must be filed after entry of a written order disposing of the last such remaining timely motion and no later than 30 days from the date of service of written notice of entry of that order.]~~

(6) Motion for Extension of Time.

(A) Except when an appeal period is set by statute, the district court may extend the time to file a notice of appeal if:

(i) a party so moves no later than 30 days after the time prescribed by Rule 4(a) expires; and

(ii) regardless of whether its motion is filed before or during the 30 days after the time prescribed by Rule 4(a) expires, that party shows excusable neglect or good cause.

(B) No extension under Rule 4(a)(6) may exceed 30 days after the prescribed time or 14 days after the date when the order granting the motion is entered, whichever is later.

[~~(6)~~] (7) **Premature Notice of Appeal.** A premature notice of appeal does not divest the district court of jurisdiction. The court may dismiss as premature a notice of appeal filed after the oral pronouncement of a decision or order but before entry of the written judgment or order, or before entry of the written disposition of the last-remaining timely motion listed in Rule **[~~4(a)(4)~~]** 4(a)(5)(A). If, however, a written order or judgment, or a written disposition of the last-remaining timely motion listed in Rule **[~~4(a)(4)~~]** 4(a)(5)(A), is entered before dismissal of the premature appeal, the notice of appeal **[~~shall be~~]** is considered filed on the date of and after entry of the order, judgment, or written disposition of the last-remaining timely motion.

[~~(7)~~] (8) **Amended Notice of Appeal.** No additional fees **[~~shall be~~]** are required if any party files an amended notice of appeal in order to comply with the provisions of this Rule.

(b) Appeals in Criminal and Postconviction Cases.

(1) Time for Filing a Notice of Appeal.

(A) Appeal by Defendant or Petitioner. Except as otherwise provided in NRS 34.560(2), NRS 34.575(1), NRS 176.09183(6), NRS 177.055, Rule 4(b)(4), and Rule 4(c), the notice of appeal by a defendant or petitioner in a criminal case **[~~shall~~]** must be filed with the district court clerk within 30 days after the **[~~entry of the judgment or order being appealed.~~]** later of:

(i) the entry of the judgment or order being appealed; or

(ii) the filing of the state's notice of appeal.

(B) Appeal by the State. Except as otherwise provided in NRS 34.575(2), NRS 176.09183(4), and NRS 177.015(2), when an appeal by the state

is authorized by statute, the notice of appeal **[~~shall~~]** must be filed with the district court clerk within 30 days after the **[~~entry of the judgment or order being appealed.~~]** later of:

(i) the entry of the judgment or order being appealed; or

(ii) the filing of a notice of appeal by any defendant or petitioner.

(2) Filing Before Entry of Judgment. A notice of appeal filed after the announcement of a decision, sentence, or order—but before entry of the judgment or order—**[~~shall be~~]** is treated as filed after such entry and on the day thereof.

(3) Effect of a Motion on a Notice of Appeal.

(A) If a defendant timely makes any of the following motions, the notice of appeal from a judgment of conviction must be filed within 30 days after the entry of the order disposing of the last such remaining motion, or within 30 days after the entry of the judgment of conviction, whichever period comes later. This provision applies to a timely motion:

(i) for judgment of acquittal under NRS 175.381(2);

(ii) for a new trial under NRS 176.515, but if based on newly discovered evidence, only if the motion is made no later than 30 days after the entry of the judgment; or

(iii) for arrest of judgment under NRS 176.525. **[~~files a motion in arrest of judgment or a motion for a new trial on any ground other than newly discovered evidence and the motion has not been denied by oral pronouncement or entry of a written order when the judgment of conviction is entered, the notice of appeal from the judgment of conviction may be filed within 30 days after the entry of an order denying the motion.~~]**

(B) A notice of appeal filed after the court announces a decision, sentence, or order—but before it disposes of any of the motions referred to in Rule 4(b)(3)(A)—becomes effective upon the later of:

(i) the entry of the order disposing of the last such remaining motion; or

(ii) the entry of the judgment of conviction. **[~~If a defendant files a motion for a new trial based on the ground of newly discovered evidence before entry of the judgment of conviction and the motion has not been denied by oral pronouncement or entry of a written order when the judgment of conviction is entered, the notice of appeal from the judgment of conviction may be filed within 30 days after the entry of an order denying the motion. If a defendant makes such a motion within 30 days after the entry of the judgment of conviction, the time for the defendant to file the notice of appeal from the judgment of conviction will be similarly extended.~~]**

(C) A valid notice of appeal is effective—without amendment—to appeal from an order disposing of any of the motions referred to in Rule 4(b)(3)(A).

(4) Motion for Extension of Time. Except when an appeal period is set by statute, upon a finding of excusable neglect or good cause, the district court may—before or after the time has expired, with or without motion and notice—extend the time to file a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by this Rule.

(5) Jurisdiction. The filing of a notice of appeal under this Rule 4(b) does not divest a district court of jurisdiction to correct a sentence under NRS 176.555 or NRS 176.565, nor does the filing of a motion under those statutes affect the validity of a notice of appeal filed before entry of the order disposing

of the motion. The filing of a motion under NRS 176.555 or NRS 176.565 does not suspend the time for filing a notice of appeal from a judgment of conviction.

[~~(4)~~] (6) Entry Defined. A judgment or order is entered for purposes of this Rule when it is signed by the judge and filed with the clerk.

[~~(5)~~] (7) Time for Entry of Judgment; Content of Judgment or Order in Postconviction Matters.

(A) Judgment of Conviction. The district court judge **[~~shall~~]** must enter a written judgment of conviction within 14 days after sentencing.

(B) Order Resolving Postconviction Matter. The district court judge **[~~shall~~]** must enter a written judgment or order finally resolving any postconviction matter. If the district court judge first makes an oral pronouncement of a final decision in such a matter, the written judgment or order must be issued within 21 days after the district court judge's oral pronouncement **[~~of a final decision in such a matter~~]**. The judgment or order in any postconviction matter must contain specific findings of fact and conclusions of law supporting the district court's decision.

(C) Sanctions; Counsel's Failure to Timely Prepare Judgment or Order. The court may impose sanctions on any counsel instructed by the district court judge to draft the judgment or order and who does not submit the proposed judgment or order to the district court judge within the applicable time periods specified in Rule 4(b)(7)**[~~(5)~~]**.

[~~(6)~~] (8) Withdrawal of Appeal. If an appellant no longer desires to pursue an appeal after the notice of appeal is filed, counsel for the appellant **[~~shall~~]** must file with the clerk of the Supreme Court a notice of withdrawal of appeal. The notice of withdrawal of appeal **[~~shall~~]** must substantially comply with **[~~Form 8 in the Appendix of Forms~~]** the Notice of Withdrawal of Appeal Form on the Nevada Supreme Court website.

(c) Untimely Direct Appeal From a Judgment of Conviction and Sentence.

(1) When an Untimely Direct Appeal From a Judgment of Conviction and Sentence May Be Filed. An untimely notice of appeal from a judgment of conviction and sentence may be filed only under the following circumstances:

(A) A postconviction petition for a writ of habeas corpus has been timely and properly filed in accordance with the provisions of NRS 34.720 to 34.830, asserting a viable claim that the petitioner was unlawfully deprived of the right to a timely direct appeal from a judgment of conviction and sentence; and

(B) The district court in which the petition is considered finds that the petitioner has established a valid appeal deprivation claim and is entitled to a direct appeal.

(C) In compliance with Rule 4(b)(7)(B), the district court must enter**[s]** a written order containing:

(i) specific findings of fact and conclusions of law finding that the petitioner has established a valid appeal-deprivation claim and is entitled to a direct appeal with the assistance of appointed or retained appellate counsel;

(ii) if the petitioner is indigent, directions for the appointment of appellate counsel, other than counsel for the defense in the proceedings leading to the conviction, to represent the petitioner in the direct appeal from the conviction and sentence; and

(iii) directions to the district court clerk to prepare and file—within 7 days of the entry of the district court's order—a notice of appeal from the judgment of conviction and sentence on the petitioner's behalf in substantially

the form provided in **[~~Form 1 in the Appendix of Forms~~]** the Notice of Appeal Form on the Nevada Supreme Court website.

[~~(C)~~] (D) If a federal court of competent jurisdiction issues a final order directing the state to provide a direct appeal to a federal habeas corpus petitioner, the petitioner or **[~~his or her~~]** petitioner's counsel **[~~shall~~]** must file the federal court order within 30 days of entry of the order in the district court in which petitioner's criminal case was pending. The clerk of the district court **[~~shall~~]** must prepare and file--within 30 days of filing of the federal court order in the district court — a notice of appeal from the judgment of conviction and sentence on the petitioner's behalf in substantially the form provided in **[~~Form 1 in the Appendix of Forms~~]** the Notice of Appeal Form on the Nevada Supreme Court website.

(2) Service by the District Court Clerk. The district court clerk **[~~shall~~]** must serve certified copies of the district court's written order and the notice of appeal required by Rule 4(c) on the petitioner and petitioner's counsel in the postconviction proceeding, if any, the respondent, the Attorney General, the district attorney of the county in which the petitioner was convicted, the appellate counsel appointed to represent the petitioner in the direct appeal, if any, and the clerk of the Supreme Court.

(3) Notice of Appeal Filed by Petitioner's Counsel or Petitioner. If the district court has entered an order containing the findings required by Rule 4(c)(1)(C)**[~~(B)~~]** and the district court clerk has not yet prepared and filed the notice of appeal on the petitioner's behalf, the petitioner or petitioner's counsel may file the notice of appeal from the judgment of conviction and sentence.

(4) Motion to Dismiss Appeal. The state may challenge a district court's written order granting an appeal-deprivation claim by filing a motion

to dismiss the appeal with the clerk of the Supreme Court within 30 days after the date on which the appeal is docketed in the Supreme Court. The state's motion to dismiss **[~~shall~~]** must be properly supported with all documents relating to the district court proceeding that are necessary to the Supreme Court's or Court of Appeals' complete understanding of the matter.

(5) Effect on Procedural Bars. When a direct appeal of a criminal conviction and sentence is conducted under this Rule, the timeliness provisions governing any subsequent habeas corpus attack on the judgment **[~~shall~~]** begin to run upon the termination of the direct appeal, as provided in NRS 34.726(1) and NRS 34.800(2). A habeas corpus petition filed after a direct appeal conducted under this Rule **[~~shall~~]** must not be deemed a "second or successive petition" under NRS 34.810(2).

(d) Appeal by an Inmate Confined in an Institution. If an inmate confined in an institution files a notice of appeal in either a civil or a criminal case, the notice is timely if it is delivered to a prison official for mailing on or before the last day for filing. If the institution has a notice-of-appeal log or another system designed for legal mail, the inmate must use that log or system to receive the benefit of this Rule.

(e) Mistaken Filing in the Supreme Court. If a notice of appeal in either a civil or a criminal case is mistakenly filed in the Supreme Court rather than the district court, the clerk of the Supreme Court must note on the notice the date when it was received and send it to the district court clerk. The notice is then considered filed in the district court on the date so noted.

(f) Expediting Criminal Appeals. The court may, with or without motion by the parties, by a majority of its members, make orders to expedite the handling of criminal appeals, including without limitation the following:

(1) Elimination of steps in preparation of the record and the briefs.

(2) Expediting preparation of stenographic transcripts.

(3) Priority of calendaring for oral argument.

(4) Utilization of court opinions or per curiam orders.

(5) Other lawful measures reasonably calculated to expedite the appeal and promote justice.

REVIEWING NOTE

Most of the amendments in subdivision (a), which deals with appeals in civil cases, are intended to be stylistic—making the Nevada rules largely consistent with federal rules governing the time for notices of appeal. The most significant rule change—subdivision(a)(6)—allows a district court to extend the time for an appeal. Under caselaw interpreting the former rule, the time for a notice of appeal was considered jurisdictional; neither district courts nor appellate courts could extend the time limit. Under the new rule, the 30-day time limit for a notice of appeal remains the same. Except when the appeal period is set by statute, the new rule gives a district court discretion to extend the deadline if the appealing party files a motion for an extension not later than 30 days after expiration of the appeal time. Upon a showing of excusable neglect or good cause, a district court may extend the appeal time to a date up to 30 days after the appeal time expired, or 14 days after the date on which the extension motion is granted, whichever is later. No further extensions are allowed under the amended rule. This rule change is intended to provide relief from the strict consequences of the previous jurisdictional limitation, without creating an undue burden on the judiciary.

The proposed amendments to subdivision (b) are both stylistic and substantive. Subdivision (b)(1)(A) and (B) incorporate the structure of their analogous federal counterparts, allowing a party to file a notice of appeal within 30 days of the entry of the judgment or order being appealed or the filing

of the opposing party's notice of appeal—whichever comes later. These amendments allow the prevailing party additional time to assess whether to cross-appeal.

Subdivision (b)(4) similarly incorporates the structure of its analogous federal counterpart, allowing a court to extend the time to file a notice of appeal for 30 days upon a showing of excusable neglect or good cause. However, unlike the federal rule, the Commission adopted language clarifying that appellate deadlines set by statute cannot be extended. This amendment promotes justice by allowing appellate review in certain circumstances where the appeal would otherwise be dismissed as untimely. Nevada courts should look to decisions interpreting the federal rule for guidance in interpreting Rule 4(b)(4). Subdivision (b)(5) also incorporates the structure of its analogous federal counterpart.

RULE 5. CERTIFICATION OF QUESTIONS OF LAW

(a) Power to Answer. The Supreme Court may in its discretion answer questions of law certified to it by the Supreme Court of the United States, **[~~a Court of Appeals of the United States or of the District of Columbia, a United States District Court, or a United States Bankruptcy Court,~~]** a United States court of appeals for any circuit, a United States district or bankruptcy court, the highest appellate court of any state, territory, or the District of Columbia, or the highest court of a federally recognized Indian tribe. Such answer may be furnished, when requested by the certifying court, if there are involved in any proceeding before those courts questions of law of this state which may be determinative of the cause then pending in the certifying court and as to which it appears to the certifying court there is no controlling precedent in the decisions of the Supreme Court or Court of Appeals of this

state. Certification ordinarily will not be accepted if facts material to the question of law certified are in dispute.

(b) Method of Invoking. This Rule may be invoked by an order of any of the courts referred to in Rule 5(a) upon the court's own motion or upon the motion of any party to the cause.

(c) Contents of Certification Order. A certification order **[~~shall~~]** must set forth:

(1) The questions of law to be answered;

(2) A statement of all facts relevant to the questions certified, identifying any facts that are in dispute;

(3) The nature of the controversy in which the questions arose;

(4) A designation of the party or parties who will be the appellant(s) and the party or parties who will be the respondent(s) in the Supreme Court;

(5) The names and addresses of counsel for the appellant and respondent;

(6) A brief statement explaining how the certified question of law may be determinative of the cause then pending in the certifying court;

(7) A brief statement setting forth relevant decisions, if any, of the Supreme Court and the Court of Appeals and the reasons why such decisions are not controlling; and

[~~(6)~~] (8) Any other matters that the certifying court deems relevant to a determination of the questions certified.

(d) Preparation of Certification Order. The certification order **[~~shall~~]** must be prepared by the certifying court **[~~, signed by the judge presiding at the hearing,~~]** and forwarded to the Supreme Court by the clerk of the certifying court under its official seal. The Supreme Court may require the original or copies of all or of any portion of the record before the certifying court to be filed with the certification order, if, in the opinion of the Supreme

Court, the record or portion thereof may be necessary in answering the questions. The Supreme Court may in its discretion restate any question of law certified or may request from the certifying court additional clarification with respect to any question certified or with respect to any facts.

(e) Costs of Certification. Fees and costs **[~~shall be~~]** are the same as in civil appeals docketed before the Supreme Court and **[~~shall~~]** are to be equally divided between the parties unless otherwise ordered by the certifying court in its order of certification.

(f) Docketing in Supreme Court. Upon receiving the certification order, the clerk of the Supreme Court **[~~shall~~]** will docket the case and notify the clerk of the certifying court, the certifying judge, and the parties that the case has been docketed in the Supreme Court.

(g) Briefs and Argument.

(1) The Supreme Court will consider whether to accept a question certified to it without oral or written argument from the parties unless otherwise directed by the Supreme Court.

(2) If the Supreme Court accepts certification of a question of law, the parties **[~~shall~~]** must brief the certified question of law unless the court orders otherwise. The clerk of the Supreme Court **[~~shall~~]** will notify the parties of the court's decision to accept certification and set a briefing schedule. Briefs and any appendices must be in the form provided in Rules 28, 30, and 32.

(3) If the Supreme Court decides to hear oral argument on the certified question of law, Rule 34 will govern the proceedings.

(h) Opinion. The written opinion of the Supreme Court stating the law governing the questions certified **[~~shall~~]** will be sent by the clerk under the seal of the Supreme Court to the certifying court and to the parties, **[~~and shall~~**

~~be res judicata as to the parties~~] and has the same preclusive effect as a judgment under Rule 36.

REVIEWING NOTE

The proposed amendments to the language in subdivision (a) make clear that whether to answer a certified question of law is discretionary; and add "the highest appellate court of any state, territory, or the District of Columbia" and "the highest court of a federally recognized Indian tribe" as certifying courts. Subdivision (a) is amended to provide generally that certification will not be accepted if material facts are in dispute, but leaves open the option for certification when the matter is important. The Commission also recommends an official note be included with this Rule to assist the certifying court with the meaning of the phrase "may be determinative of the cause then pending" in subdivision (a)—i.e., that the phrase has the meaning set forth in *Volvo Cars of North America, Inc. v. Ricci*, 122 Nev. 746, 137 P.3d 1161 (2006).

Subdivision (c)(2) requires any disputed facts to be identified in the certification order. Subdivision (c)(6) and (7) are new provisions and specify additional information to be included in the certification order. These proposed amendments are intended to guide certifying courts as to what to include in their certification orders and to assist the Supreme Court in determining whether to accept certification.

The amendment to subdivision (d) omits the requirement that the certification order be "signed by the judge presiding at the hearing" because there is not always a hearing or a single judge signing the order. Language was also added to give the court discretion to restate the certified question of law or request clarification with respect to any question certified or to any facts.

In subdivision (h), the language providing that the written opinion will be "res judicata as to the parties" is amended to say that it will have "the same preclusive effect as a judgment under Rule 36." This amendment recognizes that "res judicata" is archaic language and that claim or issue preclusion is more accurate, and is intended to ensure that the written opinion is binding on the parties in this case.

RULE 6. RESERVED

RULE 7. BOND FOR COSTS ON APPEAL IN CIVIL CASES

In a civil case, the district court may require an appellant to file a bond or provide other security in any form and amount necessary to ensure payment of costs on appeal. Rule 8(b) applies to a surety on a bond given under this Rule.

~~[(a) When Bond Required. In a civil case, unless an appellant is exempted by law, or has filed a supersedeas bond or other undertaking that includes security for the payment of costs on appeal, the appellant shall file a bond for costs on appeal or equivalent security in the district court with the notice of appeal. But a bond shall not be required of an appellant who is not subject to costs.~~

~~(b) Amount of Bond. The bond or equivalent security shall be in the sum or value of $500 unless the district court fixes a different amount. A bond for costs on appeal shall have sufficient surety, and it or any equivalent security shall be conditioned to secure the payment of costs if the appeal is finally dismissed or the judgment affirmed, or of such costs as the Supreme Court or Court of Appeals may direct if~~

~~the judgment is modified. If a bond or equivalent security in the sum or value of $500 is given, no approval thereof is necessary.~~

~~(c) Objections. After a bond for costs on appeal is filed, a respondent may raise for determination by the district court clerk objections to the form of the bond or to the sufficiency of the surety.~~

~~(d) Proceeding Against a Surety. Rule 8(b) applies to a surety upon a bond given under this Rule.~~]

REVIEWING NOTE

The former version of this Rule has been replaced with the language from FRAP 7 to modernize and simplify the rule and leave the form, amount, and release of the security to the discretion of the district court.

RULE 8. STAY OR INJUNCTION PENDING APPEAL OR RESOLUTION OF ORIGINAL WRIT PROCEEDINGS

(a) Motion for Stay.

(1) Initial Motion in the District Court. A party must ordinarily move first in the district court for the following relief:

(A) a stay of the judgment or order of, or proceedings in, a district court pending appeal or resolution of an original writ petition [~~to the Supreme Court or Court of Appeals for an extraordinary writ~~];

(B) approval of a supersedeas bond; or

(C) an order suspending, modifying, restoring, or granting an injunction while an appeal or original writ petition is pending.

➥ If a district court stays an order or judgment to permit application to the appellate court for a stay pending appeal or resolution of an original writ petition, an application for such stay must be filed with the clerk of the Supreme Court within 14 days after issuance of the district court's stay.

(2) Motion in the Court; Conditions on Relief. A motion for the relief mentioned in Rule 8(a)(1) may be made to the Supreme Court or to one of its justices. If the matter has been transferred to the Court of Appeals, the motion may be made to the Court of Appeals or to one of its **[~~justices or~~]** judges.

(A) The motion **[~~shall~~]** must:

(i) show that moving first in the district court would be impracticable; or

(ii) state that, a motion having been made, the district court denied the motion or failed to afford the relief requested and state any reasons given by the district court for its action.

(B) The motion **[~~shall~~]** must also include:

(i) the reasons for granting the relief requested and the facts relied on;

(ii) originals or copies of affidavits or other sworn statements supporting facts subject to dispute; and

(iii) relevant parts of the record including the order or decision from which relief is sought. In an emergency, the motion shall comply with Rule 27(e).

(C) The moving party must give reasonable notice of the motion to all parties.

(D) In an exceptional case in which time constraints make consideration by a panel impracticable, the motion may be considered by a single justice or judge.

(E) The court may condition relief on a party's filing a bond or other appropriate security in the district court.

(b) Proceedings Against Sureties. If a party gives security in the form of a bond or stipulation or other undertaking with one or more sureties, each

surety submits to the jurisdiction of the district court and irrevocably appoints the district court clerk as the surety's agent on whom any papers affecting the surety's liability on the bond or undertaking may be served. On motion, a surety's liability may be enforced in the district court without the necessity of an independent action. The motion and any notice that the district court prescribes may be served on the district court clerk, who **[~~shall~~]** will promptly mail a copy to each surety whose address is known.

(c) Stays or Injunctions in Civil and Criminal Cases but Not Cases Involving Child Custody. In deciding whether to issue a stay or injunction, the Supreme Court or Court of Appeals will generally consider the following factors: (1) whether the object of the appeal or writ petition will be defeated if the stay or injunction is denied; (2) whether the appellant/petitioner will suffer irreparable or serious injury if the stay or injunction is denied; (3) whether the respondent/real party in interest will suffer irreparable or serious injury if the stay or injunction is granted; and (4) whether the appellant/petitioner is likely to prevail on the merits in the appeal or writ petition.

(d) Stays in Civil Cases Involving Child Custody. In deciding whether to issue a stay in matters involving child custody, the Supreme Court or Court of Appeals will consider the following factors: (1) whether the child(ren) will suffer hardship or harm if the stay is either granted or denied; (2) whether the nonmoving party will suffer hardship or harm if the stay is granted; (3) whether the movant is likely to prevail on the merits in the appeal; and (4) whether a determination of other existing equitable considerations, if any, is warranted.

(e) Stays in Criminal Cases; Admission to Bail. Stays in criminal cases **[~~shall~~]** will be had in accordance with the provisions of NRS 177.095 et

seq. Admission to bail **[~~shall~~]** will be as provided in NRS 178.4873 through 178.488.

(f) Stay of Execution of Death Penalty. Immediately upon entry of an order of the Supreme Court staying execution of the death penalty, the clerk **[~~shall~~]** will deliver copies thereof to the Governor of Nevada, the Director of the Department of Corrections, the warden of the institution in which the offender is imprisoned, and the Office of the Attorney General in Carson City.**[~~and to the warden of the Nevada State Prison~~]**

REVIEWING NOTE

Subdivision (a)(1)(D) is added to require a party to move to obtain a stay in the appellate court within 14 days if the district court has entered a limited stay of an order or judgment to allow the party to seek a stay from the appellate court. This addition is modeled after Ninth Circuit Rule 27-2. Subdivision (a)(2)(B)(iii) clarifies that the portions of the record accompanying the motion should generally include the order from which relief is sought.

The heading of subdivision (c) was amended to clarify that the same stay factors apply to criminal and civil cases but not to child custody cases. The amendment in subdivision (f) modernizes who must receive notice of a stay motion in capital cases.

RULE 9. **[~~TRANSCRIPT; DUTY OF COUNSEL; DUTY OF THE COURT REPORTER OR RECORDER~~]** REQUESTS FOR AND PREPARATION OF TRANSCRIPTS

(a) [~~Counsel's~~] Appellant's Duty to Request Transcripts.

(1) [~~Necessary Transcripts.~~] What to Request.

[~~(A) Counsel have a duty to confer and attempt to reach an agreement concerning the transcripts necessary for the court's review on appeal.~~

~~(B)~~] Unless otherwise provided in these Rules, the appellant ~~[shall file a transcript request form in accordance with Rule 9(a)(3) when a verbatim record was made of the~~] must request transcripts of district court proceedings ~~[and the necessary portions of the transcript~~] that the appellant deems necessary for proper consideration of the issues on appeal but that were not prepared and filed in the district court before the appeal was docketed under Rule 12.

~~[(C) If no transcript is to be requested, the appellant shall file and serve a certificate to that effect within the period set forth in Rule 9(a)(3) for the filing of a transcript request form. Such a certificate shall substantially comply with Form 14 in the Appendix of Forms.~~]

(2) When and How to Comply with Duty to Request. The appellant must do either of the following no later than 14 days from the date the appeal is docketed under Rule 12:

(A) request the court reporter or recorder to prepare the necessary transcripts by:

(i) preparing a transcript request form that complies with Rule 9(a)(6); and

(ii) filing the original transcript request form with the district court clerk and a file-stamped copy with the clerk of the Supreme Court; or

(B) file and serve a certificate that substantially complies with the Certificate of No Transcript Request Form on the Nevada Supreme Court website, stating that no transcript will be requested.

[~~(2)~~] (3) Multiple Appeals from the Same Judgment. If ~~[more than one appeal is taken]~~ multiple parties appeal from the same judgment, each appellant ~~[shall]~~ must comply with the provisions of this Rule. The appellants

must confer and attempt to reach an agreement concerning the transcripts necessary for the appellate court's review to avoid duplicative requests.

[~~(3) Transcript Request Form.~~]

[~~(A) Filing. The appellant shall file an original transcript request form with the district court clerk and 1 file stamped copy of the transcript request form with the clerk of the Supreme Court no later than 14 days from the date that the appeal is docketed under Rule 12.~~]

[~~(B) Service and Deposit.~~]

(4) Service of Request Form. Except as otherwise provided in this Rule, **[~~T~~]**the appellant **[~~shall~~]** must serve a copy of the transcript request form on the named court reporter or recorder **[~~who recorded the proceedings~~]** and on all parties to the appeal within the time provided in **[~~subparagraph (A)~~]** Rule 9(a)(2). An appellant who will seek a waiver of the costs associated with the preparation and delivery of transcripts under Rule 9(a)(9) must serve a copy of the transcript request form on all parties to the appeal within the time provided in Rule 9(a)(2) but need not serve the request form on the named court reporter or recorder.

(5) Payment of Deposit. Except as otherwise provided in this Rule, **[~~T~~]**the appellant must pay an appropriate deposit to the court reporter or recorder **[~~at the time of service, unless appellant is proceeding in forma pauperis or is otherwise exempt from payment of the fees~~]** when the transcript request form is served. Where several parties have appealed from the same judgment or any part thereof, or there is a cross-appeal, the deposit **[~~shall~~]** must be borne equally by the parties appealing, or as the parties may agree. An appellant who is not required to serve the transcript request form on

the court reporter or recorder under Rule 9(a)(4), is not required to pay a deposit.

[~~(C)~~] (6) Contents of the Transcript Request Form. [~~The appellant shall examine the district court minutes to ascertain the name of each court reporter or recorder who recorded the proceedings for which transcripts are necessary.~~] The appellant **[~~shall~~]** must prepare a separate transcript request form addressed to each court reporter or recorder who recorded the necessary proceedings, specifying only those proceedings recorded by the named court reporter or recorder **[~~named on the request form~~]**. The transcript request form must substantially comply with **[~~Form 3 in the Appendix of Forms~~]** the Certified Transcript Request Form on the Nevada Supreme Court website and must contain the following information based on appellant's examination of the district court minutes:

[~~(i)~~] (A) Name of the judge or officer who heard the proceedings;

[~~(ii)~~] (B) Date or dates of the trial or hearing to be transcribed; individual dates must be specified, a range of dates is not acceptable;

[~~(iii)~~] (C) Portions of the transcript requested; specify the type of proceedings (e.g., suppression hearing, trial, closing argument);

[~~(iv)~~] (D) Number of copies required; and

[~~(v)~~] (E) A certification by the appellant or appellant's counsel, if any, that **[~~the attorney has ordered~~]** the required transcripts have been requested and **[~~has paid~~]** that the required deposits have been paid. This certification **[~~shall~~]** must specify from whom the transcript was ordered, the date the transcript was ordered, and the date the deposit was paid. If the appellant is not required to serve the transcript request form on the court reporter or recorder pursuant to Rule 9(a)(4) or pay the deposit, the appellant

may omit this certification but must file and serve a motion for waiver of costs pursuant to Rule 9(a)(9) within the time provided in Rule 9(a)(2).

[~~(4)~~] (7) Number of Copies of Transcript; Costs. The **[~~A~~]**appellant **[~~shall~~]** must provide a copy of the certified transcript to **[~~counsel for~~]** each party appearing separately. Unless otherwise ordered under Rule 9(a)(9), the appellant initially **[~~shall~~]** must pay any costs associated with the preparation and delivery of the transcript. Where several parties have appealed from the same judgment or any part thereof, or there is a cross-appeal, the costs associated with the preparation and delivery of the transcript **[~~shall~~]** must be borne equally by the parties appealing, or as the parties may agree.

[~~(5)~~] (8) Supplemental Requests.

(A) Partial Transcript. Unless the entire transcript is ordered, the parties have a duty to confer and attempt to reach an agreement concerning the transcripts necessary for the appellate court's review.

(i) If the parties cannot agree on the necessary transcripts **[~~necessary to the court's review, and appellant requests only part of the transcript, appellant shall request any additional parts of the transcript that the respondent considers necessary.~~]**, **[~~W~~]**within 14 days from the date the initial transcript request form is filed, the respondent **[shall]** must notify the appellant in writing of the additional portions it believes are required.

(ii) The **[~~A~~]**appellant **[~~shall have~~]** then has 14 days **[~~thereafter within which~~]** to file and serve a supplemental transcript request form and pay any additional deposit required.

(iii) Unless the appellant has ordered all additional portions of the transcript requested by the respondent within 14 days and has so notified the respondent, the respondent may, within the following 14 days either order the

additional portions of the transcript or move in the Supreme Court or the Court of Appeals for an order requiring the appellant to do so.

(B) Pro Bono Program Appeals. If counsel has been assigned to represent the appellant pro bono pursuant to a program authorized by the Supreme Court, pro bono counsel may proceed as provided in Rule 9(a)(9) to obtain necessary transcripts not previously prepared.

~~**[(6) In Forma Pauperis. In a civil case, if]**~~

(9) Motion for Waiver of Costs Associated with Preparation and Delivery of Transcripts. An appellant who ~~**[is represented by counsel but]**~~ has been permitted to proceed in forma pauperis, ~~**[or has filed a statement of legal aid eligibility under NRAP 24, counsel]**~~ is a "client of a program for legal aid" as defined by NRS 12.015(8), or is represented by pro bono counsel pursuant to a program authorized by the Supreme Court and administered by a program for legal aid may request a waiver of the costs associated with the preparation and delivery of the transcripts by filing a motion with the clerk of the Supreme Court. The motion must specify~~**[ing]**~~ each proceeding for which a transcript is requested and ~~**[a statement]**~~ explain~~**[ing]**~~ why each transcript is necessary for the appellate court's review. ~~**[on appeal. The court may order that the transcripts be prepared at the expense of the county in which the proceeding occurred, but at a reduced rate established by the county]**~~ If the court grants the motion, it will specify the transcripts that are necessary for appellate review and direct the district court to order that those transcripts be prepared at county expense in accordance with NRS 12.015(3).

~~**[(7)]**~~ **(10) Consequences of Failure to Comply.** ~~**[A party's]**~~ An appellant's failure to comply with the provisions of this Rule may result in the imposition of sanctions, including dismissal of the appeal.

~~[(b) Pro Se Parties' Duty to Request Transcripts in Civil Cases. A pro se appellant in a civil appeal shall identify and request all necessary transcripts. If no transcript is to be requested, the pro se appellant shall file with the clerk of the Supreme Court and serve upon the parties a certificate to that effect within 14 days of the date the appeal is docketed under Rule 12. Such a certificate shall substantially comply with Form 14 in the Appendix of Forms.~~

~~(1) Transcript Request Form.~~

~~(A) Filing. A pro se appellant shall have 14 days from the date the appeal is docketed under Rule 12 to file an original transcript request form with the clerk of the Supreme Court. The transcript request form must substantially comply with Form 17 in the Appendix of Forms.~~

~~(B) Service, Deposit, and Costs. A pro se appellant who has not been granted in forma pauperis status shall serve a copy of the transcript request form on the court reporter or recorder who recorded the proceedings and on all parties to the appeal within the time provided in subparagraph (A) and must pay an appropriate deposit to the court reporter or recorder at the time of service. Upon receiving the transcript, the litigant(s) requesting that transcript shall file a copy of the transcript with the clerk of the Supreme Court.~~

~~(C) Pro Se Appellant Granted in Forma Pauperis Status. A pro se appellant proceeding in forma pauperis shall serve a copy of the transcript request form on all parties to the appeal within the time provided in subparagraph (A), but need not serve that document on the court reporter or recorder. The Supreme Court or Court of Appeals will review any completed transcript request forms and~~

~~determine which transcripts, if any, shall be prepared and will issue an order directing the preparation of any necessary transcripts.~~

~~(2) Respondent's Request for Transcripts. Respondent may request any additional transcripts respondent considers necessary to the Supreme Court's or Court of Appeals' review. A transcript request form prepared by a pro se respondent must substantially comply with Form 17 in the Appendix of Forms. A transcript request form prepared by counsel must substantially comply with Form 3 in the Appendix of Forms. Respondents shall have 14 days from the date of service of appellant's transcript request form to request any transcripts that respondent deems necessary. If respondent requests a transcript, respondent shall furnish each party appearing separately with a copy of the transcript. Any costs associated with the preparation and delivery of a transcript requested by respondent shall be paid by the respondent unless otherwise ordered by the Supreme Court or Court of Appeals.]~~

[~~(c)~~] (b) Duty of the Court Reporter or Recorder.

(1) Preparation, Filing, and Delivery of Transcripts.

(A) Time to File and Deliver Transcripts. Upon receiving a transcript request form and the required deposit, the court reporter or recorder **[~~shall~~]** must promptly prepare or arrange for the preparation of the transcript. Except as provided in Rule 9**[~~(c)~~]**(b)(1)(B) and **[~~(c)~~]**(b)(4), the court reporter or recorder **[~~shall~~]** must—within 30 days after the date that a request form is served:

(i) file the original transcript with the district court clerk; and

(ii) deliver to the party ordering the transcript 1 certified copy and an additional certified copy for the appendix.

(B) Appellant's Failure to Pay Deposit. The court reporter or recorder is not obligated to prepare the transcript until receipt of the deposit required by Rule ~~**[9(a)(3)(B) or Rule 9(b)(1)(B)]**~~ 9(a)(5). If the appellant fails to timely pay the deposit, the court reporter or recorder must— no later than 30 days from the date that the transcript request form is served:

(i) file with the clerk of the Supreme Court a written notice that the deposit has not been received, setting forth the full amount of the deposit and the amount that remains unpaid; and

(ii) serve a copy of the notice on the party requesting the transcript.

(2) Notice to Clerk of the Supreme Court. Within 14 days after the transcript is filed with the district court and delivered to the requesting party, the court reporter or recorder ~~**[shall]**~~ must file with the clerk of the Supreme Court a notice that the completed transcript has been filed and delivered. The notice ~~**[shall]**~~ must specify the transcripts that have been filed and delivered and the date that those transcripts were filed and delivered. ~~**[Form 15 in the Appendix of Forms]**~~ The Notice of Completion and Delivery of Transcript Form on the Nevada Supreme Court website is a suggested form of certificate of delivery.

(3) Format of Transcript. A certified transcript may be produced in a conventional page-for-page format. A concordance indexing keywords in the transcript ~~**[shall]**~~ must be provided.

(4) Extension of Time to Deliver Transcript.

(A) ~~[Motion Required]~~ Fourteen-Day Telephonic Extension.

~~**[If the court reporter or recorder cannot deliver a transcript within the time provided in Rule 9(c)(1)(A), the reporter or recorder shall seek an extension of time by filing a written motion with the clerk of the Supreme Court on or before the date that the**~~

~~transcripts are due.~~] A court reporter or recorder may request by telephone a 14-day extension of time to prepare a transcript if the preparation requires more time than is allowed under this Rule. If good cause is shown, the clerk or a designated deputy may grant the request by telephone or by written order of the clerk.

(B) [~~Supporting Documentation and Affidavits~~] Additional Extensions by Motion. Subsequent extensions of time for filing a transcript will be granted only upon motion to the court on or before the date that the transcript is due. A motion to extend the time for delivering a transcript **[~~shall~~]** must be accompanied by [~~the~~] an affidavit or declaration of the court reporter or recorder setting forth the reasons for the requested extension and the length of additional time needed to prepare the transcript.

[~~(C) Service.~~] The motion must be served on **[~~the party requesting the transcript~~]** all parties.

[~~(D) Standard for Granting.~~] Requests for extensions of time to prepare a transcript will be closely scrutinized and will be granted only upon a showing of good cause.

(C) Request for Extension of Briefing Schedule. The party requesting the transcript may, within 7 days of entry of an order granting a motion to extend the time for delivering a transcript, file a request to extend the briefing schedule by an equivalent amount granted for transcript preparation. The court may, in its discretion, extend the briefing schedule. Such an extension does not preclude a party from obtaining any other extension permitted under Rule 31.

(5) Sanctions for Failure to Comply. A court reporter or recorder who fails to file and deliver a timely transcript without sufficient cause as provided in Rule 9(c)(4) may be subject to sanctions under Rule 13.

[~~(d)~~] (c) Statement of the Evidence When the Proceedings Were Not Recorded or When a Transcript Is Unavailable. If a hearing or trial was not officially recorded, or if a transcript is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including an unofficial recording or the appellant's recollection. The statement **[~~shall~~]** must be served on **[~~the respondent~~]** all other parties, who may serve objections or proposed amendments within 14 days after being served. The statement and any objections or proposed amendments **[~~shall~~]** must then be submitted to the district court for settlement and approval. As settled and approved, the statement **[~~shall~~]** must be included by the district court clerk in the trial court record, and the appellant **[~~shall~~]** must include a file-stamped copy of the statement in an appendix filed with the clerk of the Supreme Court.

REVIEWING NOTE

The Commission recommends a substantial overhaul of NRAP 9.

Subdivision (b)(4)(A) provides a mechanism by which court reporters and recorders can obtain a 14-day telephonic extension of time of time to prepare transcripts for good cause. If the court grants an extension of time to prepare a transcript, thereby delaying a party's receipt of a transcript, subdivision (b)(4)(C) allows that party to request that the court extend the briefing schedule to accommodate the delay without precluding the party from obtaining any other extension under Rule 31.

The Commission recommends revisions to subdivision (c) to allow parties in short trial cases that are not officially recorded or transcribed to make unofficial recordings from which they could prepare a statement of the evidence.

RULE 10. THE RECORD

(a) The [~~Trial~~] District Court Record. The **[~~trial~~]** district court record consists of the papers and exhibits filed in the district court, the transcript of the proceedings, if any, the district court minutes, and the docket entries made by the district court clerk.

(1) Retention of Record. The district court clerk **[~~shall~~]** must retain the **[~~trial~~]** district court record. When the appellate court deems it necessary to review the **[~~trial~~]** district court record, the district court clerk **[~~shall~~]** must assemble and transmit the portions of the record designated by the clerk of the Supreme Court in accordance with the provisions of Rule 11. The appellate court may direct a party to pay **[~~A~~]**any costs associated with the preparation and transmission of the record **[~~shall be paid initially by the appellant, unless otherwise ordered~~]**.

(b) The Record on Appeal.

(1) The Appendix. For the purposes of appeal, the parties **[~~shall~~]** must submit to the clerk of the Supreme Court copies of the portions of the **[~~trial~~]** district court record to be used on appeal, including all transcripts necessary to the Supreme Court's or Court of Appeals' review, as appendices to their briefs. Under Rule 30(a), a joint appendix is preferred. This Rule does not apply to pro se parties. The Supreme Court or Court of Appeals will determine whether its review of the complete record is necessary in a pro se appeal and direct the district court clerk to transmit the record as provided in Rule 11(a)(2).

(2) Exhibits. If exhibits cannot be copied to be included in the appendix, the parties may request transmittal of the original exhibits to the clerk of the Supreme Court under Rule 30(d).

(3) Audio or Video Recordings. If an official audio or video recording of a proceeding is necessary to the Supreme Court's or Court of Appeals' meaningful review of an issue raised on appeal, a party may request transmittal of the recording to the clerk of the Supreme Court. The court will not accept audio or video recordings in lieu of a transcript.

(c) Correction or Modification of the Record.

(1) If any difference arises about whether the **[~~trial~~]** district court record truly discloses what occurred in the district court, the difference **[~~shall~~]** must be submitted to and settled by that court and the record conformed accordingly.

(2) If anything material to either party is omitted from or misstated in the district court record, the omission or misstatement may be corrected:

(A) on stipulation of the parties;

(B) on order of the district court; or

(C) on order of the Supreme Court or Court of Appeals.

(3) All other **[~~Q~~]**questions as to the form and content of the **[~~appellate court~~]** record **[~~shall~~]** must be presented to the **[~~clerk~~]** Supreme Court or Court of Appeals.

REVIEWING NOTE

Some of the proposed amendments to Rule 10 are stylistic, to include changing references to the "trial court" to the "district court," and changing "shall" to "must." However, some are substantive. Subdivision (a)(1) has been revised to reflect that the Supreme Court Clerk's office is not making pro se parties pay for the preparation of a record; thus the rule no longer states that "costs associated with the preparation and transmission of the record shall be paid initially by the appellant, unless otherwise ordered." Subdivision (b)(3) is new language that provides a mechanism for parties to request transmission of audio or video recordings that are, in and of themselves, necessary for

meaningful appellate review. Subdivisions (c)(2) and (c)(3) are modeled after FRAP 10(e)(2) and (3) to enable parties to correct and supplement the record either in district court or in Nevada's appellate courts when "anything material to either party is omitted from or misstated in the district court record." However, unlike in FRAP 10(e)(2), the omission or misstatement need not have been the result of an "error or accident" to be corrected.

RULE 11. PREPARING AND FORWARDING THE RECORD

(a) Preparation of the Record. [~~Upon written direction from the court, the district court clerk shall provide the clerk of the Supreme Court with the papers or exhibits comprising the trial court record.~~] The district court clerk must transmit the district court record to the clerk of the Supreme Court only when required by statute or court rule or upon order of the Supreme Court or Court of Appeals. The **[~~record shall be assembled, paginated, and indexed~~]** district court clerk must assemble, paginate, and index the record in the same manner as an appendix to the briefs under Rule 30. If the Supreme Court or Court of Appeals determines that its review of original papers or exhibits is necessary, the district court clerk **[~~shall~~]** must forward the original **[~~trial~~]** district court record in lieu of copies.

(1) Exhibits. If the Supreme Court or Court of Appeals directs transmittal of exhibits, the exhibits **[~~shall~~]** must not be included with the documents comprising the record. The district court clerk **[~~shall~~]** must place exhibits in an envelope or other appropriate container, so far as practicable. The title of the case, the court docket number, and the number and description of all exhibits **[~~shall~~]** must be listed on the envelope, or if no envelope is used, then on a separate list.

(2) Record in Pro Se Cases. When the court directs transmission of the complete record in cases in which the appellant is proceeding without

counsel, the record **[~~shall~~]** must contain each and every paper, pleading, and other document filed in, or submitted for filing in, **[~~in~~]** the district court. The record **[~~shall~~]** must also include any previously prepared transcripts of the proceedings in the district court. If the Supreme Court or Court of Appeals should determine that additional transcripts are necessary to its review, the court may order the reporter or recorder who recorded the proceedings to prepare and file the transcripts.

(b) Duty of Clerk to Certify and Forward the Record. The district court clerk **[~~shall~~]** must certify and forward the record to the clerk of the Supreme Court. The district court clerk **[~~shall~~]** must indicate, by endorsement on the face of the record or otherwise, the date upon which it is forwarded to the clerk of the Supreme Court.

(c) Time for Forwarding the Record. The **[~~trial~~]** district court record **[~~shall~~]** must be forwarded within the time allowed by the court, unless the time is extended by an order entered under Rule 11(d).

(d) Failure of Timely Transmittal; Extensions.

(1) Failure of Timely Transmittal. A district court clerk who fails to forward a timely record on appeal without sufficient excuse may be subject to sanctions.

(2) Extension of Time; Supporting Documentation and Affidavits. If the district court clerk cannot timely forward the record, the clerk **[~~shall~~]** must seek an extension of time from the requesting court. The district court clerk may request by telephone a 14-day extension of time to transmit the record. If good cause is shown, the clerk of the Supreme Court may grant the request by telephone. **[~~A motion to extend the time for transmitting~~]** Any additional request for an extension of time to transmit the record **[~~shall~~]** must be sought by filing a written motion with the clerk of the

Supreme Court and must be accompanied by **[~~the affidavit~~]** a declaration of the district court clerk or deputy clerk setting forth the reasons for the requested extension, and the length of additional time needed to prepare the record.

REVIEWING NOTE

The proposed amendments to this Rule are primarily stylistic, with two minor exceptions. First, subdivision (d)(2) provides the district court clerk's office with the ability to seek a 14-day telephonic extension of time to transmit the record for good cause. Second, the Commission recommends an official note to this Rule be included to clarify for non-attorneys that appellants and respondents are still required to comply with any appendix requirements of NRAP 30 that may apply.

RULE 12. DOCKETING THE APPEAL; FILING OF THE RECORD

(a) Docketing the Appeal. Upon receiving the copies of the notice of appeal and other documents from the district court clerk under Rule 3, the clerk of the Supreme Court **[~~shall~~]** will docket the appeal and immediately notify all parties of the docketing date. Automatic appeals from a judgment of conviction of death **[~~shall~~]** will be docketed in accordance with SCR 250. If parties on opposing sides file notices of appeal from the same district court judgment or order, in accordance with Rule 4(a), the appellants and cross-appellants **[~~shall~~]** will be designated as provided in Rule 28.1. A subsequent appeal **[~~shall~~]** will in all respects be treated as an initial appeal, including the payment of the prescribed filing fee. Cross-appeals will be filed under the same docket number and calendared and argued with the initial appeal.

(b) Filing the Record. Upon receiving the record, the clerk of the Supreme Court **[~~shall~~]** will file it and immediately notify all parties of the filing date.

REVIEWING NOTE

The amendments to this Rule are stylistic only. The NRAP Commission recommends avoiding the use of the word "shall" and replacing it with "will" or "must" where applicable.

RULE 12A. REMAND AFTER AN INDICATIVE RULING BY THE DISTRICT COURT ON A MOTION FOR RELIEF THAT IS BARRED BY A PENDING APPEAL

(a) Notice to the Appellate Court. If a timely motion is made in the district court for relief that it lacks authority to grant because of an appeal that has been docketed and is pending, the movant must promptly notify the clerk of the Supreme Court if the district court states either that it would grant the motion or that the motion raises a substantial issue.

(b) Remand After an Indicative Ruling. If the district court states that it would grant the motion or that the motion raises a substantial issue, the Supreme Court or the Court of Appeals may remand for further proceedings but the appellate court retains jurisdiction unless it expressly dismisses the appeal. If the appellate court remands but retains jurisdiction, the parties must promptly notify the clerk of the Supreme Court when the district court has decided the motion on remand.

RULE 13. COURT REPORTERS' AND RECORDERS' DUTIES AND OBLIGATIONS; SANCTIONS

(a) Court Reporters' and Recorders' Duties and Obligations. **[~~Persons~~]** A person serving as a court reporter**[s]** or reporter**[s]** pro tempore or court recorder**[s]** in trials, proceedings, or hearings subject to court review

[~~are~~] is, for such purposes, an officer[~~s~~] of the Supreme Court, and as such [~~are~~] is accountable to the Supreme Court for the faithful performance of their duties and obligations. Subject to the provisions of Rule 9, [~~any~~] such person [~~acting as a court reporter or reporter pro tempore or court recorder in a trial, proceeding, or other matter subject to court review~~] has a duty to expeditiously [~~to~~] prepare, and punctually [~~to~~] deliver, all transcripts needed for such review; such person accordingly has a duty to refrain from undertaking further professional assignments that may unduly interfere with timely preparation and delivery of transcripts necessary for review of matters already heard; and where appropriate such person [~~shall~~] must promptly notify every affected judge of the reporter's or recorder's consequent unavailability to report matters currently being heard, so that substitute reporters pro tempore or court recorders may be obtained.

(b) Sanctions. For default in the professional obligations of any court reporter or reporter pro tempore or court recorder, if such default threatens or adversely affects the efficiency or integrity of the court, appropriate sanctions [~~will~~] may be imposed. The court may, for reasons stated, enter an order (1) referring an apparent offending court reporter or reporter pro tempore to the certified court reporters' board of Nevada for disciplinary action in accordance with the provisions of NRS Chapter 656 [~~of the Nevada Revised Statutes~~]; or (2) requiring an apparent offender to appear before the court, or its designated master, to show cause why he or she should not be precluded from undertaking to act as a reporter or recorder in regard to any trial, proceeding, administrative hearing, or deposition, that is subject to court review; why he or she should not be punished for contempt of court; and why damages should not be awarded to either or both parties, and to the State of Nevada, if loss of court time results.

REVIEWING NOTE

The amendments to this Rule are intended to be stylistic only, with the exception of a minor revision in subdivision (b) to make sanctions permissive rather than mandatory.

RULE 14. DOCKETING STATEMENT

(a) Application and Purpose of Docketing Statement.

(1) In General. **[~~Appellants shall~~]** Each appellant must file a completed docketing statement**[~~s~~]** in accordance with the provisions of this Rule **[~~in all appeals~~]**. Unless a cross-appeal is filed, the respondent **[~~may~~]** must not **[~~complete~~]** file a docketing statement but may file a response as specified in Rule 14(f).

(2) Exceptions.

(A) Original Writ Proceedings. This Rule does not apply to original proceedings commenced pursuant to NRS Chapters 34 or 35.

(B) Postconviction Appeals. This Rule does not apply to postconviction appeals in which the appellant is appearing without counsel.

(3) Purpose of Docketing Statement. The purpose of the docketing statement is to assist the Supreme Court in identifying jurisdictional defects, identifying issues on appeal, assessing **[~~presumptive~~]** assignment to the Court of Appeals under **[~~NRAP~~]** Rule 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment **[~~and assignment to the Court of Appeals~~]**, and compiling statistical information.

(4) Statement of Issues on Appeal. A docketing statement **[~~shall~~]** must state specifically all issues that a party in good faith reasonably believes to be the issues on appeal. The statement of issues is instrumental to the court's case management procedures**[~~,~~]**; however, such statement is not binding on the court, and the parties' briefs will determine the **[~~final~~]** issues

on appeal. Omission of an issue from the statement of issues will not provide an appropriate basis for a motion to strike any portion of the opening brief.

(b) Time for Filing; Form of Docketing Statement. Within 21 days after docketing of the appeal under Rule 12, the appellant **[~~shall~~]** must file a docketing statement with the clerk of the Supreme Court, on **[~~a form~~]** the Docketing Statement Form that is provided by the clerk or available on the Nevada Supreme Court website. Legible **[~~photostatic~~]** copies of the original form provided by the clerk will be accepted by the clerk for filing in lieu of the original form. The appellant may file a docketing statement that is not on the form provided by the clerk so long as it contains every question included in the clerk's form. **[~~An original and 2 copies shall be~~]** The docketing statement must be filed, together with proof of service of a copy of the completed statement on all parties and, if the appeal is assigned to the settlement conference program under Rule 16, on the settlement judge.

(c) Consequences of Failure to Comply. The docketing statement must be completed fully and accurately. For civil appeals, copies of all requested documents must be attached to the completed docketing statement. The court may impose sanctions on counsel or the appellant if it appears that the information provided is incomplete or inaccurate, or if the requested documentation has not been attached. Failure to file a docketing statement within the time prescribed **[~~shall~~]** will not affect the validity of the appeal, but is grounds for such action as the court deems appropriate including sanctions and dismissal of the appeal.

(d) Extensions of Time. [~~A motion for an extension of time within which to file the docketing statement will be granted for good cause. Counsel's caseload generally will not provide grounds for an~~

~~extension.~~] Any extension of time must be sought in accordance with Rule 26(b).

(e) Multiple Appellants. In cases involving more than one appellant, any number of appellants may join in a single docketing statement. Multiple appellants are encouraged to consult with each other and, whenever possible, file only one docketing statement.

(f) Response by Respondent(s). The **[~~R~~]**respondent, within 7 days after service of the docketing statement, may file **[~~an original and 1 copy of~~]** a single-page response, together with proof of service on all parties, if the respondent strongly disagrees with the appellant's statement of the case or issues on appeal. If the respondent believes there is a jurisdictional defect, the respondent should file a motion to dismiss. In cases involving more than one respondent, any number of respondents may join in a single response. Multiple respondents are encouraged to consult with each other and, whenever possible, file only one response.

(g) Cross-Appeals. All parties who have filed a notice of appeal, whether designated as appellants or cross-appellants, **[~~shall~~]** must comply with Rule 14(a). Cross-appellants and cross-respondents are subject to all the provisions of this Rule as are appellants and respondents.

REVIEWING NOTE

The amendments to this rule were intended to be stylistic, with the exception of subdivisions (b) and (f), which were modified to eliminate the requirement of filing multiple copies. No substantive change was intended by the modification of subdivision (d), which was modified to say extensions of time can be sought in accordance with Rule 26(b). Rule 26(b) is the general rule for extensions and permits extensions using the same standard as was listed in Rule 14(d).

RULE 15. REPEALED [EFFECTIVE DECEMBER 30, 1997]

RULE 16. SETTLEMENT CONFERENCES IN CIVIL APPEALS

(a) Applicability.

(1) Except as provided in Rule 16(a)(2), any civil appeal in which all parties are represented by counsel may be assigned to the settlement conference program.

(2) Unless the court otherwise orders, an appeal is not subject to this Rule if the appeal involves:

(A) Termination of parental rights; or

(B) Child custody, guardianship of minors, parenting time, visitation, or relocation of a minor.

(3) In appeals involving issues listed in Rule 16(a)(2)(B), either party may file a motion to opt into the settlement conference program. Such motion must be filed within 7 days of the docketing of the appeal or the appearance of counsel for a previously self-represented party. Any opposition must be filed within 7 days of service of the motion to opt in and must include a statement that the party believes there is no reasonable possibility of settlement. Unopposed motions filed under this Rule will be granted.

(b) Assignment of Case to Settlement Conference Program. [~~Any civil appeal in which all parties are represented by counsel and that does not involve termination of parental rights may be assigned to the settlement conference program.~~] The settlement conference program administrator **[~~shall~~]** will determine whether to assign an appeal to the settlement conference program. The settlement conference **[~~shall~~]** will be presided over by a qualified mediator who has been appointed as a settlement judge by the Supreme Court. The parties may file a motion or stipulation to

proceed with a private mediator that is hired by the parties. Any such motion must identify the mediator the parties wish to use and demonstrate that the mediator possesses the requisite qualifications to act as a mediator.

(1) [~~Settlement~~] Referral Notice; Suspension of Rules. The clerk **[~~shall~~]** will issue a **[~~settlement~~]** referral notice informing the parties that the appeal **[~~will~~]** may be assigned to the settlement conference program. The **[~~settlement~~]** referral notice automatically stays the time for filing a request for transcripts **[~~under Rule 9~~]** and for filing briefs **[~~under Rule 31~~]**. The notice also stays the preparation and filing of any transcripts requested **[~~under Rule 9~~]**. The time for filing a docketing statement is not stayed.

(2) Assignment Notice. [~~The~~] Upon assignment, the clerk of the Supreme Court **[~~shall~~]** will issue an assignment notice informing the parties that a case has been assigned to the settlement conference program and **[~~of~~]** identifying the name of the settlement judge.

[~~(3) Service. Papers or documents filed with the Supreme Court while a case is in the settlement program shall be served on all parties and the settlement judge.~~]

[~~(b)~~] (c) Early Case Assessment. The settlement judge **[~~shall~~]** must conduct a pre-mediation telephon**[e]**ic or video conference with counsel and file an Early Case Assessment Report within 30 days of assignment. In that report, the settlement judge **[~~shall~~]** must inform the court whether the case is appropriate for the program or should be removed from the program. If the settlement judge reports that the case is not appropriate for the settlement conference program, the court may remove the case from the program and reinstate the timelines for requesting transcripts **[~~under Rule 9~~]** and briefing **[~~under Rule 31~~]**.

[(c)] (d) Scheduling of Settlement Conference. Unless the Supreme Court removes the case from the settlement conference program **[~~under Rule 16(b)~~]** or grants an extension of time, the settlement judge **[~~shall schedule a~~]** must hold an initial settlement conference within **[~~90~~]** 120 days of assignment. If the **[~~case involves child custody, visitation, relocation or guardianship issues~~]** appeal is subject to the provisions of Rule 3E, the initial settlement conference **[~~shall be scheduled~~]** must be held within **[~~60~~]** 45 days of assignment.

[~~(d)~~] (c) Settlement Statement.

(1) Each party to the appeal **[~~shall~~]** must submit a settlement statement directly to the settlement judge **[~~within 14 days from the date of the clerk's assignment notice~~]** 7 days prior to the settlement conference, unless otherwise directed by the settlement judge. A settlement statement **[~~shall~~]** must not be filed with the Supreme Court **[~~and shall not be served on opposing counsel~~]**. Sections 1-4 of the settlement statement must be served on the settlement judge and counsel for all other parties. Sections 5-9 must only be served on the settlement judge.

(2) A settlement statement is limited to **[~~10 pages~~]** 4,667 words, unless otherwise directed by the settlement judge, and **[~~shall~~]** must concisely state: (1) **[~~the~~]** relevant facts and procedural history; (2) **[~~the~~]** legal issues **[~~on appeal~~]** and arguments related to this dispute; **[~~(3) the argument supporting the party's position on appeal; (4) the weakest points of the party's position on appeal; (5)~~]** (3) past settlement discussions; (4) names and representative capacities of attendees; (5) goals and interests of the party filing the settlement statement; (6) a settlement proposal that the party believes would be fair or would be willing to make in order to conclude the matter; (7) perceived goals and interests of the other parties; (8) obstacles to

settlement and proposals to overcoming them; and **[~~(6) all~~]** (9) any other matters **[~~which, in counsel's professional opinion,~~]** requested by the settlement judge or that may assist the settlement judge in conducting the settlement conference. **[~~Form 10 in the Appendix of Forms~~]** The Settlement Statement Form on the Nevada Supreme Court website is a suggested form of a settlement statement.

(f) Service. Papers or documents filed with the Supreme Court while a case is in the settlement program must be served on all parties and the settlement judge.

[~~(e)~~] (g) Settlement Conference. The settlement conference **[~~shall~~]** will be held at a time and place designated by the settlement judge.

(1) Attendance. Counsel for all parties and their clients must attend the conference. The settlement judge may, for good cause shown, excuse a client's attendance at the conference, provided that counsel has written authorization to resolve the case fully or has immediate telephone access to the client.

(2) Agenda. The agenda for the settlement conference and the sequence of presentation **[~~shall~~]** will be at the discretion of the settlement judge. A subsequent settlement conference may be conducted by agreement of the parties or at the direction of the settlement judge.

(3) Settlement Conference Status Reports. [~~Within 14 days from the date of any settlement conference, the~~] The settlement judge **[~~shall~~]** must file a settlement conference status report within 3 days of any settlement conference in appeals subject to the provisions of Rule 3E and within 14 days of any settlement conference in all other appeals. The report must state the result of the settlement conference**[~~,~~]** but **[~~shall~~]** must not disclose any matters discussed at the conference.

(4) Settlement Documents. If a settlement is reached, the parties **[~~shall immediately~~]** must promptly execute a stipulation to dismiss the appeal and file the stipulation to dismiss with the clerk of the Supreme Court. The parties must also execute a signed settlement agreement **[~~and a stipulation to dismiss the appeal, and shall file the stipulation to dismiss with the clerk of the Supreme Court~~]** that reduces the material terms of the settlement to writing and contains an acknowledgment that the parties have agreed to the terms. The settlement agreement **[~~does not need to~~]** must not be filed with the Supreme Court.

[~~(f)~~] (h) Length of Time in Settlement Conference Program.

(1) Time Limits. For appeals subject to the provisions in Rule 3E, the settlement judge must file a final settlement conference status report within 120 days of assignment that indicates whether the parties were able to agree to a settlement. In all other appeals, a final settlement conference status report must be filed within 180 days of assignment. **[~~Within 180 days of assignment, the settlement judge must file a final settlement conference status report indicating whether the parties were able to agree to a settlement. For cases involving child custody, visitation, relocation or guardianship issues, a final settlement conference status report must be filed within 120 days of assignment.~~]**

(2) Extensions. Upon stipulation of all parties or upon the settlement judge's recommendation, the settlement program administrator may extend the time for filing a final settlement conference status report. In **[~~cases not involving child custody, visitation, relocation or guardianship issues~~]** appeals subject to the provisions of Rule 3E, the time may be extended for an additional **[~~90~~]** 60 days. In **[~~cases involving child custody, visitation,~~**

~~relocation or guardianship issues~~] all other appeals, the time may be extended for an additional [~~60~~] 90 days.

[~~(3) Reinstatement of Rules. At the discretion of the settlement program administrator, the timelines for requesting transcripts under Rule 9 and filing briefs under Rule 31 may be reinstated during any extension period granted under Rule 16(f)(2).~~]

[~~(h)~~] (i) **Confidentiality.** All participants must sign a confidentiality agreement prior to commencement of the settlement conference. Papers or documents prepared by counsel or a settlement judge in furtherance of a settlement conference, excluding the settlement conference status report and stipulation or motion to dismiss appeal, [~~shall~~] must not be available for public inspection or submitted to or considered by the Supreme Court or Court of Appeals. Aside from the terms of a settlement reached, [~~M~~]matters discussed at the settlement conference and papers or documents prepared under this Rule [~~shall not be~~] are not admissible in evidence in any judicial proceeding and [~~shall not be~~] are not subject to discovery.

[~~(g)~~] (j) **Sanctions.** The failure of a party, or the party's counsel, to participate in good faith in the settlement conference process by not attending a scheduled conference or not complying with the procedural requirements of the program may be grounds for sanctions against the party, the party's counsel, or both. If a settlement judge believes sanctions are appropriate, the settlement judge may file a settlement conference status report recommending the sanction to be imposed and describing the conduct warranting that sanction. Sanctions include, but are not limited to, payment of attorney[~~'s~~] fees and costs of the opposing party, dismissal of the appeal, or reversal of the judgment below.

REVIEWING NOTE

Subdivision (a) is added to set forth the applicability of the rule. The changes substantively modify the rule by adding appeals subject to the provisions of Rule 3E to the list of appeals that are exempt from the settlement program and by including a provision that allows the parties in Rule 3E appeals to opt into the settlement program.

The previous subdivision (a) is re-lettered to (b) and minor edits were made to make the referral and assignment process distinct. This subdivision is also substantively modified to allow parties to hire a private mediator for the settlement proceedings. The provision on Service was moved from this subdivision and placed as its own subdivision (f).

Subdivision (c) was re-lettered to (d) and was substantively modified to reduce the time for the settlement judge to hold the initial settlement conference in appeals subject to the provisions of Rule 3E and increase the time to hold the initial settlement conference in all other appeals.

Subdivision (d) was re-lettered to (e) and is substantively modified by changing the time for filing the settlement statement and the questions that need to be answered, and by adding a requirement that questions 1-4 of the settlement statement must be served on all parties.

Subdivision (e) was re-lettered to (g) and the subdivision includes substantive changes that: in (1) allow the parties to appear at the settlement conference by video; in (3) reduces to 3 days the time for filing the settlement conference status report in appeals subject to the provisions of NRAP 3E; and in (4) adds a requirement that the parties must execute a signed settlement agreement that reduces the material terms of the agreement to writing and contains an acknowledgment that the parties have agreed to those terms.

Subdivision (f) is re-lettered to (h) and the changes to this subdivision are not intended to be substantive. Subdivision (h) is re-lettered to (i) and adds

a sentence requiring all participants to sign a confidentiality agreement prior to commencement of the settlement conference. The subdivision is also modified to include the stipulation or motion to dismiss the appeal as a document that is available for public inspection. This subdivision is also substantively modified to allow the terms of any settlement reached in this program to be subject to discovery and admissible in judicial proceedings. Subdivision (g) is re-lettered to (j).

The Commission recommends an official note be included with this Rule to advise that if the settlement requires the district court to enter orders to effectuate the parties' settlement agreement and the parties want the district court to indicate whether it will enter the order consistent with the settlement agreement, the parties may follow the procedure set forth in Rule 12A.

RULE 17. DIVISION OF CASES BETWEEN THE SUPREME COURT AND THE COURT OF APPEALS

(a) Cases Always Retained by the Supreme Court. The Supreme Court **[~~shall~~]** must hear and decide the following:

(1) All death penalty cases;

(2) Cases involving ballot or election questions;

(3) Cases involving judicial discipline;

(4) Cases involving attorney admission, suspension, discipline, disability, reinstatement, and resignation;

(5) Cases involving the approval of prepaid legal service plans;

(6) Questions of law certified by a federal court;

(7) Disputes between branches of government or local governments;

(8) Administrative agency cases involving tax, water, or public utilities commission determinations;

[~~(9) Cases originating in business court;~~]

[(10)] (9) Cases involving the termination of parental rights **[~~or NRS Chapter 432B~~]**;

(10) Cases involving juvenile certifications under NRS 62B.390; and

[~~(11) Matters raising as a principal issue a question of first impression involving the United States or Nevada Constitutions or common law; and~~]

[~~(12)~~] (11) Matters raising as a principal issue **[~~a question of statewide public importance, or an issue upon which there is~~]** an inconsistency in the **[~~published~~]** decisions of the Court of Appeals or of the Supreme Court or a conflict between **[~~published~~]** decisions of the two courts.

(b) Cases Ordinarily Retained by the Supreme Court. The Supreme Court will ordinarily retain the following types of cases:

(1) Cases originating in business court;

(2) Matters raising as a principal issue a question of first impression;

(3) Matters raising as a principal issue a question of law regarding the validity of a statute, ordinance, court rule, or administrative rule or regulation;

(4) Matters raising as a principal issue a question of state or federal constitutional interpretation; and

(5) Matters raising as a principal issue a question of statewide public importance that has application beyond the parties.

[~~(b)~~] **(c) Cases Ordinarily Assigned to Court of Appeals.** The Court of Appeals **[~~shall~~]** will hear and decide only those matters assigned to it by the Supreme Court and those matters within its original jurisdiction. Except as provided in Rule 17(a), the Supreme Court may assign to the Court of Appeals any case filed in the Supreme Court. **[~~The following case categories are presumptively assigned to the Court of Appeals:~~]** The Supreme Court will ordinarily transfer to the Court of Appeals the following:

(1) Cases presenting the application of existing legal principles;

[~~(1)~~] (2) Appeals from a judgment of conviction based on a plea of guilty, guilty but mentally ill, or nolo contendere (Alford);

[~~(2)~~] (3) Appeals from a judgment of conviction based on a jury verdict that:

(A) do not involve a conviction for any offenses that are category A or B felonies; or

(B) challenge only the sentence imposed and/or the sufficiency of the evidence;

[~~(3)~~] (4) Postconviction appeals that involve a challenge to a judgment of conviction or sentence for offenses that are not category A felonies;

[~~(4)~~] (5) Postconviction appeals that involve a challenge to the computation of time served under a judgment of conviction, a motion to correct an illegal sentence, or a motion to modify a sentence;

[~~(5)~~] (6) Appeals from a judgment, exclusive of interest, attorney fees, and costs, of $250,000 or less in a tort case;

[~~(6)~~] (7) Cases involving a contract dispute where the amount in controversy is less than **[~~$75,000~~]** $150,000;

[~~(7)~~] (8) Appeals from postjudgment orders in civil cases;

[~~(8)~~] (9) Cases involving statutory lien matters under NRS Chapter 108;

[~~(9)~~] (10) Administrative agency cases except those involving tax, water, or public utilities commission determinations;

[~~(10)~~] (11) Cases involving family law matters other than termination of parental rights **[~~or NRS Chapter 432B proceedings;~~]**, including:

(A) Cases involving domestic relations under NRS Title 11;

(B) Cases involving adult and minor guardianship under NRS Title 13; and

(C) Cases involving the protection of children from abuse and neglect under NRS Chapter 432B;

(12) Cases involving juvenile justice under NRS Title 5 other than juvenile certifications under NRS 62B.390;

[~~(11)~~] (13) Appeals challenging venue;

[~~(12)~~] (14) Cases challenging the grant or denial of injunctive relief;

[~~(13)~~] (15) Pretrial writ proceedings challenging discovery orders or orders resolving motions in limine;

[~~(14)~~] (16) Cases involving trust and estate matters in which the corpus has a value of less than **[~~$5,430,000~~]** the applicable federal estate tax exemption amount; and

[~~(15)~~] (17) Cases arising from the foreclosure mediation program.

[~~(c)~~] **(d) Consideration of Workload.** In assigning cases to the Court of Appeals, due regard will be given to the workload of each court.

[~~(d)~~] **(e) Routing Statements; Finality.** A party who believes that a matter **[~~presumptively~~]** ordinarily assigned to the Court of Appeals should be retained by the Supreme Court may state the reasons as enumerated in Rule 17(a) and (b) **[~~of this Rule~~]** in the routing statement of the briefs as provided in Rules 3C, 3E, and 28 or a writ petition as provided in Rule 21. A party may not file a motion or other pleading seeking reassignment of a case that the Supreme Court has assigned to the Court of Appeals.

[~~(e)~~] **(f) Transfer and Notice.** Upon the transfer of a case to the Court of Appeals, the clerk **[~~shall~~]** will issue a notice to the parties. With the exception of a petition for Supreme Court review under Rule 40B, any pleadings in a case after it has been transferred to the Court of Appeals **[~~shall~~]** must be entitled "In the Court of Appeals of the State of Nevada."

REVIEWING NOTE

The NRAP Commission did not unanimously agree on three provisions of this Rule. The majority and minority views are provided below.

The NRAP Commission recommends splitting the existing rule into three subdivisions: (a) cases "always" retained by the Supreme Court; (b) cases "ordinarily" retained by the Supreme Court; and (c) cases "ordinarily" assigned to the Court of Appeals.

The cases "always" retained by the Supreme Court under subdivision (a) are clearly defined categories and will now include cases involving juvenile certifications under NRS 62B.390. While cases involving the termination of parental rights will always be retained by the Supreme Court under subdivision (a), cases arising under NRS Chapter 432B will ordinarily be assigned to the Court of Appeals under subdivision (c)(11). A majority of the Commission recommends removing cases originating in business court from subdivision (a) and placing them among the cases ordinarily assigned to the Supreme Court under subdivision (b); however, a minority of Commission members would like to see business court cases always retained by the Supreme Court.

For the most part, the cases "ordinarily" retained by the Supreme Court under subdivision (b) are less-clearly defined (e.g. "matters raising as a principal issue a question of first impression") and are subject to argument/interpretation by the parties in their routing statements.

Subdivision (c) will govern cases "ordinarily" assigned to the Court of Appeals. Cases presenting "the application of existing legal principles" or "the application of settled law" will ordinarily be assigned to the Court of Appeals under subdivision (c)(1). A minority of the Commission recommends that the Court of Appeals no longer ordinarily review decisions granting summary judgment or dismissals of tort claims and has proposed alternate language in

subdivision (c)(6) limiting the Court of Appeals' review of tort cases to "[a]ppeals from a judgment awarding damages, exclusive of interest, attorney fees, and costs of between $1 and $250,000." The Commission recommends raising the amount in controversy for contract disputes assigned to the Court of Appeals from $75,000 to $150,000 under subdivision (c)(7). The family law cases ordinarily assigned to the Court of Appeals under subdivision (c)(11) will explicitly include the following: "(a) Cases involving domestic relations under NRS Title 11; (b) Cases involving adult and minor guardianship under NRS Title 13; and (c) Cases involving the protection of children from abuse and neglect under NRS Chapter 432B." Additionally, under subdivision (c)(12), the Court of Appeals will ordinarily hear cases involving juvenile justice under NRS Title 5 (except for juvenile certifications). Finally, the Commission recommends revising the value limit on trust and estate matters assigned to the Court of Appeals from "$5,430,000" to "the applicable federal estate tax exemption amount."

RULE 18. RESERVED

RULE 19. RESERVED

RULE 20. RESERVED

III. EXTRAORDINARY WRITS

RULE 21. WRITS OF MANDAMUS AND PROHIBITION AND OTHER EXTRAORDINARY WRITS

(a) Mandamus or Prohibition: Petition for Writ; Service and Filing.

(1) Filing and Service. A party petitioning for a writ of mandamus or prohibition must file a petition with the clerk of the Supreme Court with proof of service on the respondent judge, corporation, commission, board, or officer and on each real party in interest. A petition directed to a court **[~~shall~~]** must also be accompanied by a notice of the filing of the petition, which **[~~shall~~]** must be served on all parties to the proceeding in that court.

(2) Caption. The petition **[~~shall~~]** must include in the caption: the name of each petitioner; the name of the appropriate judicial officer, public tribunal, corporation, commission, board, or person to whom the writ is directed as the respondent; and the name of each real party in interest, if any.

(3) Contents of Petition. The petition must state:

(A) whether the matter falls in one of the categories of cases always retained by the Supreme Court pursuant to **[~~NRAP~~]** Rule 17(a), ordinarily retained by the Supreme Court pursuant to Rule 17(b), or **[~~presumptively~~]** ordinarily assigned to the Court of Appeals pursuant to **[~~NRAP~~]** Rule 17**[~~(b)~~]**(c);

(B) the relief sought;

(C) the issues presented;

(D) the facts necessary to understand the issues presented by the petition; and

(E) the reasons why the writ should issue, including points and legal authorities.

(4) Appendix and Record. The petitioner **[~~shall~~]** must submit with the petition an appendix that complies with Rule 30. Rule 30(i), which prohibits pro se parties from filing an appendix, **[~~shall~~]** does not apply to a petition for relief filed under this Rule and thus pro se writ petitions **[~~shall~~]** must be accompanied by an appendix as required by this Rule. The appendix

[~~shall~~] must include a copy of any order or opinion, parts of the record before the respondent judge, corporation, commission, board, or officer, or any other original document that may be essential to understand the matters set forth in the petition. In petitions arising from the district court, the appendix must also comply with Rule 10.

(5) Verification. A petition for an extraordinary writ **[~~shall~~]** must be verified by the affidavit or declaration of the petitioner or, if the petitioner is unable to verify the petition or the facts stated therein are within the knowledge of the petitioner's attorney, by the affidavit or declaration of the attorney. The affidavit or declaration **[~~shall~~]** must be filed with the petition.

(6) Emergency Petitions. A petition that requests the court to grant relief in less than 14 days **[~~shall~~]** must also comply with the requirements of Rule 27(e).

(b) Denial; Order Directing Answer.

(1) The court may deny the petition without an answer. Otherwise, it may order the respondent or real party in interest to answer within a fixed time.

(2) Two or more respondents or real parties in interest may answer jointly.

(3) The court may invite an amicus curiae to address the petition.

(4) In extraordinary circumstances, the court may invite the trial court judge to address the petition.

(c) Other Extraordinary Writs. An application for an extraordinary writ other than one provided for in Rule 21(a) **[~~shall~~]** must be made by filing a petition with the clerk of the Supreme Court with proof of service on the parties named as respondents and any real party in interest. Proceedings on

the application [~~shall~~] must conform, so far as is practicable, to the procedure prescribed in Rule 21(a) and (b).

(d) Form of Papers; Length[~~; Number of Copies~~]. All papers must conform to Rule 32(c)(2). [~~An original and 2 copies shall be filed unless the court requires the filing of a different number by order in a particular case.~~] A petition [~~shall not exceed~~] is acceptable if it contains no more than 15 pages [~~unless it contains no more than~~] or 7,000 words [~~(or 650 lines of text in a monospaced typeface)~~] as computed under Rule 32(a)(7)(C) or the court grants leave to file a longer petition. Unless the court directs otherwise, the same page and type-volume limitations apply to any answer, reply, or amicus brief allowed by the court. A motion to exceed the page or type-volume limitation in this [~~r~~]Rule must comply with Rule 32(a)(7)(D).

(e) Certificate of Compliance. A petition filed under this Rule and any answer, reply, or amicus brief allowed by the court must include a certificate of compliance that comports with [~~NRAP~~] Rule 32(a)(9).

(f) Disclosure Statement. A petition and any answer thereto [~~shall~~] must be accompanied by the disclosure statement required by [~~NRAP~~] Rule 26.1.

(g) Payment of Fees. The court [~~shall~~] will not consider any application for an extraordinary writ until the petition has been filed; and the clerk [~~shall~~] will receive no petition for filing until the $250 fee has been paid, unless the applicant is exempt from payment of fees, or the court or a justice or judge thereof orders waiver of the fee for good cause shown.

REVIEWING NOTE

The amendment to subdivision (a)(4) clarifies that the appendix must comply with Rule 10 when the petition arises from the district court.

IV. HABEAS CORPUS; PROCEEDINGS IN FORMA PAUPERIS

RULE 22. HABEAS CORPUS PROCEEDINGS

Application for the Original Writ. An application for an original writ of habeas corpus should be made to the appropriate district court. If an application is made to the district court and denied, the proper remedy is by appeal from the district court's order denying the **[~~writ~~]** application.

RULE 23. CUSTODY OR RELEASE OF A PRISONER[~~S~~] IN A HABEAS CORPUS PROCEEDING[~~S~~]

(a) Transfer of Custody Pending Review. Pending review of a decision in a habeas corpus proceeding commenced before a court, justice, or judge of this state for the release of a prisoner, the person having custody of the prisoner **[~~shall~~]** must not transfer custody to another unless a transfer is directed in accordance with **[~~the provisions of~~]** this Rule and NRS 174.325. When, upon application, a custodian shows the need for a transfer, the court, justice, or judge rendering the decision under review may authorize the transfer and substitute the successor custodian as a party.

(b) Detention or Release [~~of Prisoner~~] Pending Review of Decision Not to Release. While a decision not to release a prisoner is under review, the court or judge rendering the decision, or the Supreme Court or Court of Appeals or a justice or judge thereof, may order that the prisoner be:

(1) detained in the custody from which release is sought;

(2) detained in other appropriate custody; or

(3) released on personal recognizance, with or without surety.

(c) Release [~~of Prisoner~~] Pending Review of Decision Ordering Release. While a decision ordering the release of a prisoner is under review, the prisoner must—unless the court or judge rendering the decision, or the

Supreme Court or Court of Appeals or a justice or judge thereof orders otherwise—be released on personal recognizance, with or without surety.

(d) Modification of the Initial Order on Custody. An initial order governing the prisoner's custody or release, including any recognizance or surety, continues in effect pending review unless for special reasons shown to the Supreme Court or Court of Appeals or to a justice or judge thereof, the order is modified or an independent order regarding custody, release, or surety is issued.

RULE 24. PROCEEDINGS IN FORMA PAUPERIS

(a) Leave to Proceed on Appeal in Forma Pauperis.

(1) Motion in the District Court. Except as stated in Rule 24(a)(3) and (5)(b), a party to a district court action who desires to appeal in forma pauperis **[~~shall~~]** must file a motion in the district court. The party **[~~shall~~]** must attach an affidavit that:

(A) shows in **[~~the~~]** detail **[~~prescribed by Form 4 in the Appendix of Forms~~]** the party's inability to pay or to give security for fees and costs, as prescribed by the Affidavit in Support of Motion to Proceed in Forma Pauperis Form that is available on the Nevada Supreme Court website;

(B) claims an entitlement to redress; and

(C) states the issues that the party intends to present on appeal.

(2) Action on the Motion. If the district court grants the motion, the party may proceed on appeal without prepaying or giving security for fees and costs. If the district court denies the motion, it must state its reasons in writing.

(3) Prior Approval. A party who was permitted to proceed in forma pauperis in a civil district court action may proceed on appeal in forma pauperis without further authorization, unless the district court—before or

after the notice of appeal is filed—certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding.

(4) Notice of District Court's Denial. The district court clerk **[~~shall~~]** must immediately notify the parties and the clerk of the Supreme Court when the district court does any of the following:

(A) denies a motion to proceed on appeal in forma pauperis;

(B) certifies that the appeal is not taken in good faith; or

(C) finds that the party is not otherwise entitled to proceed in forma pauperis.

(5) Motion in the Supreme Court or Court of Appeals. A party who desires to proceed on appeal in forma pauperis may file one of the following:

(A) a motion to proceed on appeal in forma pauperis in the court within 30 days after service of the notice prescribed in Rule 24(a)(4). The motion **[~~shall~~]** must include a copy of the affidavit filed in the district court and a copy of the district court's statement of reasons for its action. If no affidavit was filed in the district court, the party **[~~shall~~]** must include the affidavit prescribed by Rule 24(a)(1); or

(B) in a civil appeal, a statement of legal aid eligibility providing that the party is a client of a program for legal aid as defined by NRS 12.015(8).

[~~(b) Reserved.~~]

[~~(c)~~] (b) Leave to Use Original Record. A party allowed to proceed on appeal in forma pauperis may request that the appeal be heard on the original record without reproducing any part.

V. GENERAL PROVISIONS

RULE 25. FILING AND SERVICE

(a) Filing.

(1) Filing With the Clerk. A paper required or permitted to be filed in the court **[~~shall~~]** must be filed with the clerk **[~~as provided by this Rule~~]**.

(2) Filing: Method and Timeliness.

[~~(A) Filing may be accomplished by mail addressed to the clerk at the Supreme Court of Nevada, 201 South Carson Street, Suite 201, Carson City, Nevada 89701-4702.~~]

[~~(B)~~] **(A) Nonelectronic Filing.** A paper not filed electronically **[~~Unless the court by order in a particular case directs otherwise, a document~~]** is timely filed if, on or before the last day for filing, it is:

(i) delivered to the clerk in person in Carson City;

(ii) mailed to the clerk at the Supreme Court of Nevada, 201 South Carson Street, Suite 201, Carson City, Nevada 89701-4702 by first-class mail, or other class of mail that is at least as expeditious, postage prepaid;

(iii) dispatched to a third-party commercial carrier for delivery to the clerk within 3 days;

(iv) deposited in the Supreme Court drop box as provided in Rule 25(a)(3); or

(v) transmitted directly to the clerk by facsimile transmission as provided in Rule 25(a)(4)**[~~; or~~]**.

(B) Electronic Filing.

(i) By a Represented Person—Generally Required; Exceptions. A person represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for good cause.

(ii) By an Unrepresented Person—When Allowed. A person not represented by an attorney may file electronically only if allowed by court order.

(iii) Timeliness. A paper is timely filed if, on or before the last day for filing, it is **[~~(vi)~~]** electronically transmitted to the court's electronic filing system consistent with NEFCR 8. If technical failure prevents timely electronic filing of any paper, the filing party shall preserve documentation of the failure and seek appropriate relief from the court.

(iv) Same as a Written Paper. A paper filed electronically is a written paper for the purposes of these rules.

(3) Clerk's Drop Box. [~~A paper may be submitted for filing with the clerk of the Supreme Court by means of the clerk's drop box as provided in this Rule.~~]

(A) Papers Eligible for Drop Box Submission. Any paper required or permitted to be filed in the court may be **[~~deposited~~]** submitted for filing by depositing the paper in the drop box located in the Las Vegas office of the clerk of the Supreme Court during the hours the Las Vegas office is open. **[~~A document that requires the payment of a filing fee may be deposited in the drop box accompanied by the filing fee in the form of a check or money order payable to the clerk. No cash shall~~]** Cash must not be deposited in the drop box.

(B) Requests for Emergency or Expedited Relief. A request for emergency or expedited relief, or a response thereto, should not be deposited in the drop box. **[~~To ensure timely consideration by the Supreme Court or Court of Appeals, counsel must submit such documents to the clerk's office in Carson City by the most expeditious means feasible, such as overnight delivery, same day courier service, or facsimile transmission as provided for in Rule 25(a)(4).~~]** Emergency filings are governed by Rule 27(e).

(C) Procedure. **[~~A paper may be deposited in the drop box during all hours the Las Vegas office is open.~~]** Before being placed in the drop box, a paper must be date and time stamped and enclosed in a sealed envelope. Filing is timely if, on or before the last day of the prescribed filing period, the **[~~document~~]** paper is **[~~properly~~]** date and time stamped and deposited in the drop box. **[~~A document is properly date and time stamped if the original document, or the envelope containing the document, bears the drop box stamp.~~]** Stamping of copies submitted to the court is not required.

(D) Transmission of [~~Documents~~] Papers to Carson City. A **[~~document~~]** paper deposited in the drop box will be transmitted to the clerk's office in Carson City **[~~the next judicial day after its deposit in the drop box. Upon receiving the papers in Carson City, the clerk shall process them~~]** and processed in accordance with these Rules.

(4) Filing by Facsimile Transmission. **[~~A paper may be filed with the clerk of the Supreme Court by means of facsimile transmission as provided in this Rule.~~]**

[~~(A) In Cases Involving Death Penalty. Documents that relate to stays of execution in death penalty cases will be received for filing by the clerk of the Supreme Court through facsimile transmission to the facsimile machine situated in the office of the clerk in Carson City. Such transmission may be made whenever counsel believes that the client's interests will be served.~~]

[~~(B) In Other Cases. In all other cases, documents~~] Papers may be received for filing by the clerk through facsimile transmission only in cases of emergency, and only if an oral request for permission to do so has first

been tendered to the clerk and approved, upon a showing of good cause, by any justice or judge or the clerk.

~~[(C) Procedure. In all instances, including matters relating to stays of execution in death penalty cases, counsel must first notify the clerk of counsel's intention to transmit documents by facsimile. In all cases not involving stays of execution of the death penalty, counsel must be advised by the clerk that approval has been granted under Rule 25(a)(4)(B) before any document may be transmitted. Upon receiving the transmitted documents, the clerk shall make the number of photocopies of the transmissions required by these Rules and shall file the photocopies.~~

~~(D) Original; Service.~~] In all cases where a [~~document~~] paper has been facsimile transmitted and filed under this Rule, [~~counsel~~] the party who transmitted the paper for filing must file the original [~~document~~] paper with the clerk, in the manner provided in Rule 25(a)(2)[~~(B)~~](A)(i)-(iii) or Rule 25(a)(2)(B)(i), within 3 days of the date of the facsimile transmission. The original [~~shall~~] must be accompanied by proof of service on all parties as required by Rule 25(d). A copy of a [~~document~~] paper filed by facsimile transmission [~~shall~~] must be served on all parties [~~to the appeal or review~~] by facsimile transmission and [~~by mail~~] as required by Rule 25(c) at the time the document is filed with the court.

~~[(E) Costs. The party filing a document by means of facsimile transmission shall be responsible for all costs of the facsimile transmission and the costs of photocopying the documents transmitted. The clerk of the Supreme Court shall promptly inform counsel of the amount of costs. Such costs shall be paid within 14 days of the date of the facsimile request.~~]

(5) [~~Original Signature and Bar Number Required~~] Signing. All **[~~documents~~]** papers submitted to the court for filing by a represented party **[~~shall~~]** must include the **[~~original~~]** signature of at least 1 attorney of record who is an active member of the bar of this state, and the address, telephone number, and State Bar of Nevada identification number of the attorney and of any associated attorney appearing for the party filing the paper. All **[~~documents~~]** papers submitted to this court for filing by unrepresented parties **[~~shall~~]** must include the **[~~original~~]** signature of the party and **[~~shall~~]** must state the party's address and telephone number. A filing made through a person's electronic-filing account and authorized by that person, together with that person's name on a signature block, constitutes the person's signature.

(b) Service of All Papers Required. Unless a rule requires service by the clerk, a party or person acting for that party must, at or before the time of filing a paper, serve a copy on the other parties to the appeal or review. Service on a party represented by counsel **[~~shall~~]** must be made on the party's counsel.

(c) Manner of Service.

(1) Nonelectronic **[~~S~~]**service may be any of the following:

(A) personal, including delivery **[~~of the copy to a clerk or other~~]** to a responsible person at the office of counsel;

(B) by mail; or

(C) by third-party commercial carrier for delivery within 3 days**[~~;~~]**.

[~~(D) by electronic means, if the party being served consents in writing; or~~]

[~~(E) notice by electronic means to registered users of the court's electronic filing system consistent with NEFCR 9.~~]

(2) Electronic service of a paper may be made by:

(A) notice by electronic means to registered users of the court's electronic filing system consistent with NEFCR 9; or

(B) other electronic means, if the party being served consents in writing.

[~~(2)~~] (3) When reasonable, considering such factors as the immediacy of the relief sought, distance, and cost, service on a party **[~~shall~~]** must be by a manner at least as expeditious as the manner used to file the paper with the court.

[~~(3)~~] (4) Service by mail or by commercial carrier is complete on mailing or delivery to the carrier. Service by electronic means under Rule 25(c)(2)**[~~(1)(D)~~]** is complete on filing or transmission, unless the party making service is notified that the paper was not received by the party served. **[~~Service through the court's electronic filing system under Rule 25(c)(1)(E) is complete at the time that the document is submitted to the court's electronic filing system.~~]**

(d) Proof of Service.

(1) **[~~Papers~~]** A paper presented for filing **[~~shall~~]** must contain either of the following if it was served other than through the court's electronic filing system:

(A) an acknowledgment of service by the person served; or

(B) proof of service in the form of a statement by the person who made service certifying:

(i) the date and manner of service;

(ii) the names of the persons served; and

(iii) the mail or electronic addresses, facsimile numbers, or the addresses of the places of delivery, as appropriate for the manner of service.

(2) Proof of service may appear on or be affixed to the papers filed.

~~[(3) The clerk may permit papers to be filed without acknowledgment or proof of service but shall require such to be filed promptly thereafter. The court will not take any action on any such papers, including requests for ex parte relief, until an acknowledgment or proof of service is filed.]~~

(e) Clerk's Refusal of Documents. The clerk must not refuse to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by these Rules.

REVIEWING NOTE

This rule has been reformatted throughout to better match the format of FRAP 25. Because "document" and "paper" were used interchangeably throughout the rule, "document" was changed to "paper" throughout for consistency and to match FRAP 25. NRAP 25(a)(3) does not have a FRAP counterpart and only local court rules have some type of counterpart to NRAP 25(a)(4). Because subdivisions (a)(3) and (a)(4) are used in the Court, the rules have been kept but cleaned up, with the only substantive change intended being to remove subdivision (a)(4)(E), involving costs of fax transmissions, to match current Court practice. Other substantive changes to the rule include:

- Existing Rule 25(a)(2)(A)(vi) simply permits electronic filing and does not differentiate between represented and unrepresented parties. This court, however, does not currently allow unrepresented parties to file electronically. Subdivision (a)(2) was reformatted to match FRAP 25(a)(2), which differentiates between nonelectronic and electronic filing, and adopts the FRAP provisions for electronic filing. Subdivision (a)(2)(B)(i) makes electronic filing by an attorney mandatory, with an exception to file nonelectronically for good cause shown. This change differs from the current rule which permits, but does not require,

electronic filing. Subdivision (a)(2)(B)(ii) permits a person not represented by counsel to file electronically if allowed by court order. Current subdivision (a)(2)(A)(vi) becomes subdivision (a)(2)(B)(iii) and is amended to include a sentence, based on similar language in the 9th Circuit counterpart, to address what a party should do in the event technical failure prevents timely filing. Subdivision (a)(2)(B)(iv) was added to be consistent with its FRAP counterpart.

- The added language in subdivision (d)(1) changes the current rule so that those who are serving a paper through the electronic filing system do not need to file proof of service of the paper. The addition of this language makes the rule consistent with NEFCR 9(b) which provides that the notice issued from the electronic filing system is effective service of the document on registered users and has the same legal effect as service of a paper document.
- Subdivision (e) was added, which prohibits the clerk from refusing to file a document solely because it is not presented in proper form. This rule is taken from FRAP 25(a)(4). As the subcommittee notes, refusing to file papers that are not in the form required by the rule is not a suitable role for the office of the clerk and the practice could expose parties to the hazards of time bars. Currently, the clerk's office does a compliance check on all incoming documents and routinely rejects or returns documents that do not conform to the rules and sends a notice or letter to the party that identifies the deficiency and, usually, provides a time period for the party to resubmit the document. During this process, all copies of that document are either returned to the party or rejected and deleted from the court's case management system. If the party does not resubmit a conforming document, the document will not be able to be

considered by the Court and is never filed in the system. If this rule is adopted, the clerk's office could still do a compliance check and notify the parties of any noncompliance so the parties could correct any deficiency, but the deficient document would be filed and be available to the Court. It would be up to the Court to determine how to proceed if the deficiency is not corrected.

- Subdivision (d)(3) was deleted because it would be unnecessary if subdivision (e) is adopted. If subdivision (e) is not adopted, this provision should remain.

RULE 25A. COURT COMPOSITION[~~, SESSION,~~] AND QUORUM [~~AND ADJOURNMENTS~~]

[~~(a) Transaction of Judicial Business in Open Court, Chambers. Matters of judicial business to be transacted in open court shall be arranged by calendar setting fixed by court order. Matters of judicial business to be transacted in chambers shall be arranged by appointment with the clerk.~~

[~~(b) Sessions, Quorum and Adjournments.~~

[~~(1) No arguments will be heard or open sessions held on Saturday, Sunday or other nonjudicial days.~~

[~~(2) Constitution of Court.~~]

[~~(A)~~] (a) Supreme Court. The full court consists of all seven members of the court. A panel consists of three members of the court. A quorum of the full court sitting en banc **[~~shall be~~]** is four, and a quorum of the court sitting as a panel **[~~shall be~~]** is two.

[~~(B)~~] (b) Court of Appeals. The Court of Appeals consists of all three members of the court. A quorum of the court **[~~shall be~~]** is two.

[~~(C)~~] (c) Replacement Judge or Justice. A senior justice, senior Court of Appeals judge, or active district court judge may be assigned to sit in place of a justice or judge as provided by law.

[~~(3)~~] (d) Argument Participation. Where **[~~only four justices are~~]** a quorum of justices or judges is present for oral argument, **[~~before the full Supreme Court or where only two justices are present for oral argument before a panel of the Supreme Court or the Court of Appeals, the~~]** any absent justice**[~~(s)~~]** or judge**[~~(s)~~]** assigned to hear the matter may participate in the decision and the opinion of the court upon the recording or transcript of the oral argument and the written briefs or points and authorities. In the absence of a quorum, on any day appointed for holding a session of the court, the justices or judges attending (or if no justices or judges are present, the clerk or a deputy clerk) may adjourn the court until there is a quorum.

[~~(4) The court may, in appropriate instances, direct the clerk or the bailiff to announce recesses and adjournments.~~]

REVIEWING NOTE

The amendments to this Rule are intended to be stylistic and remove unnecessary provisions that are already governed by other rules and statutes. For subdivision (a), the substance is covered in NRAP 33 and 34. For subdivision (b)(1), state statutes control hours of operation, whereas NRS 2.130 requires the court to always be open for the issuance of writs; thus, creating a conflict with subdivision (b)(1). While the constitution of the Court is covered by NRS 2.135 and 2.140, as well as the Nevada Constitution, Article 6, the subcommittee recommends leaving this subdivision in the Rule for clarity.

The subcommittee questions what subdivision (d) adds. The core of this provision is that absent justices/judges may participate by reading the

transcript or listening to the oral argument. However, if the quorum limitation is removed, the "participation of absent judges" provision can go with NRAP 34.

RULE 26. COMPUTING AND EXTENDING TIME

(a) Computing Time. The following rules apply in computing any time period specified in these [~~r~~]Rules, in any appellate court order, or in any statute that does not specify a method of computing time.

(1) Period Stated in Days or a Longer Unit. When the period is stated in days or a longer unit of time:

(A) exclude the day of the event that triggers the period;

(B) count every day, including intermediate Saturdays, Sundays, and legal holidays; and

(C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

(2) Period Stated in Hours. When the period is stated in hours:

(A) begin counting immediately on the occurrence of the event that triggers the period;

(B) count every hour, including hours during intermediate Saturdays, Sundays, and legal holidays; and

(C) if the period would end on a Saturday, Sunday, or legal holiday, the period continues to run until the same time on the next day that is not a Saturday, Sunday, or legal holiday.

(3) Inaccessibility of the Clerk's Office. Unless the court orders otherwise, if the clerk's office is inaccessible:

(A) on the last day for filing under Rule 26(a)(1), then the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or legal holiday; or

(B) during the last hour for filing under Rule 26(a)(2), then the time for filing is extended to the same time on the first accessible day that is not a Saturday, Sunday, or legal holiday.

(4) "Last Day" Defined. Unless a different time is set by a statute or court order, the last day ends:

(A) for electronic filing under the NEFCR, at 11:59 p.m. in the court's local time;

(B) for filing under Rules 4(d) and 25(a)(2)**[~~(B)~~]**(A)(ii) and (iii), at the latest time for the method chosen for delivery to the post office, third-party commercial carrier, or prison mailing system;

(C) for filing via the Supreme Court clerk's drop box under Rule 25(a)(2)**[~~(B)~~]**(A)(iv), when the Supreme Court building in Las Vegas is scheduled to close; and

(D) for filing by other means, when the clerk's office is scheduled to close.

(5) "Next Day" Defined. The "next day" is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.

(6) "Legal Holiday" Defined. "Legal holiday" means any day set aside as a legal holiday by NRS 236.015.

(b) Extending Time.

(1) By Court Order.

(A) Except as otherwise provided in these Rules, **[~~F~~]**for good cause, the court may extend the time prescribed by these Rules or by its order to

perform any act, or may permit an act to be done after that time expires. **[~~But the court may not extend the time to file a notice of appeal except as provided in Rule 4(c).~~]**

(B) Except as otherwise provided in these Rules, a party may, on or before the due date sought to be extended, request by telephone a single 14-day extension of time for performing any act except the filing of a notice of appeal. **[~~If good cause is shown, t~~]**The clerk may grant such a request by telephone or by written order of the clerk. The grant of an extension of time to perform an act under this Rule will bar any further extensions of time to perform the same act unless the party files a written motion for an extension of time demonstrating extraordinary and compelling circumstances why a further extension of time is necessary.

(2) By Stipulation. Except as otherwise provided in these Rules, or when not otherwise controlled by statute, the time prescribed by these Rules to perform any act may be extended once for appellant(s) and once for respondent(s) by stipulation of the parties. No stipulation extending time is effective unless approved by the court or a justice or judge thereof; and such stipulations must be filed before expiration of the time period that is sought to be extended.

(c) Additional Time After Service. When a party is required or permitted to act within a prescribed period after a paper is served on that party, 3 days are added to the prescribed period unless the paper is delivered on the date of service stated in the proof of service. For purposes of **[~~this~~]** Rule 26(c), a paper that is served electronically is treated as delivered on the date of service stated in the proof of service. Specific due dates set by court order or acts required to be taken within a time period set forth in a court order are not subject to the additional 3-day allowance.

(d) Shortening Time. Except as otherwise provided in these Rules, or when not otherwise controlled by statute, the time prescribed by these Rules to perform any act may be shortened by stipulation of the parties, or by order of the court or a justice or judge.

REVIEWING NOTE

Edits are stylistic and not intended to be substantive.

RULE 26.1. DISCLOSURE STATEMENTS

(a) Who Must File Statement and Contents. Every **[~~attorney for a~~]** nongovernmental corporation that is a party or amicus curiae to a proceeding in the court must file a statement identifying all its parent corporations and listing any publicly held company that owns 10% or more of the party's stock or states that there is no such corporation. The statement must also disclose the names of all law firms whose **[~~partners or associates~~]** attorneys have appeared for the party or amicus in the case (including proceedings in the district court or before an administrative agency) or are expected to appear in this court. If any litigant is using a pseudonym, the statement must disclose the litigant's true name. A disclosure required by the preceding sentence will be kept under seal.

(b) Time to File; Supplemental Filing. A party must file the disclosure statement with the principal brief or upon filing a motion, response, petition, or answer in the court. Even if the party's statement has already been filed, the party's principal brief must include the statement before the table of contents. A party must supplement its statement whenever the information that must be disclosed under **[~~NRAP~~]** Rule 26.1(a) changes.

~~[(c) Number of Copies. If the Rule 26.1 statement is filed before the principal brief, or if a supplemental statement is filed, the party~~

~~must file an original and 1 copy unless the court requires a different number by order.~~]

[~~(d)~~] (c) **Form.** The certificate must be in the following form:

(1) Caption setting forth the name of the court, the title of the case, the case number, and the title "NRAP 26.1 Disclosure";

(2) The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

(Here list names of all such persons and entities and identify their connection and interest.)

Attorney of record for .....

RULE 27. MOTIONS

(a) In General.

(1) Application for Relief. An application for an order or other relief is made by motion unless these Rules prescribe another form. A motion must be in writing and be accompanied by proof of service.

(2) Contents of a Motion.

(A) Grounds and Relief Sought. A motion must state with particularity the grounds for the motion, the relief sought, and the legal argument necessary to support it. [~~The motion must contain or be accompanied by any matter required by a specific provision of these Rules governing such a motion. If a motion is supported by affidavits or other papers, they shall be served and filed with the motion.~~]

(B) Accompanying Documents.

(i) Any affidavit, declaration, or other paper necessary to support a motion must be served and filed with the motion.

(ii) An affidavit or declaration must contain only factual information, not legal argument.

(iii) Except as otherwise provided in Rule 27(e), a motion seeking substantive relief must include as a separate exhibit a copy of the trial court's or agency's decision.

(C) Documents Barred or Not Required.

(i) A separate brief supporting or responding to a motion must not be filed.

(ii) A notice of motion is not required.

(iii) A proposed order is not required.

(3) Response.

(A) Time to File. Any party may file a response to a motion; Rule 27(a)(2) governs its contents. The response must be filed within 7 days after service of the motion unless the court shortens or extends the time. A motion authorized by Rules 8 or 41 may be **[~~acted upon after reasonable notice to the parties that the court intends to act sooner~~]** granted before the 7-day period runs only if the court gives reasonable notice to the parties that it intends to act sooner.

(B) Request for Affirmative Relief. A response may include a motion for affirmative relief. The time to respond to the new motion, and to reply to that response, is governed by Rule 27(a)(3)(A) and (a)(4). The title of the response must alert the court to the request for relief.

(4) Reply to Response. Any reply to a response **[~~shall~~]** must be filed within 7 days after service of the response. A reply **[~~shall~~]** must not present matters that do not relate to the response.

(b) Disposition of a Motion for a Procedural Order. The court may act on a motion for a procedural order—including a motion under Rule 26(b)—

at any time without awaiting a response, and may, by rule or by order in a particular case, authorize its clerk to act on specified types of procedural motions. **[~~Under Rule 27(c), the clerk may act on motions for specified types of procedural orders.~~]** A party adversely affected by the court's, or the clerk's, action may file a motion to reconsider, vacate, or modify that action. Timely opposition filed after the motion is granted in whole or in part does not constitute a request to reconsider, vacate, or modify the disposition; a motion requesting that relief must be filed.

(c) Power of a Single Justice or Judge to Entertain Motions; Delegation of Authority to Entertain Motions.

(1) Authority of the Court of Appeals to Entertain Motions. The Court of Appeals and its judges may entertain motions in appeals or matters that the Supreme Court has transferred to that court.

(2) Order of a Single Justice or Judge.

(A) In addition to the authority expressly conferred by these Rules or by law, a justice or judge of the Supreme Court or Court of Appeals may act alone on any motion but may not dismiss or otherwise determine an appeal or other proceeding. The Supreme Court or Court of Appeals may provide by rule or by order in a particular case that only the Supreme Court or Court of Appeals may act on any motion or class of motions.

(B) The court may review the action of a single justice or judge. A ruling on a motion or other interlocutory matter, whether entered by a single judge or justice, is not binding upon the panel or full court to which the appeal is assigned on the merits, and the court considering the merits may alter, amend, or vacate it.

(3) [~~Clerk's Orders~~] Authority of Clerk to Enter Orders of Dismissal.

~~[(A) Procedural Motions. The chief justice or judge may delegate to the clerk authority to decide motions that are subject to disposition by a single justice or judge. An order issued by the clerk under this Rule shall be subject to reconsideration by a single justice or judge pursuant to motion filed within 14 days after entry of the clerk's order.~~

~~(B) Orders of Dismissal.~~] The Supreme Court or Court of Appeals may delegate to the clerk authority to enter orders of dismissal in civil cases where the appellant has filed a motion or parties to an appeal or other proceeding have signed and filed a stipulation that the proceeding be dismissed, specifying terms as to the payment of costs.

(d) Form of Papers[~~; Number of Copies~~].

(1) Format.

(A) Reproduction. All papers relating to motions may be reproduced by any process that yields a clear black image of letter quality. The paper must be opaque and unglazed. Only one side of the paper may be used.

(B) Cover. A cover is not required, but there must be a caption that includes the name of the court and the docket number, the title of the case, and a brief descriptive title indicating the purpose of the motion and identifying the party or parties for whom it is filed. If a cover is used, it **[~~shall~~]** must be white.

(C) Binding. The document must be bound in any manner that is secure, does not obscure the text, and permits the document to lie reasonably flat when open.

(D) Paper Size, Line Spacing, and Margins. The document must be on 8 1/2 by 11-inch paper. The text must be double-spaced, but quotations more than 2 lines long may be indented and single-spaced.

Headings and footnotes may be single-spaced. Margins must be at least 1 inch on all 4 sides. The pages **[~~shall~~]** must be consecutively numbered at the bottom.

(E) Typeface and Type Style. The document must comply with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6).

(F) A pro se party who is incarcerated or detained in a state prison or county jail or other facility may file documents under this Rule that are legibly handwritten in black or blue ink and that otherwise conform to the requirements of this Rule. Handwritten documents are not otherwise permitted without leave of the court.

(2) [~~Page Limits~~] Length. [~~A motion or a response to a motion shall not exceed 10 pages, unless the court permits or directs otherwise. A reply to a response shall not exceed 5 pages.~~] Except by the court's permission, and excluding the accompanying documents authorized by Rule 27(a)(2)(B):

(A) a motion or response to a motion produced using a computer is acceptable if it contains no more than 10 pages or 4,667 words;

(B) a handwritten or typewritten motion or response to a motion is acceptable if it contains no more than 10 pages;

(C) a reply produced using a computer is acceptable if it contains no more than 5 pages or one half of the type-volume limitation for a motion; and

(D) a handwritten or typewritten reply to a response is acceptable if it contains no more than 5 pages.

[~~(3) Number of Copies. An original and 1 copy must be filed unless the court requires a different number by order.~~]

(e) Emergency Motions. If a movant certifies that to avoid irreparable harm relief is needed in less than 14 days, the motion **[~~shall~~]** will be governed by the following requirements:

(1) Before filing the motion, the movant **[~~shall~~]** must make every practicable effort to notify the clerk of the Supreme Court, opposing counsel, and any opposing parties proceeding without counsel and to serve the motion at the earliest possible time. If an emergency motion is not filed at the earliest possible time, the court may summarily deny the motion.

(2) A motion filed under **[~~this subdivision shall~~]** Rule 27(e) must include the title "Emergency Motion Under NRAP 27(e)" immediately below the caption of the case and a statement immediately below the title of the motion that states the date or event by which action is necessary.

(3) A motion filed under **[~~this subdivision shall~~]** Rule 27(e) must be accompanied by the following:

(A) The relevant parts of the record including the order or decision from which relief is sought, if any; if the order or decision is unavailable, a copy of the transcript of proceedings is preferred but the movant's or counsel's statement of the reasons given by the district court will suffice until a copy of the order or decision is available. The movant's or counsel's statement must be included in the certificate required by Rule 27(e)(3)(B).

(B) **[a]** A certificate of the movant or the movant's counsel, if any, entitled "NRAP 27(e) Certificate," that contains the following information:

[~~(A)~~] (i) The telephone numbers and office addresses of the attorneys for the parties and the telephone numbers and addresses for any pro se parties;

[~~(B)~~] (ii) Facts showing the existence and nature of the claimed emergency; and

[~~(C)~~] (iii) When and how counsel for the other parties and any pro se parties were notified and whether they have been served with the motion; or, if not notified and served, why that was not done.

(4) If the relief sought in the motion was available in the district court, the motion **[~~shall~~]** must state whether all grounds advanced in support of the motion in the court were submitted to the district court, and, if not, why the motion should not be denied.

(5) The motion **[~~shall~~]** must otherwise comply with the provisions of this Rule.

(f) Oral Argument. A motion will be decided without oral argument unless the court orders otherwise.

REVIEWING COMMENT

The overall structure and wording of Rule 27 was modified to more closely mirror FRAP 27. Subdivision (c)(2)(B) specifies that a single judge's or justice's ruling on a motion or interlocutory matter is not binding on the panel or full court. Subdivision (c)(3)(A) regarding the clerk's authority over procedural motions was deleted because it is already addressed by a revision to subdivision (b) on the same subject. Subdivision (d)(2) adds a word limit (4,667) to the page limit (10 pages). Subdivision (e)(3) requires emergency motions to include the relevant order from which emergency relief is sought but, if the order is not yet available, a transcript or counsel's statement in the required Rule 27(e)(3)(B) certification will suffice until the order is available.

RULE 28. BRIEFS

(a) Appellant's Brief. Except as provided in Rule 28(k), the appellant's brief **[~~shall~~]** must be entitled "Appellant's Opening Brief" and **[~~shall~~]** must contain under appropriate headings and in the order indicated:

(1) a disclosure that complies with Rule 26.1;

(2) a table of contents, with page references;

(3) a table of authorities—cases (alphabetically arranged), statutes, and other authorities—with references to the pages of the brief where they are cited;

(4) a jurisdictional statement, including:

(A) the basis for **[~~the Supreme Court's or Court of Appeals'~~]** appellate jurisdiction;

(B) the filing dates establishing the timeliness of the appeal; and

(C) an assertion that the appeal is from a final order or judgment, or information establishing **[~~the Supreme Court's or Court of Appeals'~~]** appellate jurisdiction on some other basis.

(5) a routing statement, setting forth whether the matter is **[~~presumptively~~]** always retained by the Supreme Court, ordinarily retained by the Supreme Court, or ordinarily assigned to the Court of Appeals under **[~~NRAP~~]** Rule 17, and citing the subparagraph(s) **[~~of the Rule~~]** under which the matter falls. If the appellant believes that the Supreme Court should retain the case despite its **[~~presumptive~~]** ordinary assignment to the Court of Appeals, based on a principal issue raised in the matter, the routing statement must include a clear statement of the relevant issue, citations to the record where the issue was raised and resolved, and an explanation of the importance of the issue;

(6) a statement of the issues presented for review;

(7) a concise statement of the case **[~~briefly indicating the nature of the case~~]** setting out the facts relevant to the issues submitted for review, **[~~the course of the proceedings, and the disposition below~~]** describing the

relevant procedural history, and identifying the rulings presented for review.[;]

[(8) a statement of facts relevant to the issues submitted for review] with appropriate references to the record (see Rule 28(e));

[(9)] (8) a summary of the argument, which must contain a succinct, clear, and accurate statement of the arguments made in the body of the brief and which must not merely repeat the argument headings;

[(10)] (9) the argument, which must contain:

(A) appellant's contentions and the reasons for them, with citations to the authorities and parts of the record on which the appellant relies; and

(B) for each issue, a concise statement of the applicable standard of review (which may appear in the discussion of the issue or under a separate heading placed before the discussion of the issues);

[(11)] (10) a short conclusion stating the precise relief sought; and

[(12)] (11) **[an attorney's]** a certificate that complies with Rule **[28.2]** 32(a)(9)**[, if the appellant is represented by an attorney]**.

(b) Respondent's Brief. The respondent's brief **[shall]** must be entitled "Respondent's Answering Brief" and **[shall]** must conform to the requirements of Rule 28(a)(1)-**[(10)]**(9) and **[(12)]** (11), except that none of the following need appear unless the respondent is dissatisfied with the appellant's statement:

(1) the jurisdictional statement;

(2) **[a]** the routing statement**[, setting forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and citing the subparagraph(s) of the Rule under which the matter falls. If the respondent believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, based on a principal issue raised**

~~in the matter, the routing statement must include a clear statement of the relevant issue, citations to the record where the issue was raised and resolved, and an explanation of the importance of the issue~~];

(3) the statement of the issues;

(4) the statement of the case;

[~~(5) the statement of the facts;~~] and

[~~(6)~~] (5) the statement of the standard of review.

(c) Reply Brief. The appellant may file a brief in reply to the respondent's answering brief that [~~shall~~] must be entitled "Appellant's Reply Brief." A reply brief [~~shall~~] must comply with Rule 28(a)(1)-(2) and [~~(10)~~] (9) and must be limited to answering any new matter set forth in the opposing brief. Unless the court permits, no further briefs may be filed. A party may waive the right to file a reply brief. Providing the clerk with immediate notice of that waiver will expedite submission of the case to the court.

(d) References in Briefs to Parties. In briefs and at oral argument, parties [~~will be expected to keep to a minimum~~] should minimize references to parties by such designations as "appellant" and "respondent." [~~It promotes clarity to~~] To make briefs clear, use the [~~designations used in the lower court or the actual names of~~] parties' actual names, the designations used in the lower court, or descriptive terms such as "the employee[~~,~~]" or "the injured person[~~,~~]." [~~etc.~~]

(e) References in Briefs to the Record.

(1) Except as provided in Rule 28(e)(3), every assertion in briefs regarding matters in the record [~~shall~~] must be supported by a reference to the page and volume number, if any, of the appendix where the matter relied on is to be found. A party referring to evidence whose admissibility is in

controversy must cite the pages of the appendix or of the transcript at which the evidence was identified, offered, and received or rejected.

(2) Parties **[~~shall~~]** must not incorporate by reference briefs or memoranda of law submitted to the district court or refer the Supreme Court or Court of Appeals to such briefs or memoranda for the arguments on the merits of the appeal.

(3) A pro se party is not permitted to file an appendix under Rule 30(i), and therefore is not required to comply with Rule 28(e)(1). Pro se parties are encouraged to support assertions in briefs regarding matters in the record by providing citations to the appropriate pages and volume numbers of the **[~~trial~~]** district court record.

(f) Reproductions of Constitutional Provisions, Statutes, Rules, Regulations[~~, Etc~~]. If the court's determination of the issues presented requires the study of constitutional provisions, statutes, rules, regulations, etc., the relevant parts **[~~shall~~]** must be reproduced in the brief or in an addendum at the end, or they may be supplied to the court in pamphlet form.

(g) Length of Briefs. See Rule 32(a)(7) for provisions regarding the length of briefs.

(h) [~~Reserved.~~] Sanctions for Inadequate Briefs. All briefs under this Rule must be concise, presented with accuracy, logically arranged with proper headings and free from burdensome, irrelevant, immaterial, or scandalous matters. Briefs that are not in compliance may be disregarded or stricken, on motion or sua sponte by the court, and the court may assess attorney fees or other monetary sanctions.

(i) Briefs in a Case Involving Multiple Appellants or Respondents. In a case involving more than one appellant or respondent, including consolidated cases, any number of appellants or respondents may

join in a single brief, and any party may adopt by reference a part of another's brief. Parties may similarly join in reply briefs.

[~~(j) Sanctions for Inadequate Briefs. All briefs under this Rule must be concise, presented with accuracy, logically arranged with proper headings and free from burdensome, irrelevant, immaterial or scandalous matters. Briefs that are not in compliance may be disregarded or stricken, on motion or sua sponte by the court, and the court may assess attorney fees or other monetary sanctions.~~]

(j) Supplemental Authorities. If pertinent and significant authorities come to a party's attention after the party's brief has been filed—or after oral argument but before a decision—a party may promptly advise the court by filing and serving a notice of supplemental authorities, setting forth the citations. The notice must refer either to the page of a brief or to a point argued orally. The notice must further state concisely and without argument the legal proposition for which each supplemental authority is cited. Any response must be made promptly and must be similarly limited.

(k) Briefs by Pro Se Appellants. Appellants proceeding without assistance of counsel may file the form brief provided by the **[~~supreme court~~]** clerk of the Supreme Court in lieu of the brief described in Rule 28(a). If an appellant uses the informal brief form, the optional reply brief need not comply with the technical requirements of Rule 28(c) or Rule 32(a).

REVIEWING NOTE

Rule 28 is amended to conform to amendments in Rule 17 (routing statement) and Rule 32(a)(9) (certificate of compliance, replacing former Rule 28.2). Instead of a separate statement of the case and statement of the facts, subdivision (b)(7) combines the two into a single section under the heading "statement of the case," as is the practice in federal court under FRAP 28(a)(6).

The provision for sanctions has been moved to subdivision (h). Supplemental authorities, formerly addressed in Rule 31(e), now appear in Rule 28(j), in parallel with FRAP 28(j).

RULE 28.1. CROSS-APPEALS

(a) Applicability. This Rule applies to a case in which a cross-appeal is filed. Rules 28(a)-(c), 31(a), 32(a)(2), and 32(a)(7)(A)-(B) do not apply to such a case, except as otherwise provided in this Rule.

(b) Designation of Appellant. The party who files a notice of appeal first is the appellant for all purposes. If the notices are filed on the same day, the plaintiff in the proceeding below is the appellant. These designations may be modified by the parties' agreement or by court order.

(c) Briefs. In a case involving a cross-appeal:

(1) Appellant's Opening Brief on Appeal. The appellant **[~~shall~~]** must file an opening brief in the appeal. That brief must comply with Rule 28(a).

(2) Respondent's Answering Brief on Appeal and Opening Brief on Cross-Appeal. The respondent **[~~shall~~]** must file a combined answering brief on appeal and opening brief on cross-appeal. That brief must comply with Rule 28(a), except that the brief need not include a statement of the case **[~~or a statement of the facts~~]** unless the respondent is dissatisfied with the appellant's statement.

(3) Appellant's Reply Brief on Appeal and Answering Brief on Cross-Appeal. The appellant **[~~shall~~]** must file a brief that responds to the opening brief in the cross-appeal and may, in the same brief, reply to the response in the appeal. That brief must comply with Rule 28(a)(1)-**[~~(10)~~]**(9) and **[~~(12)~~]** (11), except that none of the following need appear unless the appellant is dissatisfied with the respondent's statement in the cross-appeal:

(A) the jurisdictional statement;

(B) [a] the routing statement[~~, setting forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and citing the subparagraph(s) of the Rule under which the matter falls. If the appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, based on a principal issue raised in the matter, the routing statement must include a clear statement of the relevant issue, citations to the record where the issue was raised and resolved, and an explanation of the importance of the issue~~];

[~~(B)~~] (C) the statement of the issues;

[~~(C)~~] (D) the statement of the case;

[~~(D) the statement of the facts;~~] and

(E) the statement of the standard of review.

(4) Respondent's Reply Brief on Cross-Appeal. The respondent may file a brief in reply to the response in the cross-appeal. That brief must comply with Rule 28(a)(1)-(2) and [~~(12)~~] (11) and must be limited to the issues presented by the cross-appeal.

(5) No Further Briefs. Unless the court permits, no further briefs may be filed in a case involving a cross-appeal.

(d) Cover. [~~The cover of the appellant's opening brief must be blue; the respondent's combined answering brief on appeal and opening brief on cross-appeal, red; the appellant's combined reply brief on appeal and answering brief on cross-appeal, yellow; the respondent's reply brief on cross-appeal, gray; an intervenor's or amicus curiae's brief, green; and any supplemental brief, tan.~~] The front cover of a brief must contain the information required by Rule 32(a)(2).

~~[A pro se party who is incarcerated is not required to comply with the provisions of this Rule regarding the color of the cover of a brief filed by that party.]~~

(e) Length.

~~[(1) Page Limitation. Unless it complies with Rule 28.1(e)(2) and (3) or permission of the court is obtained under Rule 32(a)(7)(D), the appellant's opening brief must not exceed 30 pages; the respondent's combined answering brief on appeal and opening brief on cross-appeal, 40 pages; the appellant's combined reply brief on appeal and answering brief on cross-appeal, 30 pages; and the respondent's reply brief, 15 pages.~~

~~(2) Type-Volume Limitation.~~

~~(A) The appellant's opening brief or the appellant's combined reply/answering brief is acceptable if:~~

~~(i) it contains no more than 14,000 words; or~~

~~(ii) it uses a monospaced typeface and contains no more than 1,600 lines of text.~~

~~(B) The respondent's combined answering and opening brief is acceptable if:~~

~~(i) it contains no more than 18,500 words; or~~

~~(ii) it uses a monospaced typeface and contains no more than 1,600 lines of text.~~

~~(C) The respondent's reply brief is acceptable if it contains no more than half of the type-volume specified in Rule 28.1(e)(2)(A).~~

~~(3) Certificate of Compliance. A brief submitted pursuant to this Rule shall comply with Rule 32(a)(8).]~~

(1) Opening Brief or Combined Reply/Answering Brief. The appellant's opening brief or the appellant's combined reply/answering brief is acceptable if it complies with the page or type-volume limitation for an opening brief under Rule 32(a)(7).

(2) Combined Answering Brief/Opening Brief. In a noncapital case, the respondent's combined answering and opening brief is acceptable if it does not exceed 40 pages, contains no more than 18,668 words or, if it uses a monospaced typeface, contains no more than 1,732 lines of text. In a capital case, these limitations are 100 pages, 46,670 words, or 4,330 lines of text.

(3) Reply Brief. The respondent's reply brief is acceptable if it complies with the page or type-volume limitation for a reply brief under Rule 32(a)(7).

(f) Time to Serve and File a Brief. Unless the court orders a different briefing schedule in a particular case, briefs in cross-appeals must be served and filed as provided in this Rule. Motions for extensions of time are governed by Rule 31(b).

(1) All Cross-Appeals Except Child Custody and [~~Visitation~~] Termination of Parental Rights Cases.

[~~(A) the~~] The appellant's opening brief must be filed and served**[~~,~~]** within 120 days after the date on which the appeal is docketed in the Supreme Court.[~~;~~] All subsequent briefs must be filed and served within 30 days of service of the opposing party's brief.

~~**[(B) the respondent's combined answering brief on appeal and opening brief on cross-appeal, within 30 days after the appellant's opening brief is served;**~~

~~**(C) the appellant's combined reply brief on appeal and answering brief on cross-appeal, within 30 days after the respondent's**~~

~~combined answering brief on appeal and opening brief on cross-appeal is served; and~~

~~(D) the respondent's reply brief on cross-appeal, within 14 days after the appellant's combined reply brief on appeal and answering brief on cross-appeal is served.~~]

(2) Cross-Appeals [~~Involving~~] in Child Custody or [~~Visitation~~] Termination of Parental Rights Cases.

[~~(A) the~~] The appellant's opening brief[,] must be filed and served within 90 days after the date on which the appeal is docketed in the Supreme Court.[;]

[~~(B) the~~] The respondent's combined answering brief/opening brief [~~on appeal and opening brief on cross-appeal,~~] and appellant's combined reply brief/answering brief must be filed and served within 21 days [~~after the appellant's opening brief is served;~~] of service of the opposing party's brief.

[~~(C) the appellant's combined reply brief on appeal and answering brief on cross-appeal, within 21 days after the respondent's combined answering brief on appeal and opening brief on cross-appeal is served; and~~]

[~~(D) the~~] The respondent's reply brief on cross-appeal[,] must be filed and served within 14 days after service of the appellant's combined reply brief/answering brief. [~~on appeal and answering brief on cross-appeal is served.~~]

(g) Certificate of Compliance. A brief submitted pursuant to this Rule must include the certificate of compliance required by Rule 32(a)(9).

REVIEWING NOTE

Rule 28.1 is revised to clarify its application in various kinds of cross-appeals and to conform to amendments in Rule 32. Subdivision (e) clarifies the page, line, and word limitations in both noncapital and capital cases. Subdivision (f) clarifies the briefing schedule for cross-appeals in cases involving termination of parental rights.

~~[RULE 28.2. ATTORNEY'S CERTIFICATE]~~

~~[(a) Certificate Required Upon Filing of Any Brief. Any brief submitted for filing on behalf of a party represented by counsel must contain a certificate signed by at least 1 attorney of record who is an active member of the bar of this state. This certificate must substantially comply with Form 9 in the Appendix of Forms, and must contain the following information:~~

~~(1) A representation that the signing attorney has read the brief;~~

~~(2) A representation that to the best of the attorney's knowledge, information and belief, the brief is not frivolous or interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;~~

~~(3) A representation by the signing attorney that the brief complies with all applicable Nevada Rules of Appellate Procedure, including the requirement of Rule 28(e) that every assertion in the briefs regarding matters in the record be supported by a reference to the page and volume number, if any, of the appendix where the matter relied on is to be found; and~~

~~(4) A representation that the brief complies with the formatting requirements of Rule 32(a)(4)-(6), and either the page- or type-volume limitations stated in Rule 32(a)(7).~~

~~(b) Striking a Brief Without the Required Certificate. If a brief does not contain the certification required by this Rule, it shall be stricken unless such a certification is provided within 14 days after the omission is called to the attorney's attention.~~

~~(c) Sanctions. The Supreme Court or Court of Appeals may impose sanctions against an attorney whose certification is incomplete or inaccurate. In addition, the Supreme Court or Court of Appeals may impose sanctions against any attorney who, upon being informed that the brief does not contain the certificate provided for by subsection (a), fails to cure the deficiency within 14 days after the omission is called to his or her attention.~~]

REVIEWING NOTE

Rule 28.2's information has been incorporated into Rule 32(a)(9), certificate of compliance, which now applies to all briefs.

RULE 29. BRIEF OF AN AMICUS CURIAE

(a) When Permitted. The United States, the State of Nevada, [~~an officer or agency of either,~~] a political subdivision thereof, or an officer or agency of the foregoing entities, or a state, territory, or commonwealth, or a federally recognized tribe may file an amicus curiae brief without the consent of the parties or leave of court. Any other amicus curiae may file a brief only by leave of court granted on motion or at the court's request or if accompanied by written consent of all parties.

[~~(b) Foreign Counsel. If an amicus brief is prepared by an attorney who is not a member of the State Bar of Nevada, that attorney must move for permission to appear before the Supreme Court or Court of Appeals under SCR 42 and comply with Rule 46(a).~~]

[~~(c)~~] (b) **Motion for Leave to File.** A motion for leave to file an amicus brief **[~~shall~~]** must be accompanied by the proposed brief and state:

(1) the movant's interest; and

(2) the reasons why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the case.

[~~(d)~~] (c) **Contents and Form.** An amicus brief must comply with Rule 32. In addition to the requirements of Rule 32, the cover must identify the party or parties supported, if any, and indicate whether the brief supports affirmance, **[or]** reversal, or extraordinary relief. An amicus brief need not comply with Rule 28, but must include the following:

(1) If the amicus curiae is a corporation, a disclosure statement like that required of a party by Rule 26.1.

(2) A table of contents, with page references.

[~~(2)~~] (3) A table of cases (alphabetically arranged), statutes, and other authorities cited, with references to the pages of the brief where they are cited.

[~~(3)~~] (4) A concise statement of the identity of the amicus curiae, its interest in the case, and the source of its authority to file, which does not count toward the type-volume limitation.

(5) Unless the amicus curiae is one listed in the first sentence of Rule 29(a), a statement that indicates whether:

(A) a party or a party's counsel authored the brief in whole or in part; and

(B) any person—other than the amicus curiae, its members, or its counsel—contributed money or other consideration intended to fund preparing or submitting the brief and, if so, identifies each person.

[~~(4)~~] (6) An argument, which may be preceded by a summary.

[~~(5)~~] (7) An attorney's certificate that complies with the requirements contained in Rule **[~~28.2~~]** 32(a)(9).

[~~(c)~~] (d) Length. Except by the court's permission or as provided in Rule 21(d) as to writ proceedings, an amicus brief may be no more than one-half the maximum length authorized by these Rules for a party's brief. If the court grants a party permission to file a longer brief, that extension does not affect the length of an amicus brief.

[~~(f)~~] (e) Time for Filing. An amicus curiae must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the brief, petition, or answer of the party being supported is filed. An amicus curiae that does not support either party must file its brief no later than 7 days after the appellant's opening brief or the writ petition is filed. The court may grant leave for later filing, specifying the time within which an opposing party may answer.

[~~(g)~~] (f) Reply Brief. An amicus may not file a reply brief.

[~~(h)~~] (g) Oral Argument. An amicus may file a motion to participate in oral argument, but the court will grant such motions only for extraordinary reasons.

(h) During Rehearing, En Banc Reconsideration, and Review by the Supreme Court. The provisions of this Rule apply to amicus briefs submitted in connection with rehearing, en banc reconsideration, and review by the Supreme Court. Such briefs may be filed irrespective of whether an amicus brief was filed by that party in the primary briefing. Except by the court's permission, the length of an amicus brief in these proceedings must not exceed 4,667 words.

RULE 30. APPENDIX TO THE BRIEFS

(a) Joint Appendix; Duty of the Parties. Counsel have a duty to confer and attempt to reach an agreement concerning a possible joint appendix. In the absence of an agreement, the parties may file separate appendices to their briefs.

(b) Contents of the Appendix. Except as otherwise required by this Rule, all matters not essential to the decision of issues presented by the appeal **[~~shall~~]** must be omitted. Brevity is required; the court may impose costs upon parties or attorneys who unnecessarily enlarge the appendix.

(1) Transcripts. Copies of all transcripts that are necessary to the Supreme Court's or Court of Appeals' review of the issues presented on appeal **[~~shall~~]** must be included in the appendix.

(2) Documents Required for Inclusion in Joint Appendix. In addition to the transcripts required by Rule 30(b)(1), the joint appendix **[~~shall~~]** must contain:

(A) Complaint, indictment, information, or petition (including all amendments);

(B) All answers, counterclaims, cross-claims, and replies, and all amendments thereto;

(C) **[~~Pretrial~~]** Relevant pretrial orders;

(D) **[~~All~~]** Relevant jury instructions given to which exceptions were taken, and excluded when offered;

(E) Verdict or findings of fact and conclusions of law with direction for entry of judgment thereon;

(F) Any relevant report of a hearing master, commissioner, or other referee **[~~Master's report, if any, in nonjury cases~~]**;

(G) Relevant opinions **[~~Opinion~~]**;

(H) All judgments or orders **[~~appealed from~~]** being challenged on appeal;

(I) All notices of appeal; and

(J) Proof of service, if any, of:

(i) the summons and complaint;

(ii) written notice of entry of the judgment or order appealed from;

(iii) post-judgment motions enumerated in Rule 4(a); and

(iv) written notice of entry of an order resolving any post-judgment motions enumerated in Rule 4(a).

(3) Appellant's Appendix. If a joint appendix is not prepared, appellant's appendix to the opening brief **[~~shall~~]** must include those documents required for inclusion in the joint appendix under this Rule, and any other portions of the record essential to determination of issues raised in appellant's appeal.

(4) Respondent's Appendix. If a joint appendix is not prepared, respondent's appendix to the answering brief may contain any transcripts or documents which should have been but were not included in the appellant's appendix, and **[~~shall~~]** must otherwise be limited to those documents necessary to rebut appellant's position on appeal which are not already included in appellant's appendix.

(5) Reply Appendix. The **[~~A~~]**appellant may file an appendix to the reply brief which **[~~shall~~]** must include only those documents necessary to reply to respondent's position on appeal.

(6) Presentence Investigation Report. If a copy of appellant's presentence investigation report is necessary for the Supreme Court's or Court of Appeals' review in a criminal case **[~~and a copy of the report cannot be included in the appendix~~]**, appellant or respondent **[~~shall~~]** must file a

motion with the clerk of the Supreme Court within the time period for filing **[~~an opening brief or fast track statement~~]** the party's appendix, requesting that the court direct the district court clerk to transmit the report to the clerk of the Supreme Court in a sealed envelope. The motion must demonstrate that the report is necessary for the appeal.

(c) Arrangement and Form of Appendix. The appendix **[~~shall~~]** must be in the form required by Rule 32(b), **[~~shall~~]** must be bound separately from the briefs, and **[~~shall~~]** must be arranged as set forth in this Rule. Documents filed electronically must be filed in a searchable Portable Document Format (PDF), except that exhibits and attachments to a filed document that cannot be imaged in a searchable format may be scanned.

(1) Order and Numbering of Documents. All documents included in the appendix **[~~shall~~]** must be placed in chronological order by the dates of filing beginning with the first document filed, and **[~~shall~~]** must bear the file**[-]** stamp of the district court clerk, clearly showing the date the document was filed in the proceedings below. Transcripts that are included in the appendix **[~~shall~~]** must be placed in chronological order by date of the hearing or trial. If the docket sheet or court minutes are included in the appendix, they need not be file stamped and must be placed at the end of the appendix. Each page of the appendix **[~~shall~~]** must be numbered consecutively in the lower right corner of the document.

(2) Page Limits[~~; Index of Appendix~~]. Each volume of the appendix **[~~shall~~]** must contain no more than 250 pages. **[~~The appendix shall contain an alphabetical index identifying each document with reasonable definiteness, and indicating the volume and page of the appendix where the document is located. The index shall preface the documents comprising the appendix. If the appendix is comprised of more than~~**

~~one volume, one alphabetical index for all documents shall be prepared and shall be placed in each volume of the appendix.~~]

(3) Cover. The cover of an appendix [~~shall~~] must be white and [~~shall~~] must contain the same information as the cover of a brief under Rule 32(a), but [~~shall~~] must be prominently entitled "JOINT APPENDIX," or "APPELLANT'S APPENDIX," or "RESPONDENT'S APPENDIX" or "APPELLANT'S REPLY APPENDIX."

(4) Indices to Appendix. The party filing the appendix must prepare both an alphabetical index and a chronological index identifying each document in the appendix with reasonable definiteness, and indicating the volume and page of the appendix where the document is located. These indices must be filed contemporaneously with the appendix as a separate document. The cover of the indices must contain the same information as the cover of a brief under Rule 32(a).

(d) Exhibits. Copies of relevant and necessary exhibits [**shall**] must be clearly identified, and [~~shall~~] must be included in the appendix as far as practicable. If the exhibits are too large or otherwise incapable of being reproduced in the appendix, the parties may file a motion requesting the court to direct the district court clerk to transmit the original exhibits. The court will not permit the transmittal of original exhibits except upon a showing that the exhibits are relevant to the issues raised on appeal, and that the court's review of the original exhibits is necessary to the determination of the issues.

(e) Time for Service and Filing of Appendix. A joint appendix [**shall**] must be filed and served no later than the filing of appellant's opening brief. An appellant's appendix [~~shall~~] must be served and filed with appellant's opening brief. A respondent's appendix [~~shall~~] must be served and filed with

respondent's answering brief. If a reply brief is filed, any reply appendix ~~[shall]~~ must be served and filed with the reply brief.

~~[(f) Number of Copies to Be Filed and Served.~~

~~(1) Paper Copies. One paper copy of the appendix [shall] must be filed with the clerk, and one copy [shall] must be served on counsel for each party separately represented, unless the court orders otherwise.~~

~~(2) Electronic Copies. A party represented by counsel must submit every appendix on a CD-ROM, and serve a CD-ROM version on all opposing counsel, in addition to filing the required number of paper copies, unless the appendix has been electronically filed in the court or counsel certifies that submitting a CD-ROM version of the appendix would constitute extreme hardship.]~~

(f) Filing and Service. A party represented by counsel must file the appendix electronically, unless nonelectronic filing has been approved by the court. Unless electronically filed, one paper copy and USB flash drive version of the appendix must be filed with the clerk and served on all parties. A paper copy and USB flash drive version of the appendix must be served on all parties not represented by counsel.

(g) Filing as Certification; Sanctions for Nonconforming Copies or for Substantial Underinclusion.

(1) Filing an appendix constitutes a representation by counsel that the appendix consists of true and correct copies of the papers in the district court file. Willful or grossly negligent filing of an appendix containing nonconforming copies is an unlawful interference with the proceedings of the Supreme Court or Court of Appeals, and subjects counsel, and the party represented, to monetary and any other appropriate sanctions.

(2) If an appellant's appendix is so inadequate that justice cannot be done without requiring inclusion of documents in the respondent's appendix which should have been in the appellant's appendix, or without the court's independent examination of portions of the original record which should have been in the appellant's appendix, the court may impose monetary sanctions.

(h) Costs. Each party **[~~shall~~]** must, initially, bear the cost of preparing its separate appendices. The appellant **[~~shall~~]** must, initially, bear the cost of preparing a joint appendix; where several parties appeal from the same judgment or any part thereof, or there is a cross-appeal, the initial expense of preparing a joint appendix **[~~shall~~]** must be borne equally by the parties appealing, or as the parties may agree.

(i) Pro Se Party Exception. This Rule does not apply to a party who is not represented by counsel. A pro se party **[~~shall~~]** must not file an appendix except as otherwise provided in these Rules or ordered by the court. If the court's review of the complete record is necessary, the court will direct the district court to transmit the record as provided in Rule 11.

RULE 31. FILING AND SERVICE OF BRIEFS

(a) Time for Serving and Filing Briefs. Unless a different briefing schedule is provided by **[a]** court order **[~~in a particular case or by these or any other court rules~~]** or rules, including fast track rules, parties **[~~shall~~]** must observe the briefing schedule set forth in this Rule.

(1) All Appeals Except [~~Child Custody, Visitation, or~~] Termination of Parental Rights and Direct-Appeal Capital Cases.

(A) The appellant **[~~shall~~]** must serve and file the opening brief **[~~within~~]** no later than 120 days after the date on which the appeal is docketed in the Supreme Court.

(B) The respondent **[~~shall~~]** must serve and file the answering brief **[~~within~~]** no later than 30 days after the appellant's brief is served.

(C) The appellant's reply brief must be served and filed **[~~within~~]** no later than 30 days after the respondent's brief is served.

(2) [~~Child Custody or Visitation~~] Termination of Parental Rights Cases. If an appeal is taken from any district court order **[~~affecting the custody or visitation of minor children, including actions~~]** in an action seeking termination of parental rights:

(A) The appellant **[~~shall~~]** must serve and file the opening brief **[~~within~~]** no later than 90 days after the date on which the appeal is docketed in the Supreme Court.

(B) The respondent **[~~shall~~]** must serve and file the answering brief **[~~within~~]** no later than 21 days after the appellant's brief is served.

(C) The appellant's reply brief must be served and filed **[~~within~~]** no later than 14 days after the respondent's brief is served.

(D) The **[~~Supreme Court or Court of Appeals~~]** court may order oral argument at its discretion. Where oral argument is not ordered, the matter **[~~shall~~]** will be submitted for decision on the briefs and the appendix **[~~within~~]** no later than 60 days of the date that the final brief is due.

(3) Direct Appeal[s] [~~in~~] Capital Cases. On direct appeal from a judgment of conviction and sentence of death:

(A) The appellant **[~~shall~~]** must serve and file the opening brief **[~~within~~]** no later than 120 days from the date that the record on appeal is filed in the Supreme Court.

(B) The respondent **[~~shall~~]** must serve and file the answering brief **[~~within~~]** no later than 60 days after the appellant's brief is served.

(C) The appellant's reply brief must be served and filed **[~~within~~]** no later than 45 days after the respondent's brief is served.

[~~(4) Postconviction Appeals in Capital Cases. On appeal from a judgment or order resolving an application for postconviction relief in a capital case:~~

[~~(A) The appellant shall serve and file the opening brief within 120 days after the date on which the appeal is docketed in the Supreme Court.~~

[~~(B) The respondent shall serve and file the answering brief within 30 days after service of the opening brief.~~

[~~(C) The appellant's reply brief must be served and filed within 30 days after the respondent's brief is served.~~]

(b) Extensions of Time for Filing Briefs.

(1) Telephonic Requests. No telephonic extensions are permitted for filing any brief. **[~~A party may request by telephone a single 14-day extension of time for filing a brief under Rule 26(b)(1)(B). A telephonic request may be made only if there have been no prior requests for extension of time for filing the brief. No further extensions for filing the brief may be granted except on motion under Rule 31(b)(3).~~]**

[~~(2) Stipulations. Unless the court orders otherwise, in all appeals except child custody, visitation, or capital cases, the parties may extend the time for filing any brief for a total of 30 days beyond the due dates set forth in Rule 31(a)(1) by filing a written stipulation with the clerk of the Supreme Court on or before the brief's due date. No extensions of time by stipulation are permitted in child custody, visitation, or capital cases.~~]

(2) Streamlined Extensions of Time.

(A) If a party has not previously filed a motion for an extension of time to file an opening, answering, reply, or cross-appeal brief under Rule 31(b)(3), that party may obtain a single streamlined extension of time to file that brief not to exceed 30 days. The streamlined extension of time is not available:

(i) if a case has previously been expedited,

(ii) in a case challenging the termination of parental rights, or

(iii) when a party is seeking emergency or injunctive relief.

(B) A party may request a streamlined extension by completing the Streamlined Request for Extension of Time to File Brief Form that is available on the Nevada Supreme Court website and submitting it for filing in compliance with Rule 25(a)(2). A request must be made on or before the brief's due date. Timeliness of the request is governed by Rule 25(a)(2).

(C) The clerk of the Supreme Court will approve requests that comply with this Rule and will provide the parties with a new schedule. The clerk will inform parties not eligible for relief under Rule 31(b)(2) as to the appropriate method to obtain relief.

(D) No further extensions for filing the brief will be granted except on motion under Rule 31(b)(3).

(3) Motions for Extensions of Time. A motion for extension of time for filing a brief may be made no later than the due date for the brief and must comply with the provisions of this Rule and Rule 27. Timeliness of the motion is governed by Rule 25(a)(2).

(A) Contents of Motion. A motion for extension of time for filing a brief **[~~shall~~]** must include the following:

(i) **[~~The date w~~]**When the brief is due and was first due;

(ii) The number of extensions **[~~of time~~]** previously granted (including **[~~a 14-day telephonic~~]** any streamlined extension)**[~~, and if extensions were granted, the original date when the brief was due~~]**;

(iii) Whether any previous **[~~requests for~~]** extensions **[~~of time~~]** have been denied or denied in part;

(iv) The reasons or grounds why an extension is necessary **[~~(including demonstrating extraordinary and compelling circumstances under Rule 26(b)(1)(B), if required)~~]**; and

(v) The length of the extension requested and **[~~the date on which~~]** when the brief would become due.

(B) Motions in All Appeals Except [~~Child Custody, Visitation, or Capital~~] Termination of Parental Rights Cases. Applications for extensions of time beyond that to which the parties are permitted **[~~to stipulate~~]** under Rule 31(b)(2) are not favored. The court will grant **[~~an initial~~]** a motion for extension of time for filing a brief only upon a **[~~clear~~]** showing of good cause. **[~~The court shall not grant additional extensions of time except upon a showing of extraordinary circumstances and extreme need.~~]**

(C) Motions in [~~Child Custody or Visitation~~] Termination of Parental Rights Cases. The court will grant a motion for extension of time for filing a brief in **[~~child custody or visitation~~]** termination of parental rights cases only in extraordinary and compelling **[~~cases that present unforeseeable~~]** circumstances **[~~justifying an extension of time~~]**.

[~~(D) Motions in Capital Cases. The Supreme Court may grant an initial motion for an extension of time of up to 60 days for filing a brief in a capital case upon a showing of good cause. The court~~

~~shall not grant additional extensions of time except upon a showing of extraordinary circumstances and extreme need.]~~

(c) [~~Number of Copies to Be Filed and Served~~] Service. **[~~An original and 2 copies of each brief shall be filed with the clerk unless the court by order in a particular case shall direct a different number, and 1~~]** A copy of each brief **[~~shall~~]** must be served on each unrepresented party and on counsel for each **[party]** separately represented party. The **[~~original~~]** brief must be signed in compliance with Rules 25(a)(5), **[~~28.2(a)~~]** 32(a)(9), and 32(d).

(d) Consequences of Failure to File Briefs or Appendix.

(1) Appellant. If an appellant fails to timely file an opening brief or appendix **[~~within the time provided by this Rule, or within the time extended~~]**, a respondent may move for dismissal of the appeal or the court may dismiss the appeal on its own motion. **[~~If an appellant has not filed a reply brief, oral argument will be limited as provided by Rule 34(c).~~]** This Rule does not apply to postconviction appeals in which the appellant is not represented by counsel. In those cases, the court may decide the appeal based on the record without briefing as provided in Rule 34(g).

(2) Respondent. [~~If a~~] A respondent who fails to timely file an answering brief**[~~, respondent~~]** will not be heard at oral argument **[~~except by permission of~~]** unless the court grants permission, and such**[~~. The~~]** failure **[~~of respondent to file a brief~~]** may be treated **[~~by the court~~]** as a confession of error **[~~and appropriate disposition of the appeal thereafter made~~]**. Unless the court has ordered the respondent to file an answering brief as provided in Rule 46A(c), this Rule does not apply to appeals in which the appellant is not represented by counsel.

~~[(e) Supplemental Authorities. When pertinent and significant authorities come to a party's attention after the party's brief has been filed, but before a decision, a party may promptly advise the Supreme Court or Court of Appeals by filing and serving a notice of supplemental authorities, setting forth the citations. The notice shall provide references to the page(s) of the brief that is being supplemented. The notice shall further state concisely and without argument the legal proposition for which each supplemental authority is cited. The notice may not raise any new points or issues. Any response must be made promptly and must be similarly limited. If filed less than 14 days before oral argument, a notice of supplemental authorities shall not be assured of consideration by the court at oral argument; provided, however, that no notice of supplemental authorities shall be rejected for filing on the ground that it was filed less than 14 days before oral argument.]~~

REVIEWING NOTE

New Rule 31 clarifies when to file various kinds of briefs and amends the process for extending those deadlines.

Subdivision (a) clarifies that Rule 31 does not govern the briefing schedule in fast track appeals. Because appeals involving child custody and visitation are now governed by Rule 3E, subdivision (a)(2) now governs the briefing schedule only for termination of parental rights cases. Former subdivision (a)(4) (postconviction appeals in capital cases) is now subsumed within subdivision (a)(1), which adheres to the same deadlines as the eliminated subdivision.

Subsection (b)(1) replaces the provisions on telephonic and stipulated extensions with a 30-day streamlined extension, akin to the streamlined

extension available in the Ninth Circuit under 9th Cir. R. 31-2.2(a). Subsection (b)(2) eliminates inconsistent standards for extensions by motion. In cases except termination of parental rights and direct-appeal capital cases, a motion must demonstrate good cause. In termination of parental rights cases, the motion must demonstrate extraordinary and compelling circumstances. The court retains discretion to prescribe another standard in particular cases. Supplemental authorities, formerly addressed in subsection (e), now appear in Rule 28(j).

RULE 32. FORM OF BRIEFS, THE APPENDIX AND OTHER PAPERS

(a) Form of a Brief.

(1) Reproduction.

(A) A brief **[~~shall~~]** must be reproduced by any process that yields a clear black image of letter quality. The paper must be opaque and unglazed. Only one side of the paper may be used.

(B) Text must be reproduced with a clarity that equals or exceeds the output of a laser printer.

(C) Photographs, illustrations, and tables may be reproduced by any method that results in a good copy of the original; a glossy finish is acceptable if the original is glossy.

[~~(C) Carbon copies of briefs may not be submitted without permission of the court, except on behalf of parties allowed to proceed in forma pauperis.~~]

(2) Cover. [~~Covers for briefs are required. The cover of the appellant's brief must be blue; the respondent's, red; an intervenor's or amicus curiae's, green; and any reply, gray. A pro se party who is incarcerated is not required to comply with the provisions of this Rule~~

~~regarding the color of the cover of a brief filed by that party.~~] The front cover of a brief **[~~shall~~]** must contain:

(A) the name of the court and the number of the case;

(B) the title of the case (see Rule 12(a));

(C) the nature of the proceedings in the court (e.g., Appeal) and the name of the court below;

(D) the title of the document (e.g., Appellant's Opening Brief, Respondent's Answering Brief); and

(E) the names, addresses, telephone numbers, and State Bar of Nevada identification numbers of counsel, if any, representing the party for whom the brief is filed.

(3) Binding. The brief must be bound in any manner that is secure, does not obscure the text, and permits the brief to lie reasonably flat when open.

(4) Paper Size, Line Spacing, Margins, and Page Numbers. The brief must be on 8 1/2 by 11-inch paper. The text **[~~shall~~]** must be double-spaced, except that quotations of more than two lines may be indented and single-spaced. Headings and footnotes may be single-spaced. Margins must be at least 1 inch on all four sides. The pages **[~~shall~~]** must be consecutively numbered at the bottom. Pages in the brief preceding the statement of the case must be numbered in lowercase Roman numerals, and pages in the brief beginning with the statement of the case must be numbered in Arabic numerals.

(5) Typeface. Either a proportionally spaced or a monospaced typeface may be used. Footnotes must be in the same size and typeface as the body of the brief.

(A) A proportionally spaced typeface (e.g., Century Schoolbook, **[~~CG Times,~~]** Times New Roman, **[~~and New Century~~]** Garamond, Georgia, and Palatino) must be 14-point or larger.

(B) A monospaced typeface (e.g., Courier and Pica) may not contain more than 10 1/2 characters per inch (e.g., Courier 12-point).

(C) **[~~Unrepresented~~]** Self-represented litigants may use elite type, 12 characters per inch, if they lack access to a typewriter with larger characters.

(6) Type Styles. A brief must be set in a plain, roman style, although underlining, italics, or boldface may be used for emphasis. Case names must be italicized or underlined.

(7) Length.

(A) Noncapital Cases.

(i) Page Limitation. Unless it complies with Rule 32(a)(7)(A)(ii) or permission of the court is obtained under Rule 32(a)(7)(D), an opening or answering brief **[~~shall~~]** must not exceed 30 pages, and a reply brief **[~~shall~~]** must not exceed 15 pages.

(ii) Type-Volume Limitation. An opening or answering brief is acceptable if it contains no more than 14,000 words**[~~,~~]** or, if it uses a monospaced typeface, **[~~and~~]** contains no more than 1,300 lines of text. A reply brief is acceptable if it contains no more than half the type-volume specified for an opening or answering brief under this Rule.

(B) Capital Cases.

(i) Page Limitation. Unless it complies with Rule 32(a)(7)(B)(ii) or permission of the court is obtained under Rule 32(a)(7)(D), an opening or answering brief in a capital case **[~~shall~~]** must not exceed 80 pages, and a reply brief in a capital case **[~~shall~~]** must not exceed 40 pages.

(ii) Type-Volume Limitation. An opening or answering brief in a capital case is acceptable if it contains no more than 37,000 words**[,]** or, if it uses a monospaced typeface, **[~~shall~~]** contains no more than 3,500 lines of text. A reply brief in a capital case is acceptable if it contains no more than half the type-volume specified in this Rule for an opening or answering brief in a capital case.

(C) Computing Page[-] and Type-Volume Limitations. The disclosure statement, table of contents, table of authorities, signature blocks, required certificate of service and compliance with these Rules, and any addendum containing statutes, rules, or regulations do not count toward a brief's page**[-]** or type-volume limitation. The page**[-]** or type-volume limitation applies to all other portions of the brief beginning with the statement of the case, including headings, footnotes, and quotations. **[~~Pages in the brief preceding the statement of the case must be numbered in lowercase Roman numerals, and pages in the brief beginning with the statement of the case must be numbered in Arabic numerals.~~]**

(D) Permission to Exceed Page [~~Limit~~] or Type-Volume Limitation.

(i) The court looks with disfavor on motions to exceed the applicable page **[~~limit~~]** or type-volume limitation, and therefore, permission to exceed the page **[~~limit~~]** or type-volume limitation will not be routinely granted. A motion to file a brief that exceeds the applicable page **[~~limit~~]** or type-volume limitation will be granted only upon a showing of diligence and good cause. The court will not consider the cost of preparing and revising the brief in ruling on the motion.

(ii) A motion seeking an enlargement of the page **[~~limit~~]** or type-volume limitation for a brief **[~~shall~~]** must be filed on or before the brief's due

date and **[~~shall be accompanied by a declaration stating~~]** must state in detail the reasons for the motion and the number of additional pages, words, or lines of text requested. A motion to exceed the type-volume limitation **[~~shall~~]** must be accompanied by a certification as required by Rule 32(a)(9)**[~~(C)~~]** as to the line or word count.

(iii) The motion **[~~shall~~]** must also be accompanied by a single copy of the brief the applicant proposes to file.

(8) Handwritten Briefs. A pro se party who is incarcerated or detained in a state prison or county jail or other facility may file documents under this Rule that are legibly handwritten in black or blue ink and that otherwise conform to the requirements of this Rule. Handwritten documents are not otherwise permitted without leave of the court.

(9) Certificate of Compliance.

(A) Certificate Required Upon Filing of Any Brief. All briefs must include a certificate of compliance. The certificate must be signed by the self-represented party or an active member of the State Bar of Nevada. The certificate must substantially comply with the Certificate of Compliance for Briefs Form on the Nevada Supreme Court website, representing that:

(i) the filer has read the brief;

(ii) the brief is not frivolous or interposed for any improper purpose;

(iii) the brief complies with all applicable Nevada Rules of Appellate Procedure, including Rule 28(e); and

(iv) the brief complies with the formatting requirements of Rule 32(a)(4)-(6), identifying the typeface and type-style used; and

(v) the brief complies with the page or type-volume limitation stated in Rule 32(a)(7). If relying on word or line count, the certificate must

state either the number of words or the number of lines of monospaced type in the brief.

(B) Striking a Brief Without the Required Certificate. If a brief does not contain the certification required by this Rule, it will be stricken unless such a certification is provided within 14 days after the omission is called to the filer's attention.

(C) Sanctions. The Court may impose sanctions for an incomplete or inaccurate certificate.

~~**[(A) Requirement of Certificate. The brief must include a certificate by the attorney, or an unrepresented party, that it complies with the typeface and type style requirements of Rule 32(a)(4)-(6), identifying the typeface and type style used, and that it complies with either the page- or type-volume limitation under the applicable Rule.**~~

~~**(B) Type-Volume Certificate. A certification based on type-volume limitations may rely on the word or line count of the word-processing system used to prepare the brief and must state either the number of words in the brief or the number of lines of monospaced type in the brief.**~~

~~**(C) Form of Certificate. The certificate required by this Rule may be combined with the certificate required by Rule 28.2. A certificate that includes the first two paragraphs of Form 9 in the Appendix of Forms will be regarded as sufficient to meet the requirements of this Rule.]**~~

(b) Form of Appendices. An appendix must comply with Rule 32(a)(1), (2), (3), and (4) with the following exceptions:

~~**[(1) The cover of the appendix must be white (see Rule 30(e)(3)).]**~~

[~~(2)~~] (1) An appendix may include a legible photocopy of any document found in the trial court record (see Rule 30).

[~~(3)~~] (2) When necessary to facilitate inclusion of odd-sized documents such as technical drawings, an appendix may be a size other than 8 1/2 by 11 inches, and need not lie reasonably flat when opened.

(c) Form of Other Papers.

(1) Motion. The form of a motion is governed by Rule 27(d).

(2) Other Papers. Any other paper, including a petition for rehearing and a petition for en banc reconsideration, and any response to such a petition, **[~~shall~~]** must be reproduced in the manner prescribed by Rule 32(a)(1), (3), (4), (5), (6), and (8) and **[~~shall~~]** must contain a caption setting forth the name of the court, the title of the case, the case number, and a brief descriptive title indicating the purpose of the paper. **[~~If a cover is used, it must be white.~~]**

(d) Signature. Every brief, motion, or other paper filed with the court must be signed **[~~by the party filing the paper or, if the party is represented, by one of the party's attorneys~~]** as set forth in Rule 25(a)(5).

(e) Effect of Noncompliance With Rule. [~~If a~~] A brief, petition, motion, or other paper that is not prepared in accordance with this Rule may be stricken or disregarded by the court.**[~~, the clerk will not file the document, but shall return it to be properly prepared.~~]**

REVIEWING NOTE

Rule 32 is amended to conform to FRAP 32 and to address the attorney's certificate in former Rule 28.2.

Subdivision (a)(2) eliminates the requirement for colored covers. When formatting the cover, practitioners should consider the placement of the court's file electronic stamp in the upper right-hand corner about 2 inches below and

3 inches to the left of the edge. The court name, case number, and case title should be formatted so as not to obscure the file stamp.

The certificate of compliance in subdivision (a)(9) now includes the information in former Rule 28.2 (attorney's certificate) and is required for all briefs, not just those submitted by represented parties.

In conformance with Rule 25, subdivision (e) now provides that a noncompliant brief or other paper may be stricken or disregarded by the court, but not by the clerk without the court's instruction.

RULE 33. APPEAL CONFERENCES

The court may direct the attorneys—and, when appropriate, the parties—to participate in one or more conferences **[~~for the parties to appear before the court or a justice or judge thereof for a conference~~]** to address any matter that may aid in disposing of the proceedings, including simplifying the issues. The court, justice, or judge may, as a result of the conference, enter an order controlling the course of the proceedings.

REVIEWING NOTE

The amendment substantively changes the rule by allowing the court to also direct the parties, not just the attorneys, to participate in an appeal conference. This change mirrors the language in FRAP 33.

RULE 34. ORAL ARGUMENT

(a) Notice of Argument; Postponement. The clerk **[~~shall~~]** will advise all parties of the date, time, and place for oral argument, the time allowed for oral argument, the court before which argument will occur, and if before the Supreme Court, whether it will be before the full court or a panel, and if deemed appropriate, the issues to be addressed at oral argument. A motion to

postpone the argument must be filed reasonably in advance of the date fixed for hearing.

(b) Time Allowed for Argument. Unless the case is submitted for decision on the briefs under Rule 34(f) or the court otherwise orders, each side[~~, at the court's discretion,~~] will be allowed 15 [~~or 30~~] minutes for argument. If counsel believes that additional time is necessary for the adequate presentation of [~~his or her~~] their argument, counsel may request such additional time [~~as he or she deems necessary~~]. A motion to allow longer argument must be filed reasonably in advance of the date fixed for the argument and [~~shall~~] will be liberally granted if cause therefor is shown. A party is not obliged to use all of the time allowed, and the court may terminate the argument whenever in its judgment further argument is unnecessary.

(c) Order and Content of Argument. The appellant opens and concludes the argument. [~~If the appellant has not filed a reply brief, however, a concluding or rebuttal argument will not be allowed except by permission of the court or at the request of a justice or judge.~~] The opening argument [~~shall~~] must include a fair statement of the case. Counsel will not be permitted to read at length from briefs, records, or authorities.

(d) Cross-Appeals and Separate Appeals. Unless the court directs otherwise, a cross-appeal or separate appeal [~~shall~~] must be argued with the initial appeal at a single argument. If there is a cross-appeal, Rule 28.1(b) determines which party is the appellant and which is the respondent for the purpose of this Rule, unless the parties otherwise agree or the court otherwise directs. If separate appellants support the same argument, care [~~shall~~] must be taken to avoid duplication of argument.

(e) Nonappearance of a Party. If the respondent fails to appear for argument, the court will hear the appellant's argument. If the appellant fails to appear, the court may hear the respondent's argument. If neither party appears, the case will be decided on the briefs unless the court orders otherwise.

(f) Submission on Briefs.

[~~(1)~~] The court may order a case submitted for decision on the briefs, without oral argument.

[~~(2) The parties may agree to submit a case for decision on the briefs, but the court may direct that the case be argued.~~

~~(3) Appeals brought in pro se and postconviction appeals will be submitted for decision without oral argument, but the court may direct that a case be argued.~~]

(g) [~~Submission on Record Without Briefs~~] Postconviction Appeals. Postconviction appeals may be submitted and decided on the record on appeal without briefing or oral argument when the appellant is **[~~not represented by counsel~~]** proceeding pro se.

REVIEWING NOTE

The proposed amendment in subdivision (a) sets the default time for oral argument at 15 minutes for each side—the standard amount generally scheduled by the court for oral argument—but also gives the court the ability to give each side more time when necessary.

The proposed amendment in subdivision (c) removes the general requirement that an appellant must file a reply brief in order to argue in rebuttal. A reply brief replies to arguments raised for the first time in an opposing brief, whereas rebuttal at argument is intended to address arguments raised in the respondent's oral argument. During oral argument, a respondent

may raise unanticipated arguments or the court may ask questions during the respondent's time that take the argument in an unanticipated direction. An appellant/petitioner should be able to respond to such arguments regardless of whether they filed a reply brief. Because a reply brief and a rebuttal argument are intended to address separate things, the lack of a reply brief should not automatically forfeit rebuttal argument.

The proposed amendments in subdivisions (f) and (g) are not substantive but rather remove redundant language and clarify that postconviction appeals may be decided without briefing or oral argument when the appellant is pro se.

RULE 35. DISQUALIFICATION OF A JUSTICE OR JUDGE

(a) Motion for Disqualification. A request that a justice or judge of the Supreme Court or Court of Appeals be disqualified from sitting in a particular case **[~~shall~~]** must be made by motion. Unless the court permits otherwise, the motion **[~~shall~~]** must be in writing and **[~~shall~~]** must be in the form required by Rule 27. A separate motion for disqualification must be filed for each justice or judge being challenged. A motion for disqualification that seeks the disqualification of more than one judge or justice will be stricken.

(1) Time to File. A motion to disqualify a justice or judge **[~~shall~~]** must be filed with the clerk of the Supreme Court within 60 days after docketing of the appeal under Rule 12, together with proof of service on all other parties. Except for good cause shown, the failure to file a timely motion to disqualify **[~~shall~~]** will be deemed a waiver of the moving party's right to object to a justice's or judge's participation in a case.

(2) Contents of a Motion.

(A) Grounds, Supporting Facts, and Legal Authorities. A motion **[~~shall~~]** must state clearly and concisely in separately numbered

paragraphs each ground relied upon as a basis for disqualification with the specific facts alleged in support thereof and the legal argument, including citations to relevant cases, statutes, or rules, necessary to support it.

(B) Verification. All assertions of fact in a motion must be supported by proper sworn averments in an affidavit or by citations to the specific page and line where support appears in the record of the case.

(i) A verification by affidavit **[~~shall~~]** must be served and filed with the motion.

(ii) The affidavit **[~~shall~~]** must be made upon personal knowledge by a person or persons affirmatively shown competent to testify and **[~~shall~~]** must set forth only those facts that would be admissible in evidence.

(iii) The affidavit **[~~shall~~]** must set forth the date or dates when the moving party first became aware of the facts set forth in the motion.

(C) Attorney's Certificate. A motion under this Rule filed by a party represented by counsel **[~~shall~~]** must contain a certificate signed by at least 1 attorney of record who is an active member of the bar of this state. The certificate must contain the following information:

(i) A representation that the signing attorney has read the motion and supporting documents;

(ii) A representation that the motion and supporting documents are in the form required by this Rule; and

(iii) A representation that, based on personal investigation, the signing attorney believes all grounds asserted to be legally valid and all supporting factual allegations to be true, and that the motion is made in good faith and not for purposes of delay or for other improper motive.

(D) Striking a Motion Without an Attorney's Certificate. If a motion does not contain the certification required by Rule 35(a)(2)(C), it

[~~shall~~] must be stricken unless such a certification is provided within 14 days after the omission is called to the attorney's attention.

(b) Response.

(1) By a Party. Any party may file a response to a motion to disqualify a justice or judge. The response **[~~shall~~]** must be filed within 14 days after service of the motion unless the court shortens or extends the time.

(2) By the Justice or Judge. The challenged justice or judge may submit a response to the motion in writing or orally at any hearing that may be ordered by the court.

(c) Reply. A reply may not be filed unless permission is first obtained from the court.

REVIEWING NOTE

Subdivision (a) is substantively modified to require the filing of a separate motion for disqualification for each justice or judge being challenged.

RULE 36. ENTRY OF JUDGMENT

(a) Entry. The filing of the court's decision or order constitutes entry of the judgment. The clerk **[~~shall~~]** will file the judgment after receiving it from the court. If a judgment is rendered without an opinion, the clerk **[~~shall~~]** will enter the judgment following instruction from the court.

(b) Notice. On the date when judgment is entered, the clerk **[~~shall mail to~~]** will serve all parties a copy of the opinion, if any, or of the order entering judgment, if no opinion was written.

(c) Form of Decision. The Supreme Court and Court of Appeals decide cases by either published or unpublished disposition.

(1) A published disposition is an opinion designated for publication in the Nevada Reports. The Supreme Court or Court of Appeals will decide a case by published opinion if it:

(A) Presents an issue of first impression;

(B) Alters, modifies, or significantly clarifies a rule of law previously announced by either the Supreme Court or the Court of Appeals; or

(C) Involves an issue of public importance that has application beyond the parties.

(2) An unpublished disposition, while publicly available, does not establish mandatory precedent except in a subsequent stage of a case in which the unpublished disposition was entered, in a related case, or in any case for purposes of issue or claim preclusion or to establish law of the case.

(3) A party may cite for its persuasive value, if any, an unpublished disposition issued by the Supreme Court or Court of Appeals **[~~on or after January 1, 2016~~]**. When citing such an unpublished disposition, the party must cite an electronic database, if available, and the docket number and date filed in the Supreme Court or Court of Appeals (with the notation "unpublished disposition"). A party citing such an unpublished disposition must serve a copy of it on any party not represented by counsel.

(d) Duplicate Order or Opinion. [~~(1)~~] The justices of the Supreme Court, judges of the Court of Appeals, or district judges designated by the governor to serve on the Supreme Court or Court of Appeals for a specific case, if they are physically present within the State of Nevada, may sign duplicate copies of any order or opinion. Signed duplicate copies of orders and opinions will be transmitted to the clerk of court for filing. **[~~If duplicate copies of an order or opinion are signed by the various members of the Supreme Court or Court of Appeals, the justices or judges signing the duplicate~~**

~~copies shall date their signatures on duplicate copies and shall immediately inform the clerk of the court that the duplicate copies are signed. The clerk of the court shall then note on the appropriate signature line of the original order or opinion that the absent justices or judges have signed duplicate copies of the order or opinion under this Rule. When possible, a facsimile of each signed duplicate copy of the order or opinion shall also be transmitted immediately to the clerk of the court. The duplicate copies of the order or opinion containing the original signatures of the justices or judges shall be sent by the fastest means available to the clerk of the Supreme Court, who shall place those duplicates in the court's file.~~

~~(2) The clerk shall file an order or opinion that is signed in duplicate under this Rule upon receiving notice from the absent justices or judges that they have signed the duplicate copies. The order or opinion shall be effective for all purposes when the clerk receives notice under this Rule that the requisite number of signatures have been obtained and files the order or opinion. An order or opinion that is signed under this Rule shall contain a notice to the parties that it was signed under this Rule.]~~

~~[(e) Reversal, Modification; Certified Copy of Opinion to Lower Court. Where a judgment is reversed or modified, a certified copy of the opinion or other disposition shall be transmitted with the remittitur to the court below.]~~

~~[(f)~~ (e) Motion to Reissue an Order as an Opinion. A motion to reissue an unpublished disposition or order as an opinion to be published in the Nevada Reports may be made under the provisions of ~~[this subsection]~~ Rule 36(e) by any interested person. With respect to the form of such motions,

the provisions of Rule 27(d) apply; in all other respects, such motions must comply with the following:

(1) Time to File. Such a motion **[~~shall~~]** must be filed within 14 days after the filing of the order. Parties may not stipulate to extend this time period, and any motion to extend this time period must be filed before the expiration of the 14-day deadline.

(2) Response. No response to such a motion **[~~shall~~]** may be filed unless requested by the court.

(3) Contents. Such a motion must be based on one or more of the criteria for publication set forth in Rule 36(c)(1)(A)-(C). The motion must state concisely and specifically on which criteria it is based and set forth argument in support of such contention. If filed by or on behalf of a nonparty, the motion must also identify the movant and his or her interest in obtaining publication.

(4) Decision. The granting or denial of a motion to publish is entrusted to the sound discretion of the panel that issued the disposition. Publication is disfavored if revisions to the text of the unpublished disposition will result in discussion of additional issues not included in the original decision.

(5) Resolution of Motion to Publish Filed in the Court of Appeals When Rule 40B Petition Is Pending in the Supreme Court. When a motion to publish is pending in the Court of Appeals, resolution of any pending petition for review filed in the Supreme Court will be held in abeyance until the motion to publish is resolved.

RULE 37. INTEREST ON JUDGMENTS

(a) When the Court Affirms. Unless the law provides otherwise, if a money judgment in a civil case is affirmed, whatever interest is allowed by law is payable from the date when the district court's judgment was entered.

(b) When the Court Reverses. If the court modifies or reverses a judgment with a direction that a money judgment be entered in the district court, the mandate must contain instructions about the allowance of interest.

RULE 38. FRIVOLOUS CIVIL APPEALS—DAMAGES AND COSTS

[~~(a) Frivolous Appeals; Costs.~~] If the Supreme Court or Court of Appeals determines that an appeal is frivolous**[~~, it may impose monetary sanctions.~~**

[~~(b) Frivolous Appeals; Attorney Fees as Costs. When an appeal has frivolously been taken or been processed in a frivolous manner, when circumstances indicate that an appeal has been taken or processed~~] or was brought or maintained without reasonable ground or solely for purposes of delay, **[~~when an appeal has been occasioned through respondent's imposition on the court below,~~]** or whenever the appellate processes of the court have otherwise been misused, the court may, **[~~on its own motion,~~]** after reasonable opportunity to respond to a notice from the court or a separately filed motion, impose monetary sanctions and/or require the offending party to pay**[~~, as~~]** costs **[~~on appeal, such~~]** or attorney fees as it deems appropriate to discourage like conduct in the future.

REVIEWING NOTE

This rule is substantively changed to remove appeal being occasioned by respondent's imposition on the court below as a basis for a sanction and to provide the alleged offending party an opportunity to respond prior to the court imposing any sanction.

RULE 39. COSTS

(a) Against Whom Assessed. The following rules apply in civil appeals unless the law provides or the court orders otherwise:

(1) if an appeal is dismissed, costs are taxed against the appellant, unless the parties agree otherwise;

(2) if a judgment is affirmed, costs are taxed against the appellant;

(3) if a judgment is reversed, costs are taxed against the respondent;

(4) if a judgment is affirmed in part, reversed in part, modified, or vacated, costs are taxed only as the court orders.

[~~(b) Reserved.~~]

[~~(c) Costs of Briefs, Appendices, Counsel's Transportation; Limitation.~~] (b) Limitations on Costs.

(1) Costs of Copies. The cost of producing necessary copies of briefs or appendices **[~~shall be~~]** is taxable in the Supreme Court or Court of Appeals at **[~~rates not higher than those generally charged for such work in the area where the district court is located~~]** a rate not to exceed 10 cents per page, or at actual cost, whichever is less.

(2) Costs of Counsel's Transportation. The actual costs of round-trip transportation within Nevada for one attorney, actually attending arguments before the Supreme Court or Court of Appeals, **[~~between the place where the district court is located and~~]** to the place where the appeal is argued **[~~shall be~~]** are taxable in the Supreme Court or Court of Appeals. For the purpose of this Rule, "actual costs" for private automobile travel **[~~shall be~~]** is deemed to be **[~~15 cents per mile, but where commercial air transportation is available at a cost less than private automobile travel, only the cost of the air transportation shall be taxable~~]** the rate established by the Internal Revenue Service for business travel at the time such travel occurs.

(3) Bill of Costs. Only those categories of costs identified in Rule 39(b)(1) and (2) are taxable in the Supreme Court or Court of Appeals. A party

who wants such costs taxed **[~~shall~~]** must—within 14 days after entry of judgment—file an itemized and verified bill of costs with the clerk, with proof of service.

(4) Objections. Objections to a bill of costs **[~~shall~~]** must be filed within 7 days after service of the bill of costs, unless the court extends the time.

(5) Limit on Costs. The maximum amount of costs taxable under **[~~this section~~]** Rule 39(b)(1) and (2) **[~~shall be $500~~]** is $750.

[~~(d)~~] (c) Clerk to Insert Costs in Remittitur. The clerk **[~~shall~~]** will prepare and certify an itemized statement of costs taxed in the Supreme Court or Court of Appeals for insertion in the remittitur, but issuance of the remittitur must not be delayed for taxing costs. If the remittitur issues before costs are finally determined, the district court clerk must—upon the Supreme Court clerk's request—add the statement of costs, or any amendment of it, to the remittitur.

[~~(e)~~] (d) Costs on Appeal Taxable in the District Courts. The following costs on appeal are taxable in the district court for the benefit of the party entitled to costs under this Rule:

(1) the preparation and transmission of the record;

(2) the reporter's transcript, if **[~~needed~~]** necessary to determine the appeal;

[~~(3) preparation of the appendix;~~]

[~~(4)~~] (3) premiums paid for a supersedeas bond or other **[~~bond~~]** security to preserve rights pending appeal; and

[~~(5)~~] (4) the fee for filing the notice of appeal.

REVIEWING NOTE

Former subdivision (c) is now subdivision (b). Changes to what is now subdivision (b)(1) seek to create more certainty in the copying cost rates that

are allowed. Changes to what is now subdivision (b)(2) seek to reflect that counsel may travel from a location that is not where the district court is located and to have recoverable private automobile travel costs track the Internal Revenue Service standard. Changes to what is now subdivision (b)(3) clarify the existing rule that only the costs identified in what are now subdivisions (b)(1) and (b)(2) can be taxed in the appellate courts; all other costs for an appeal must be sought in the district court. Because preparation of the appendix is generally not a hard cost but rather performed by an attorney and/or staff, that has been removed from the list of costs in what is now subdivision (d).

RULE 40. PETITION FOR REHEARING

(a) ~~[Procedure and Limitations.]~~ Grounds for Rehearing. The court may consider rehearing in the following circumstances:

(1) When the court has overlooked or misapprehended a material fact in the record or a material question of law in the case;

(2) When the court has overlooked, misapplied, or failed to consider a statute, procedural rule, regulation, or decision directly controlling a dispositive issue in the case; or

(3) When a new rule of law, directly controlling on the disposition of the issues in the case, has issued after the court announced its order or opinion but within the time fixed for filing a petition for rehearing.

~~**[(1) Time. Unless the time is shortened or enlarged by order, a petition for rehearing may be filed within 18 days after the filing of the appellate court's decision under Rule 36. The 3-day mailing period set forth in Rule 26(c) does not apply to the time limits set by this Rule.]**~~

[~~(2)~~] (b) Content[~~s~~] of Petition. The petition **[~~shall~~]** must state **[~~briefly and~~]** with particularity the points of law or fact that the petitioner believes the court has overlooked or misapprehended and **[~~shall~~]** must contain such argument in support of the petition as the petitioner desires to present. **[~~Oral argument in support of the petition will not be permitted.~~]** Any claim that the court has overlooked or misapprehended a material fact **[~~shall~~]** must be supported by a reference to the page of the transcript, appendix, or record where the matter is to be found; any claim that the court has overlooked or misapprehended a material question of law or has overlooked, misapplied, or failed to consider controlling authority **[~~shall~~]** must be supported by a reference to the page of the brief where petitioner has raised the issue. Except as necessary to establish the grounds for rehearing set forth in Rule 40(a), matters presented in the briefs and oral arguments may not be reargued, and no point may be raised for the first time. Oral argument in support of the petition will not be permitted.

[~~(3) Petitions in Criminal Appeals; Exhaustion of State Remedies. A decision by a panel of the Supreme Court, the en banc Supreme Court, or the Court of Appeals resolving a claim of error in a criminal case, including a claim for postconviction relief, is final for purposes of exhaustion of state remedies in subsequent federal proceedings. Rehearing is available only under the limited circumstances set forth in Rule 40(e). Petitions for rehearing filed on the pretext of exhausting state remedies may result in sanctions under Rule 40(g).~~]

[~~(1)~~] (c) Time for Filing. Unless the time is shortened or enlarged by order, any party may file a petition for rehearing **[~~may be filed~~]** within **[~~18~~]** 14 days after the filing of the appellate court's decision under Rule 36. The 3-

day mailing period set forth in Rule 26(c) does not apply to the time limits set by this Rule.

(d) Filing Fee. Except as otherwise provided by statute, a $150 filing fee must be paid to the clerk at the time a petition for rehearing is submitted for filing.

(e) Response to Petition and Reply. No response to a petition for rehearing may be filed unless requested by the court. The response to a petition for rehearing must be filed within 14 days after entry of the order requesting the response, unless otherwise directed by the court. A petition for rehearing will ordinarily not be granted in the absence of a request for a response. If a response to the petition is ordered, the petitioner may file a reply within 7 days after service of the response. A reply must not present matters that do not relate to the response.

[~~(b)~~] (f) Form of Petition [~~and Answer~~], Response, and Reply; Number of Copies; [~~Length;~~] Certificate of Compliance[~~; Filing Fee~~].

[~~(1) Decision of Court of Appeals or Supreme Court Panel.~~] A petition for rehearing of a decision of the Court of Appeals or of a **[~~panel of the~~]** Supreme Court panel, or **[~~an answer~~]** a response to such a petition, or a reply, **[~~shall~~]** must comply in form with Rule 32, and unless e-filed, **[~~an~~]** the original **[~~and 5 copies shall~~]** must be filed with the clerk. **[~~unless the court by order in a particular case shall direct a different number.~~]** One copy **[~~shall~~]** must be served on counsel for each party separately represented. The petition, response, or reply must include a certificate that the submission complies with the formatting requirements of Rule 32(a)(4)-(6) and the page or type-volume limitation of this Rule, computed in compliance with Rule 32(a)(7)(C), and must be accompanied by a completed certificate of compliance

substantially similar to the Certificate of Compliance for Rules 40, 40A, and 40B Form on the Nevada Supreme Court website.

~~[(2) En Banc Decision. A petition for rehearing of a decision of the en banc Supreme Court, or an answer to the petition, shall comply in form with Rule 32, and an original and 9 copies shall be filed with the clerk unless the court by order in a particular case shall direct a different number. One copy shall be served on counsel for each party separately represented.]~~

~~[(3)]~~ **(g) Length of Petition, Response, and Reply.** Except by permission of the court, a petition for rehearing, or ~~[an answer]~~ a response to the petition, ~~[shall]~~ may not exceed 10 pages or 4,667 words or, if it uses a monospaced typeface, 433 lines of text. ~~[Alternatively, the petition or answer is acceptable if it contains no more than 4,667 words, or if it uses a monospaced typeface, and contains no more than 433 lines of text.]~~ Any reply may not exceed one half of the page or type-volume limitation of the petition.

~~[(4) Certificate of Compliance. A petition for rehearing or an answer shall include a certificate that the submission complies with the formatting requirements of Rule 32(a)(4)-(6) and the page- or type-volume limitation of this Rule, computed in compliance with Rule 32(a)(7)(C) must be accompanied by a completed certificate of compliance substantially similar to Form 16 in the Appendix of Forms.]~~

~~[(5) Filing Fee. Except as otherwise provided by statute, a $150 filing fee shall be paid to the clerk at the time a petition for rehearing is submitted for filing.]~~

~~[(c) Scope of Application; When Rehearing Considered.~~

~~(1) Matters presented in the briefs and oral arguments may not be reargued in the petition for rehearing, and no point may be raised for the first time on rehearing.~~

~~(2) The court may consider rehearings in the following circumstances:~~

~~(A) When the court has overlooked or misapprehended a material fact in the record or a material question of law in the case, or~~

~~(B) When the court has overlooked, misapplied or failed to consider a statute, procedural rule, regulation or decision directly controlling a dispositive issue in the case.]~~

~~[(d) Answer; Reply. No answer to a petition for rehearing or reply to an answer shall be filed unless requested by the court. Unless otherwise ordered by the court, the answer to a petition for rehearing shall be filed within 14 days after entry of the order requesting the answer. A petition for rehearing will ordinarily not be granted in the absence of a request for an answer.]~~

(h) Decision by Court. A court's decision to grant or deny a petition for rehearing is final and not subject to further requests for rehearing.

[~~(e)~~] (i) **Action by Court [~~if~~] When Petition Granted.** If a petition for rehearing is granted, the court may make a final disposition of the cause without **[re]**argument or may restore it to the calendar for **[re]**argument or resubmission or may make such other orders as are deemed appropriate under the circumstances of the particular case. A petition for rehearing of a decision of a **[~~panel of the~~]** Supreme Court panel **[~~shall~~]** must be reviewed by the panel that decided the matter. If the panel determines that rehearing is

warranted, rehearing before that panel will be held. The full court **[~~shall~~]** must consider a petition for rehearing of an en banc decision.

[~~(f)~~] (j) Untimely Petition[~~s; Unrequested Answer or Reply~~]. A petition for rehearing is timely if e-filed, mailed, or sent by commercial carrier to the clerk within the time fixed for filing. The clerk **[~~shall~~]** must not receive or file an untimely petition, but **[~~shall~~]** must return the petition unfiled or, if the petition was e-filed, must reject the petition. **[~~The clerk shall return unfiled any answer or reply submitted for filing in the absence of an order requesting the same.~~]**

(k) Unrequested Response. Absent an order requesting a response, the clerk must not receive or file a response, but must return it unfiled or, if the response was e-filed, must reject it.

[~~(g) Sanctions. Petitions for rehearing which do not comply with this Rule may result in the imposition of appropriate sanctions.~~]

(l) Petition in Criminal Appeals; Exhaustion of State Remedies. A decision by a Supreme Court panel, the en banc Supreme Court, or the Court of Appeals resolving a claim of error in a criminal case, including a claim for postconviction relief, is final for purposes of exhaustion of state remedies in subsequent federal proceedings. Rehearing is available only under the limited circumstances set forth in Rule 40(a).

REVIEWING NOTE

The proposed amendments to this Rule are both stylistic and substantive. Initially, the NRAP Commission sought to bring NRAP 40, 40A, and 40B into harmony with one another, by utilizing similar structure and language throughout all three rules. Subdivision (a) now lists three grounds for rehearing (as opposed to just two), and subdivision (a)(3) would permit rehearing in the event a new rule of law is issued after the court's disposition,

but before the rehearing deadline. Subdivision (b) clarifies that "except as necessary to establish the grounds for rehearing" matters presented in the briefs and oral arguments may not be reargued, and no point may be raised for the first time. Subdivision (c) reduces the time for filing a petition for rehearing from 18 days to 14 days, in conformity with FRAP 40. Additionally, the "answer" to a petition for rehearing is now referred to as the "response" throughout NRAP 40, in conformity with FRAP 40. In the event the court orders a response to a petition for rehearing, subdivision (e) now expressly provides for the filing of a reply within 7 days after service of the response.

RULE 40A. PETITION FOR EN BANC RECONSIDERATION OF A SUPREME COURT PANEL DECISION

(a) Grounds for En Banc Reconsideration. En banc reconsideration of a decision of a **[~~panel of the~~]** Supreme Court panel is not favored and ordinarily will not be ordered except when:

(1) reconsideration by the full court is necessary to secure or maintain uniformity of decisions of the Supreme Court or Court of Appeals, or

(2) the proceeding involves a substantial precedential, constitutional, or public policy issue. **[~~The court considers a decision of a panel of the court resolving a claim of error in a criminal case, including a claim for postconviction relief, to be final for purposes of exhaustion of state remedies in subsequent federal proceedings. En banc reconsideration is available only under the limited circumstances set forth in Rule 40A(a). Petitions for en banc reconsideration in criminal cases filed on the pretext of exhausting state remedies may result in the imposition of sanctions under Rule 40A(g).~~]**

(b) Content of Petition. A petition based on grounds that full court reconsideration is necessary to secure and maintain uniformity of the decisions

of the Supreme Court or Court of Appeals must demonstrate that the panel's decision is contrary to prior, published opinions of the Supreme Court or Court of Appeals and must include specific citations to those cases. A petition based on grounds that the proceeding involves a substantial precedential, constitutional, or public policy issue must concisely set forth the issue, must specify the nature of the issue, and must demonstrate the impact of the panel's decision beyond the litigants involved. The petition must be supported by points and authorities and must contain argument in support of these points. Except as necessary to establish the grounds for reconsideration set forth in Rule 40A(a), matters presented in the briefs and oral arguments may not be reargued in the petition, and no point may be raised for the first time. Oral argument in support of the petition will not be permitted.

[~~(b)~~] (c) Time for Filing[~~; Effect of Filing on Finality of Judgment~~]. Unless the time is shortened or enlarged by order, **[~~A~~]**any party may petition for en banc reconsideration of a Supreme Court panel's decision within 14 days after **[~~written entry~~]** the filing of the panel's decision under Rule 36 or, if the party timely filed a petition for rehearing, within 14 days after the filing of the panel's decision to deny rehearing. A petition for en banc reconsideration may not be filed while a petition for rehearing is pending before the panel. The 3-day mailing period set forth in Rule 26(c) does not apply to the time limits set by this Rule. No petition for en banc reconsideration of a Supreme Court panel's decision to grant rehearing is allowed; however, if a panel grants rehearing, any party may petition for en banc reconsideration of the panel's decision on rehearing within 14 days after **[~~written entry~~]** the filing of the decision. **[~~If no petition for rehearing of the Supreme Court panel's decision is filed, then no petition for en banc reconsideration is allowed.~~]**

~~[(c) Content of Petition. A petition based on grounds that full court reconsideration is necessary to secure and maintain uniformity of the decisions of the Supreme Court or Court of Appeals shall demonstrate that the panel's decision is contrary to prior, published opinions of the Supreme Court or Court of Appeals and shall include specific citations to those cases. If the petition is based on grounds that the proceeding involves a substantial precedential, constitutional or public policy issue, the petition shall concisely set forth the issue, shall specify the nature of the issue, and shall demonstrate the impact of the panel's decision beyond the litigants involved. The petition shall be supported by points and authorities and shall contain such argument in support of the petition as the petitioner desires to present. Matters presented in the briefs and oral arguments may not be reargued in the petition, and no point may be raised for the first time.]~~

(d) Response to Petition and Reply. No response to a petition for en banc reconsideration may be filed unless requested by the court. The response to a petition for en banc reconsideration must be filed within 14 days after entry of the order requesting the response, unless otherwise directed by the court. A petition for en banc reconsideration will ordinarily not be granted in the absence of a request for a response. If a response to the petition is ordered, the petitioner may file a reply within 7 days after service of the response. A reply must not present matters that do not relate to the response.

[~~(d)~~] (e) Form of Petition, [~~and Answer~~] Response, and Reply; Number of Copies; [~~Length;~~] Certificate of Compliance. A petition for en banc reconsideration of a Supreme Court panel's decision, **[~~or an answer~~]** a response to such a petition, or a reply must **[~~shall~~]** comply in form with Rule

32, and unless e-filed, [~~an~~] the original [~~and 8 copies shall~~] must be filed with the clerk, [~~unless the court by order in a particular case shall direct a different number.~~] One copy [~~shall~~] must be served on counsel for each party separately represented. The petition, response, or reply must include the certification required by Rule 40(f) and must be substantially similar to the Certificate of Compliance for Rules 40, 40A, and 40B Form on the Nevada Supreme Court website. [~~Except by permission of the court, a petition for en banc reconsideration, or an answer to such a petition, shall not exceed 10 pages. Alternatively, the petition or answer is acceptable if it contains no more than 4,667 words, or if it uses a monospaced typeface, and contains no more than 433 lines of text. The petition or answer shall include the certification required by NRAP 40(b)(4) in substantially the form suggested in Form 16 of the Appendix of Forms.~~]

(f) Length of Petition, Response, and Reply. Except by permission of the court, a petition for en banc reconsideration, or a response to such a petition, may not exceed 10 pages or 4,667 words or, if it uses a monospaced typeface, 433 lines of text. Any reply may not exceed one half of the page or type-volume limitation of the petition.

[~~(c) Answer and Reply. No answer to a petition for en banc reconsideration or reply to an answer shall be filed unless requested by the court. Unless otherwise ordered by the court, the answer to a petition for en banc reconsideration shall be filed within 14 days after entry of the order requesting the answer. A petition for en banc reconsideration will ordinarily not be granted in the absence of a request for an answer.~~]

(g) Decision by Supreme Court. Any two justices may compel the court to grant a petition for en banc reconsideration. The Supreme Court's decision to grant or deny a petition for en banc reconsideration is final and not subject to further requests for rehearing or reconsideration.

[~~(f)~~] (h) Action by Supreme Court [~~if~~] When Petition Granted. **[~~Any two justices may compel the court to grant a petition for en banc reconsideration.~~]** If a petition for en banc reconsideration is granted, the court may make a final disposition of the cause without **[re]**argument or may place it on the en banc calendar for **[~~re~~]**argument or resubmission or may make such other orders as are deemed appropriate under the circumstances of the particular case.

[~~(g) Frivolous Petitions; Costs Assessed. Unless a case meets the rigid standards of Rule 40A(a), the duty of counsel is discharged without filing a petition for en banc reconsideration of a panel decision. Counsel filing a frivolous petition shall be deemed to have multiplied the proceedings in the case and to have increased costs unreasonably and vexatiously. At the discretion of the court, counsel personally may be required to pay an appropriate sanction, including costs and attorney fees, to the opposing party.~~]

[~~(h)~~] (i) Untimely Petition[~~s; Unrequested Answer or Reply~~]. A petition for en banc reconsideration is timely if e-filed, mailed, or sent by commercial carrier to the clerk within the time fixed for filing. The clerk **[~~shall~~]** must not receive or file an untimely petition, but **[~~shall~~]** must return the petition unfiled or, if the petition was e-filed, must reject the petition. **[~~The clerk shall return unfiled any answer or reply submitted for filing in the absence of an order requesting the same.~~]**

(j) Unrequested Response. Absent an order requesting a response, the clerk must not receive or file a response, but must return it unfiled or, if the response was e-filed, must reject it.

(k) Petition in Criminal Appeals; Exhaustion of State Remedies. A decision of a Supreme Court panel resolving a claim of error in a criminal case, including a claim for postconviction relief, is final for purposes of exhaustion of state remedies in subsequent federal proceedings. En banc reconsideration is available only under the limited circumstances set forth in Rule 40A(a).

REVIEWING NOTE

The proposed amendments to this Rule are both stylistic and substantive. Initially, the NRAP Commission sought to bring NRAP 40, 40A, and 40B into harmony with one another, by utilizing similar structure and language throughout all three rules. Like the analogous federal rule (FRAP 35), subdivision (c) allows a party to file a petition for en banc reconsideration without first filing a petition for rehearing under Rule 40. However, a petition for en banc reconsideration may not be filed while a petition for rehearing is pending before the panel. The "answer" to a petition for en banc reconsideration is now referred to as the "response" throughout Rule 40A, in conformity with the federal rules. In the event the court orders a response to a petition for en banc reconsideration, subdivision (d) now expressly provides for the filing of a reply within 7 days after service of the response.

RULE 40B. PETITION FOR REVIEW BY THE SUPREME COURT

(a) [~~Decisions of Court of Appeals Reviewable by Petition for Review~~] Grounds for Review. A decision of the Court of Appeals is a final decision that is not reviewable by the Supreme Court except on petition for

review. **[~~A party aggrieved by a decision of the Court of Appeals may file a petition for review with the clerk of the Supreme Court. The petition must state the question(s) presented for review and the reason(s) review is warranted.~~]** Supreme Court review is not a matter of right but of judicial discretion. The following, while neither controlling nor fully measuring the Supreme Court's discretion, are factors that will be considered in the exercise of that discretion:

(1) Whether the question presented is one of first impression of general statewide significance;

(2) Whether the decision of the Court of Appeals conflicts with a prior decision of the Court of Appeals, the Supreme Court, or the United States Supreme Court; **[~~or~~]**

(3) Whether the case involves fundamental issues of statewide public importance; or

(4) Whether the question presented was raised by the parties below or decided by the Court of Appeals.

(b) Content of Petition; Question(s) Presented. A petition for review must state the question(s) presented for review and the reason(s) review is warranted and may include citation of authority in support of that contention. No citation to authority or argument may be incorporated into the petition by reference to another document. The question(s) presented for review must appear on the first page after the cover.

[~~(b) Petition in Criminal Appeals; Exhaustion of State Remedies. In all appeals from criminal convictions or postconviction relief matters, a party shall not be required to petition for review of an adverse decision of the Court of Appeals in order to be deemed to have exhausted all available state remedies respecting a claim of error.~~]

~~Rather, when a claim has been presented to the Court of Appeals and relief has been denied, the party shall be deemed to have exhausted all available state remedies. Review of decisions of the Court of Appeals by the Nevada Supreme Court is limited to the circumstances set forth in these Rules and is an extraordinary remedy outside the normal process of appellate review, which is not available as a matter of right.]~~

(c) Time for Filing. Unless the time is shortened or enlarged by order, any party may file a **[A]** petition for review **[~~of a decision of the Court of Appeals must be filed in the Supreme Court~~]** within **[~~18~~]** 14 days after the filing of the Court of Appeals' decision under Rule 36, or its decision on rehearing under Rule 40. A petition for review **[~~shall~~]** may not be filed while a petition for rehearing is pending in the Court of Appeals. The 3-day mailing period set forth in Rule 26(c) does not apply to the time limits set by this Rule. **[~~The clerk of the Supreme Court shall not receive or file an untimely petition, but shall return the petition unfiled.~~]**

[~~(d) Content and Form of Petition. A petition for review shall comply in form with Rule 32, and an original and 9 copies shall be filed with the clerk unless the court by order in a particular case shall direct a different number. The petition may not exceed 10 pages or 4,667 words or, if it uses a monospaced typeface, 433 lines of text. The petition shall succinctly state the precise basis on which the party seeks review by the Supreme Court and may include citation of authority in support of that contention. No citation to authority or argument may be incorporated into the petition by reference to another document.~~]

[~~(e)~~] (d) Response to Petition and Reply. No response to a petition for review **[~~shall~~]** may be filed unless requested by the Supreme Court. The response to a petition for review must be filed within 14 days after entry of the order requesting the response, unless otherwise directed by the court. A petition for review will not ordinarily be granted in the absence of a request for a response. If a response to the petition is ordered, the petitioner may file a reply within 7 days after service of the response. A reply must not present matters that do not relate to the response.

(e) Form of Petition, Response, and Reply; Number of Copies; Certificate of Compliance. A petition for review of a Court of Appeals' decision, a response to such a petition, or a reply must comply in form with Rule 32, and unless e-filed, an original must be filed with the clerk. One copy must be served on counsel for each party separately represented. The petition, response, or reply must include the certification required by Rule 40(f) and must be substantially similar to the Certificate of Compliance for Rules 40, 40A, and 40B Form on the Nevada Supreme Court website.

(f) Length of Petition, Response, and Reply. Except by permission of the court, a petition for review by the Supreme Court, or a response to such a petition, may not exceed 10 pages or 4,667 words or, if it uses a monospaced typeface, 433 lines of text. Any reply may not exceed one half of the page or type-volume limitation of the petition.

[~~(f)~~] (g) Decision by Supreme Court. The Supreme Court may grant a petition for review on the affirmative vote of a majority of the justices. The Supreme Court's decision to grant or deny a petition is final and is not subject to further requests for rehearing or reconsideration.

[~~(g)~~] (h) Action by Supreme Court When Petition Granted. The Supreme Court may limit the question(s) on review. The Supreme Court's

review on the grant of a petition for review **[~~shall~~]** will be conducted on the record and briefs previously filed in the Court of Appeals, but the Supreme Court may require supplemental briefs on the merits of all or some of the issues for review. Unless otherwise ordered, a grant of a petition for review does not vacate the Court of Appeals' decision.

(i) Untimely Petitions. A petition for review is timely if e-filed, mailed, or sent by commercial carrier to the clerk within the time fixed for filing. The clerk of the Supreme Court must not receive or file an untimely petition, but must return the petition unfiled or, if the petition was e-filed, must reject the petition.

(j) Unrequested Response. Absent an order requesting a response, the clerk must not receive or file a response, but must return it unfiled or, if the response was e-filed, must reject it.

(k) Petition in Criminal Appeals; Exhaustion of State Remedies. A decision of the Court of Appeals resolving a claim of error in a criminal case, including a claim for postconviction relief, is final for purposes of exhaustion of state remedies in subsequent federal proceedings. Review of decisions of the Court of Appeals by the Supreme Court is available only under the limited circumstances set forth in Rule 40B(a).

REVIEWING NOTE

The proposed amendments to this Rule are both stylistic and substantive. Initially, the NRAP Commission sought to bring NRAP 40, 40A, and 40B into harmony with one another, by utilizing similar structure and language throughout all three rules. Subdivision (a) provides the Supreme Court with an additional factor to consider when deciding whether to grant review—"[w]hether the question presented was raised by the parties below or decided by the Court of Appeals"—understanding that some parties may utilize

Rule 40B to seek a second bite at the apple by raising new issues that were not previously raised or decided. Subdivision (b) adds a requirement that "[t]he question(s) presented for review must appear on the first page after the cover." Subdivision (c) changes the time for filing a petition for review from 18 days to 14 days. In the event the court orders a response to a petition for review, subdivision (d) now expressly provides for the filing of a reply within 7 days after service of the response. Subdivision (h) clarifies that "[u]nless otherwise ordered, a grant of a petition for review does not vacate the Court of Appeals' decision."

RULE 41. ISSUANCE OF REMITTITUR; STAY OF REMITTITUR

(a) [~~When Issued; Contents.~~

~~(1) When Issued. The court's remittitur shall issue 25 days after the entry of judgment unless the time is shortened or enlarged by order. Unless an appeal or other proceeding is dismissed under Rule 42, a formal remittitur shall issue.~~

~~(2)~~] Contents. A certified copy of the judgment and **[~~opinion~~]** written decision of the court **[~~, if any,~~]** and any direction as to costs **[~~shall~~]** will be included with the remittitur.

(b) When Issued. The court's remittitur will issue 21 days after the entry of judgment unless the time is shortened or enlarged by order. Unless an appeal or other proceeding is an original proceeding under Rules 5 or 21 or is dismissed under Rule 42, a formal remittitur will issue.

(c) Effective Date. The remittitur is effective when issued.

[~~(b)~~] (d) Stay of Remittitur.

(1) Petition for Rehearing or En Banc Reconsideration. The timely filing of a petition for rehearing or en banc reconsideration stays the remittitur until disposition of the petition, unless the court orders otherwise.

If the petition is denied, the remittitur **[~~shall~~]** will issue 21 days after entry of the order denying the petition, unless the time is shortened or enlarged by order.

(2) Petition for Review by Supreme Court. The timely filing of a petition for review by the Supreme Court of a Court of Appeals' decision **[~~shall~~]** stays the issuance of the remittitur of the Court of Appeals. Upon the issuance of an order denying a petition for review, the clerk of the Supreme Court **[~~shall~~]** will issue the remittitur.

(3) Application for Certiorari to the United States Supreme Court.

(A) A party may file a motion to stay the remittitur pending application to the United States Supreme Court **[~~of the United States~~]** for a writ of certiorari. The motion must be served on all parties and must show there is good cause for a stay and identify the question(s) the party expects to present to the United States Supreme Court. The motion should include a citation to where the question(s) identified were raised and resolved in Nevada state courts and, if not, state why the motion should not be denied.

(B) The stay **[~~shall~~]** must not exceed 120 days, unless the period is extended for cause shown. If during the period of the stay there is filed with the clerk of the Supreme Court of Nevada a notice from the clerk of the United States Supreme Court **[~~of the United States~~]** that the party who has obtained the stay has filed a petition for the writ in that court, the stay **[~~shall~~]** will continue until final disposition by the United States Supreme Court **[~~of the United States~~]**.

(C) The court may require a bond or other security as a condition to granting or continuing a stay of the remittitur.

(D) The clerk of the Supreme Court [~~shall~~] will issue the remittitur immediately when a copy of a United States Supreme Court order denying the petition for writ of certiorari is filed.

RULE 42. VOLUNTARY DISMISSAL

[~~(a) Reserved.~~]

[~~(b) Dismissal in the Supreme Court or Court of Appeals.~~] The clerk may dismiss an appeal or other proceeding [~~if the parties file a signed dismissal agreement specifying how costs are to be paid~~] upon stipulation of the parties or uncontested motion by the appellant or petitioner and payment of any fees that are due. But no remittitur or other process shall issue without a court order. [~~An appeal may be dismissed on the appellant's motion~~] Dismissal may be on terms agreed to by the parties or as fixed by the court.

REVIEWING NOTE

To be consistent with NRAP 27(c)(3), this rule is amended to allow the clerk to also dismiss an appeal or other proceeding upon a motion for voluntary dismissal. The requirement to specify how costs are to be paid has been removed so that the clerk is also able to dismiss an appeal or other proceeding when the motion/stipulation for voluntary dismissal does not specify payment of costs.

RULE 43. SUBSTITUTION OF PARTIES

(a) Death of a Party.

(1) After Notice of Appeal Is Filed. If a party dies after a notice of appeal has been filed or while a proceeding is pending in the Supreme Court or Court of Appeals, the decedent's personal representative may be substituted as a party on motion filed by the representative or by any party with the clerk

of the Supreme Court. A party's motion **[shall]** must be served on the representative in accordance with Rule 25. If the decedent has no representative, any party may suggest the death on the record, and the court may then direct appropriate proceedings.

(2) Before Notice of Appeal Is Filed—Potential Respondent. If a party against whom an appeal may be taken dies after entry of a judgment or order in the district court, but before a notice of appeal is filed, an appellant may proceed as if death had not occurred. After the notice of appeal is filed, substitution **[~~shall~~]** will be in accordance with Rule 43(a)(1).

(3) Before Notice of Appeal Is Filed—Potential Appellant. If a party entitled to appeal dies before filing a notice of appeal, the decedent's personal representative—or, if there is no personal representative, the decedent's attorney of record—may file a notice of appeal within the time prescribed by these Rules. After the notice of appeal is filed, substitution **[shall]** will be in accordance with Rule 43(a)(1).

(b) Substitution for a Reason Other Than Death. If a party needs to be substituted for any reason other than death, the procedure prescribed in Rule 43(a) applies.

(c) Public Officer: Identification; Substitution.

(1) Automatic Substitution of Officeholder. When a public officer who is a party to an appeal or other proceeding in an official capacity dies, resigns, or otherwise ceases to hold office, the action does not abate. The public officer's successor is automatically substituted as a party. Proceedings following the substitution **[~~shall~~]** will be in the name of the substituted party, but any misnomer that does not affect the substantial rights of the parties **[~~shall~~]** will be disregarded. An order of substitution may be entered at any time, but the failure to enter an order **[~~shall~~]** will not affect the substitution.

(2) Identification of Party. A public officer who is a party to an appeal or other proceeding in an official capacity may be described as a party by the public officer's official title rather than by name; but the court may require the public officer's name to be added.

RULE 44. CASES INVOLVING CONSTITUTIONAL QUESTIONS WHERE STATE IS NOT A PARTY

If a party questions the constitutionality of an Act of the Legislature in any proceeding, including civil and criminal matters, in which the state or its agency, officer, or employee is not a party in an official capacity, the questioning party **[shall]** must give written notice to the clerk of the Supreme Court immediately upon the filing of the docketing statement or as soon as the question is raised in the court. The clerk **[~~shall~~]** must then certify that fact to the Attorney General.

RULE 45. CLERK'S DUTIES

(a) General Provisions.

(1) Qualifications. The clerk of the Supreme Court **[~~shall~~]** must take the oath and post any bond required by law. Neither the clerk nor any deputy clerk **[~~shall~~]** may practice as an attorney or counselor in any court while in office.

(2) When Court Is Open. **[~~The Supreme Court and Court of Appeals are always open for filing any proper paper, issuing and returning process, making a motion, and entering an order.~~]** The clerk's office with the clerk or a deputy in attendance **[~~shall~~]** will be open during business hours on all days except Saturdays, Sundays, and nonjudicial days. The court may provide by rule or by order that the clerk's office **[~~shall~~]** will be open for specified hours on Saturdays or on particular nonjudicial days. In

exceptional circumstances, the court may provide by order for closure of the court for a limited period.

(b) Records.

(1) The Docket. The clerk **[~~shall~~]** must maintain a docket, in the form and style prescribed by the court, and **[~~shall~~]** must enter therein each case. Cases **[~~shall~~]** will be assigned consecutive file numbers. The file number of each case **[~~shall~~]** must be noted on the folio of the docket whereon the first entry is made. All papers filed with the clerk and all process, orders, and judgments **[~~shall~~]** will be entered chronologically in the docket on the folio assigned to the case. Entries **[~~shall~~]** will be brief but **[~~shall~~]** must show the nature of each paper filed or judgment or order entered. The entry of an order or judgment **[~~shall~~]** will show the date the entry is made. The clerk **[~~shall~~]** will keep a suitable index of cases contained in the docket.

(2) Calendar. The clerk **[~~shall~~]** will prepare, under the direction of the court, a calendar of cases awaiting argument. In placing cases on the calendar for argument, the clerk **[~~shall~~]** will give preference to appeals in criminal cases and to appeals and other proceedings entitled to preference by law.

(3) Other Records. The clerk **[~~shall~~]** will keep such other books and records as may be required from time to time by the court.

(c) Notice of Orders or Judgments. Upon the entry of an order or judgment, the clerk **[~~shall~~]** will immediately serve a notice of entry by mail on each party, with a copy of any opinion, and **[~~shall~~]** will make a note in the docket of the mailing. Service on a party represented by counsel **[~~shall~~]** will be made on counsel.

(d) Custody of Records and Papers. The clerk has custody of the court's records and papers. Unless the court orders or instructs otherwise, the clerk **[~~shall~~]** must not permit an original record or paper to be taken from the

clerk's custody. Upon disposition of the case, original papers transmitted from a court or agency **[~~shall~~]** must be returned to the court or agency from which they were received. The clerk **[~~shall~~]** must preserve a copy of any briefs or other papers that have been filed. The transcript and appendices to the briefs must be retained for 90 days after issuance of the remittitur, and then may be destroyed.

(e) Office Location; Attendance at Court Sessions[~~; Removal of Papers~~].

(1) The clerk's office **[~~shall~~]** will be kept in Carson City, Nevada.

(2) The clerk or the clerk's deputy **[~~shall~~]** will attend **[~~in person~~]** the sessions of the court.

(f) Fees. The clerk **[~~shall~~]** is not **[be]** required to file any paper or record in the clerk's office or docket any proceeding until the fee required by law and these Rules has been paid.

[~~RULE 45A. SEAL OF SUPREME COURT~~]

[~~The seal of the Supreme Court shall contain the words "Supreme Court State of Nevada" on the upper part of the outer edge, preceded and followed by a star; and the words "Fiat Justitia" on the lower part of the outer edge, running from left to right; and in the center an eagle with its left wing displayed and the figure of the Goddess of Liberty, her left hand holding a liberty pole surmounted by a Phrygian cap, her right hand supporting a shield.~~]

REVIEWING COMMENT

SB 63, which was passed this year, amends the statutes regarding court seals. As amended, NRS 1.140, now reads:

1. Each court of justice in this State shall have a seal.

2. The Supreme Court shall adopt rules relating to the format of a seal required by subsection 1 and the use and storage of any such seal.

As a result of this amendment, the Supreme Court will have to adopt provisions regarding court seals that were previously contained in NRS 1.140-1.190. Since the rules regarding seals will apply to all courts of justice, and not just the appellate courts, it appears that the best place to adopt those rules will be in the SCR. In order to keep all of the rules regarding seals together, the subcommittee recommends repealing this Rule and including the language from this Rule, as well as language regarding the seal for the Court of Appeals, with the other rules regarding court seals to be added to the SCR. Repealing this Rule will not require renumbering other rules in the NRAP. The following is the language that the subcommittee suggests be added to the SCR.

SEALS OF THE APPELLATE COURTS

(a) Supreme Court. The seal of the Supreme Court must contain the words "Supreme Court State of Nevada" on the upper part of the outer edge, preceded and followed by a star; and the words "Fiat Justitia" on the lower part of the outer edge, running from left to right; and in the center an eagle with its left wing displayed and the figure of the Goddess of Liberty, her left hand holding a liberty pole surmounted by a Phrygian cap, her right hand supporting a shield.

(b) Court of Appeals. The seal of the Court of Appeals is the Nevada State Seal, as described in NRS 235.010.

RULE 46. ATTORNEYS

(a) Practice Before Supreme Court or Court of Appeals—Bar Membership Required; Exceptions.

(1) Bar Membership Required. **[~~No person may practice law~~]** To represent a party before the Supreme Court or Court of Appeals, **[~~who is not~~]**

an attorney must be an active member of the State Bar of Nevada except as provided by SCR 42, 43, 49.1, 49.3, or 49.5 and subject to **[~~Rule~~]** NRAP 46(a)(3).

(2) Appearance of Counsel. An attorney must appear in a case for that attorney to file documents in that case. Signing a notice of appeal or original petition or being listed as counsel for a party on the notice of appeal, original petition, or in the case appeal statement filed pursuant to Rule 3(f) will be treated as a notice of appearance for that attorney. Otherwise, **[~~C~~]**counsel for each party **[~~shall~~]** must file a formal written notice of appearance as counsel of record on appeal within 14 days after service of the notice of appeal. **[~~A notice of appeal signed by an attorney will be treated as a notice of appearance by that attorney.~~]** An attorney who will participate in oral argument of a case must have filed a written notice of appearance with the clerk of the Supreme Court no later than 7 days before the date set for oral argument.

(3) Foreign Counsel. If foreign counsel has been granted permission to appear under SCR 42 upon a motion in district court, that attorney must file a copy of the district court's order with the clerk of the Supreme Court. If foreign counsel appears before the Supreme Court or Court of Appeals in the first instance, that attorney must file a motion in the Supreme Court or Court of Appeals as provided by SCR 42. If foreign counsel is associated on the briefs or any other documents submitted for filing, all such briefs and documents **[~~shall~~]** must be signed by Nevada counsel, who **[~~shall~~]** will be responsible to the court for the content. If foreign counsel is associated upon oral argument, Nevada counsel **[~~shall~~]** must be present during oral argument and **[~~shall~~]** will be responsible to the court for all matters presented.

(b) Reserved.

(c) Appointment of Counsel—Indigent Criminal, Habeas Corpus Cases. In original proceedings before the court, **[O]**only the court may appoint counsel or remand for the appointment of counsel to represent indigent criminal defendants and indigent habeas corpus petitioners **[~~in original proceedings before the court~~]**.

(d) Withdrawal, Substitution, or Discharge of Attorney in Criminal [~~Appeals~~] Cases. The withdrawal, substitution, or discharge of an attorney in **[~~a~~]** criminal **[~~appeal~~]** cases pending before the Supreme Court or Court of Appeals **[~~shall be~~]** is governed by this Rule.

(1) In General. After the filing of a notice of appeal or petition, any stipulation or motion that effects a change in the representation of a party to the appeal or petition must be filed **[~~in the court~~]** with the clerk of the Supreme Court.

(2) Substitution. A substitution or change of counsel may be effected by serving and filing a substitution in the Supreme Court or Court of Appeals, signed by the affected attorneys and the client or, in lieu of the client's signature, an affidavit or declaration of counsel stating that the client has been informed of and consents to the substitution. The Supreme Court or Court of Appeals may disapprove a nonconforming substitution **[~~that does not have the necessary signatures or affidavit~~]**.

(3) Withdrawal.

(A) An attorney who has been incorrectly added as counsel for a respondent or real party in interest upon docketing of the case can seek withdrawal from the case by filing and serving upon the appellant or petitioner a notice, within 14 days of docketing of the case, stating the attorney does not represent the respondent or real party in interest. If known, the notice must state the current address for the respondent or real party in interest. Within

14 days of service of such a notice, the appellant or petitioner must serve the respondent or real party in interest with a copy of the notice of appeal or petition and file proof of such service with the court. If no such notice is filed within 14 days of docketing of the case, withdrawal from the case may only be sought as set forth in Rule 46(d)(3)(B) and (C).

[~~(A)~~] (B) The attorney **[~~shall~~]** must file a motion to withdraw with the clerk of the Supreme Court and serve a copy of the motion on the attorney's client and any adverse party. The motion **[~~shall~~]** must clearly state whether counsel was appointed or retained and the reasons for the motion. Unless the motion is filed after judgment or final determination as provided in SCR 46, the motion **[~~shall~~]** must be accompanied by:

(i) **[~~I~~]**in a direct appeal from a judgment of conviction in which the defendant is represented by retained counsel, an affidavit or signed statement from the defendant stating that the defendant has discharged retained counsel, the grounds for that discharge, and whether the defendant qualifies for appointment of new counsel; or

(ii) **[~~I~~]**in a direct appeal from a judgment of conviction in which the defendant is represented by appointed counsel, an affidavit or signed statement from the defendant stating that the defendant consents to appointed counsel's being relieved and requesting appointment of substitute counsel; or

(iii) **[~~I~~]**in a postconviction appeal, an affidavit or signed statement from the defendant stating that the defendant wants to proceed without counsel or with substitute counsel retained by defendant.

[~~(B)~~] (C) A motion filed under this Rule that is not accompanied by defendant's affidavit or signed statement **[~~shall~~]** must set forth the reasons for the omission. A motion that is filed after judgment or final determination as provided in SCR 46 will only be granted if the Supreme Court or Court of

Appeals has issued a final decision in the matter and the time for filing a petition for rehearing has expired.

(4) Death[,] or Suspension. Any party to a criminal appeal may notify the Supreme Court or Court of Appeals in writing when an attorney representing a party dies, or is removed or suspended, or ceases to act as an attorney.

(e) Withdrawal, Substitution, or Discharge of Attorney in Civil [~~Appeals~~] Cases. The withdrawal, substitution, or discharge of an attorney in a civil **[~~appeal~~]** case pending before the Supreme Court or Court of Appeals **[~~shall be~~]** is governed by this Rule.

(1) In General. After the filing of a notice of appeal or petition, any stipulation or motion that effects a change in the representation of a party to the appeal or petition must be filed with the clerk of the Supreme Court.

(2) Substitution. A substitution or change of counsel may be effected by serving and filing a substitution with the clerk of the Supreme Court, signed by the client, the withdrawing attorney, and the substituted attorney. The Supreme Court or Court of Appeals may disapprove a nonconforming substitution **[~~that is not signed by the client and all affected attorneys~~]**.

(3) Withdrawal.

(A) An attorney who has been incorrectly added as counsel for a respondent or real party in interest upon docketing of the case can seek withdrawal from the case by filing and serving upon the appellant or petitioner a notice, within 14 days of docketing of the case, stating the attorney does not represent the respondent or real party in interest. If known, the notice must state the current address for the respondent or real party in interest. Within 14 days of service of such a notice, the appellant or petitioner must serve the respondent or real party in interest with a copy of the notice of appeal or

petition and file proof of such service with the court. If no such notice is filed within 14 days of docketing of the case, withdrawal from the case may only be sought as set forth in Rule 46(e)(3)(B).

(B) **[~~A withdrawal of counsel may be effected only by filing a motion in the court.~~]** The withdrawing attorney **[~~shall~~]** must file a motion and serve a copy of the motion on the attorney's client and any adverse party. The motion **[~~shall~~]** must clearly state the reasons for the attorney's withdrawal consistent with SCR 46 and RPC 1.16. A motion that is filed after judgment or final determination as provided in SCR 46 will only be granted if the Supreme Court or Court of Appeals has issued a final decision in the matter and the time for filing a petition for rehearing has expired.

(4) Suspension. When an attorney is suspended or ceases to act as an attorney, the attorney **[~~shall~~]** must notify the clerk of the Supreme Court in writing and serve a copy of the notice on the attorney's client and any adverse parties. The notice **[~~shall~~]** must identify the name and address of any new counsel retained by the client or the current address for the client if no new counsel has been retained.

(5) Death. When an attorney dies, the attorney's client must promptly notify the clerk of the Supreme Court in writing and serve a copy of the notice on any adverse parties. The notice **[~~shall~~]** must state that the client has retained new counsel or that the client will proceed without counsel if such is permitted under Rule 46A.

REVIEWING NOTE

Additions were made to subdivision (a)(2) to clarify that an attorney must first have appeared in a case before they can file a document in that case and to expand the kinds of documents that will be treated as a notice of appearance. Subdivisions (d)(3) and (e)(3) were also added to allow an attorney

who was incorrectly added to the case for a respondent or real party in interest upon docketing to seek withdrawal by filing a notice.

RULE 46A. PARTIES APPEARING [~~WITHOUT COUNSEL~~] PRO SE

(a) In General. Except as otherwise provided in this Rule, a party may appear [~~without counsel~~] pro se and file written briefs and other papers submitted in accordance with these Rules. A party who is represented by counsel [~~shall~~] must proceed through counsel and is not permitted to file written briefs or other papers, in pro se, with the exception of a motion to remove counsel.

(b) Exceptions.

(1) Direct Appeal From a Judgment of Conviction. A defendant who is appealing from a judgment of conviction may not appear [~~without counsel~~] pro se.

(2) Corporations and Other Entities. A corporation or other entity may not appear [~~without counsel~~] pro se.

(c) Response Not Required. An opposing party is not required to respond to documents, including briefs, filed by a party appearing [~~without counsel~~] pro se unless ordered to do so by the Supreme Court or Court of Appeals. Except for motions described in Rules 27(b) and 46(d), the court generally will not grant relief without providing an opportunity to file a response.

(d) Return of Documents. The clerk of the Supreme Court [~~shall~~] will return any document submitted in violation of this Rule.

RULE 47. RULES OF APPELLATE PRACTICE

(a) Promulgation of Rules by the Supreme Court. The Supreme Court by action of a majority of the justices, after giving appropriate public

notice and opportunity for comment, may **[~~from time to time~~]** make and amend these Rules governing practice in the Supreme Court and Court of Appeals. In all cases not provided for by rule, the Supreme Court or Court of Appeals may regulate its practice in any manner consistent with law and justice. The clerk of the Supreme Court **[~~shall~~]** will cause a notice of entry of an order amending these Rules to be published in the official publication of the State Bar of Nevada.

(b) Drafting and Printing of Orders Amending Rules; Marking of New and Old Matter. In orders amending the Nevada Rules of Appellate Procedure, new matter **[~~shall~~]** will be indicated by underscoring or italics. Matter to be omitted **[~~shall~~]** will be indicated by brackets and boldface and strikethrough type. In subsequent orders all matter appearing as omitted and bracketed in previously entered orders **[shall]** will be omitted entirely.

RULE 48. TITLE

These Rules shall be known and cited as the Nevada Rules of Appellate Procedure, or abbreviated NRAP.

EXHIBIT C

APPENDIX OF FORMS

~~[Form 1. Notice of Appeal to the Supreme Court From a Judgment or Order of a District Court~~

~~No..... Dept. No. .....~~

~~IN THE ..... JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF .....~~

~~A. B., Plaintiff }~~
~~*v.* }~~
~~C. D., Defendant }~~

~~NOTICE OF APPEAL~~

~~Notice is hereby given that C. D., defendant above named, hereby appeals to the Supreme Court of Nevada (from the final judgment) (from the order (describing it)) entered in this action on the ..... day of ....., 20 .....~~

~~/s/.....~~
~~Attorney for C.D.~~
~~.....~~
~~Address~~

~~Form 2. Case Appeal Statement~~

~~No. ..... Dept. No. .....~~

~~IN THE ..... JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF .....~~

A. B., Plaintiff }
v. }
C. D., Defendant }

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:
2. Identify the judge issuing the decision, judgment, or order appealed from:
3. Identify each appellant and the name and address of counsel for each appellant:
4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):
5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):
6. Indicate whether appellant was represented by appointed or retained counsel in the district court:
7. Indicate whether appellant is represented by appointed or retained counsel on appeal:
8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:
9. Indicate the date the proceedings commenced in the district court (e.g., date complaint, indictment, information, or petition was filed):
10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:
11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:
12. Indicate whether this appeal involves child custody or visitation:

13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

Dated this ..... day of ....., 20.....

.....
(Signature of Attorney)

.....
(Nevada Bar Identification No.)

.....
(Law Firm)

.....
(Address)

.....
(Telephone Number)

Form 3. Transcript Request Form

IN THE SUPREME COURT OF THE STATE OF NEVADA

A. B., Appellant }
} No.....
v. }
C. D., Respondent }

REQUEST FOR TRANSCRIPT OF PROCEEDINGS

TO: [Court Reporter Name]

Appellant requests preparation of a transcript of the proceedings before the district court, as follows:

Judge or officer hearing the proceeding:

~~Specific individual dates of proceedings for which transcripts are being requested (a range of dates is not acceptable):~~

~~Specific portions of the transcript being requested (e.g., suppression hearing, trial, closing argument, etc.):~~

~~Number of copies required:~~

~~I hereby certify that on the ..... day of ....., 20..... I ordered the transcript(s) listed above from the court reporter named above, and paid the required deposit on the ..... day of ....., 20..... .~~

~~Dated this ..... day of ....., 20..... .~~

~~.....~~
~~(Signature of Attorney)~~

~~.....~~
~~(Nevada Bar Identification No.)~~

~~.....~~
~~(Law Firm)~~

~~.....~~

~~.....~~
~~(Address)~~

~~.....~~
~~(Telephone Number)~~

~~Form 4. Affidavit and Order to Accompany Motion for Leave to Appeal in Forma Pauperis~~

~~No. ..... Dept. No. .....~~

~~IN THE JUDICIAL DISTRICT ..... COURT OF THE~~

STATE OF NEVADA IN AND FOR
THE COUNTY OF .....

STATE OF NEVADA }
v. }
A. B. ..... }

AFFIDAVIT IN SUPPORT OF MOTION TO PROCEED
ON APPEAL IN FORMA PAUPERIS

State of Nevada }
}ss.
County of..... }

I, ... being first duly sworn, depose and say that I am the ..... in the above entitled case; that in support of my motion to proceed on appeal without being required to prepay fees, cost or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to redress; and that the issues which I desire to present on appeal are the following:

I further swear that the responses which I have made to the questions and instructions below relating to my ability to pay the cost of prosecuting the appeal are true.

1. Are you presently employed?
a. If the answer is yes, state the amount of your salary or wages per month and give the name and address of your employer.
b. If the answer is no, state the date of your last employment and the amount of the salary and wages per month which you received.

2. Have you received within the past twelve months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, or other source?
a. If the answer is yes, describe each source of income, and state the amount received from each during the past twelve months.

3. Do you own any cash or checking or savings account?

~~a. If the answer is yes, state the total value of the items owned.~~

~~4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?~~

~~a. If the answer is yes, describe the property and state its approximate value.~~

~~5. List the persons who are dependent upon you for support and state your relationship to those persons.~~

~~I understand that a false statement or answer to any question in this affidavit will subject me to penalties for perjury.~~

~~.....~~

~~SUBSCRIBED AND SWORN to before me this ..... day of ....., 20.....~~

~~.....~~

~~Notary Public~~

~~ORDER~~

~~Let the applicant proceed without prepayment of costs or fees or the necessity of giving security therefor.~~

~~DATED this ..... day of ....., 20.....~~

~~.....~~

~~District Judge~~

~~Form 5. Request for Rough Draft Transcript of Proceeding in the District Court~~

~~No. ..... Dept. No. .....~~

IN THE ..... JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF .....

A. B., Plaintiff)
v.)
C. D., Defendant)

REQUEST FOR ROUGH DRAFT TRANSCRIPT

TO: [Court Reporter Name]

(C.D.), defendant named above, requests preparation of a rough draft transcript of certain portions of the proceedings before the district court, as follows:

Specific individual dates of proceedings for which transcripts are being requested (a range of dates is not acceptable):

Specific portions of the transcript being requested (e.g., suppression hearing, trial, closing argument, etc.):

This notice requests a transcript of only those portions of the district court proceedings that counsel reasonably and in good faith believes are necessary to determine whether appellate issues are present. Voir dire examination of jurors, opening statements and closing arguments of trial counsel, and the reading of jury instructions shall not be transcribed unless specifically requested above.

I recognize that I must serve a copy of this form on the above named court reporter and opposing counsel, and that the above named court reporter shall have twenty one (21) days from the receipt of this notice to prepare and submit to the district court the rough draft transcript requested herein.

Dated this ..... day of ....., 20..... .

.....
.....

~~_____ (Signature of Attorney)~~

~~_____ .....~~

~~(Nevada Bar Identification No.)~~

~~_____ .....~~

~~(Law Firm)~~

~~_____ .....~~

~~(Address)~~

~~_____ .....~~

~~(Telephone Number)~~

~~Form 6. Fast Track Statement~~

~~IN THE SUPREME COURT OF THE STATE OF NEVADA~~

~~A. B., Appellant~~

~~} No.....~~

~~*v.* }~~

~~C. D., Respondent }~~

~~FAST TRACK STATEMENT~~

~~1. Name of party filing this fast track statement:~~

~~2. Name, law firm, address, and telephone number of attorney submitting this fast track statement:~~

~~3. Name, law firm, address, and telephone number of appellate counsel if different from trial counsel:~~

~~4. Judicial district, county, and district court docket number of lower court proceedings:~~

~~5. Name of judge issuing decision, judgment, or order appealed from:~~

~~6. Length of trial. If this action proceeded to trial in the district court, how many days did the trial last?~~

~~7. Conviction(s) appealed from:~~

~~8. Sentence for each count:~~

~~9. Date district court announced decision, sentence, or order appealed from:~~

~~10. Date of entry of written judgment or order appealed from:~~

~~(a) If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:~~

~~11. If this appeal is from an order granting or denying a petition for a writ of habeas corpus, indicate the date written notice of entry of judgment or order was served by the court:~~

~~(a) Specify whether service was by delivery or by mail:~~

~~12. If the time for filing the notice of appeal was tolled by a post-judgment motion,~~

~~(a) specify the type of motion, and the date of filing of the motion:~~

~~(b) date of entry of written order resolving motion:~~

~~13. Date notice of appeal filed:~~

~~14. Specify statute or rule governing the time limit for filing the notice of appeal, *e.g.*, NRAP 4(b), NRS 34.560, NRS 34.575, NRS 177.015, or other:~~

~~15. Specify statute, rule or other authority which grants this court jurisdiction to review the judgment or order appealed from:~~

~~16. Specify the nature of disposition below, *e.g.*, judgment after bench trial, judgment after jury verdict, judgment upon guilty plea, etc.:~~

~~17. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal (*e.g.*, separate appeals by co-defendants, appeal after postconviction proceedings):~~

~~18. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (*e.g.*, habeas corpus proceedings in state or federal court, bifurcated proceedings against co-defendants):~~

~~19. Proceedings raising same issues. List the case name and docket number of all appeals or original proceedings presently pending before this court, of which you are aware, which raise the same issues you intend to raise in this appeal:~~

~~20. Procedural history. Briefly describe the procedural history of the case (provide citations for every assertion of fact to the appendix, if any, or to the rough draft transcript):~~

~~21. Statement of facts. Briefly set forth the facts material to the issues on appeal:~~

~~22. Issues on appeal. State concisely the principal issue(s) in this appeal:~~

~~23. Legal argument, including authorities:~~

~~24. Preservation of issues. State concisely how each enumerated issue on appeal was preserved during trial. If the issue was not preserved, explain why this court should review the issue:~~

~~25. Issues of first impression or of public interest. Does this appeal present a substantial legal issue of first impression in this jurisdiction or one affecting an important public interest: If so, explain:~~

~~VERIFICATION~~

~~1. I hereby certify that this fast track statement complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:~~

~~[ ] This fast track statement has been prepared in a proportionally spaced typeface using [*state name and version of word-processing program*] in [*state font size and name of type style*]; or~~

~~[ ] This fast track statement has been prepared in a monospaced typeface using [*state name and version of word processing program*] with [*state number of characters per inch and name of type style*].~~

~~2. I further certify that this fast track statement complies with the page- or type-volume limitations of NRAP 3C(h)(2) because it is either:~~

~~[ ] Proportionately spaced, has a typeface of 14 points or more, and contains _____ words; or~~

~~[ ] Monospaced, has 10.5 or fewer characters per inch, and contains _____ words or _____ lines of text; or~~

~~[ ] Does not exceed _____ pages.~~

~~3. Finally, I recognize that pursuant to NRAP 3C I am responsible for filing a timely fast track statement and that the Supreme Court of Nevada may sanction an attorney for failing to file a timely fast track statement, or failing to raise material issues or arguments in the fast track statement, or failing to cooperate fully with appellate counsel during the course of an appeal. I therefore certify that the information provided in this fast track statement is true and complete to the best of my knowledge, information and belief.~~

~~Dated this ..... day of ....., 20..... .~~

~~_____ .....~~

~~(Signature of Attorney)~~

~~_____ .....~~

~~(Nevada Bar Identification No.)~~

~~_____ .....~~

~~(Law Firm)~~

~~_____ .....~~

~~(Address)~~

~~_____ .....~~

~~(Telephone Number)~~

~~Form 7. Fast Track Response~~

~~IN THE SUPREME COURT OF THE STATE OF NEVADA~~

~~A. B., Appellant~~
~~}~~ ~~No.....~~
~~v.~~ ~~}~~
~~C. D., Respondent~~ ~~}~~

~~FAST TRACK RESPONSE~~

~~1. Name of party filing this fast track response:~~

~~2. Name, law firm, address, and telephone number of attorney submitting this fast track response:~~

~~3. Name, law firm, address, and telephone number of appellate counsel if different from trial counsel:~~

~~4. Proceedings raising same issues. List the case name and docket number of all appeals or original proceedings presently pending before this court, of which you are aware, which raise the same issues raised in this appeal:~~

~~5. Procedural history. Briefly describe the procedural history of the case only if dissatisfied with the history set forth in the fast track statement:~~

~~6. Statement of facts. Briefly set forth the facts material to the issues on appeal only if dissatisfied with the statement set forth in the fast track statement (provide citations for every assertion of fact to the appendix, if any, or to the rough draft transcript):~~

~~7. Issues on appeal. State concisely your response to the principal issue(s) in this appeal:~~

~~8. Legal argument, including authorities:~~

~~9. Preservation of issues. State concisely your response to appellant's position concerning the preservation of issues on appeal:~~

~~VERIFICATION~~

~~1. I hereby certify that this fast track response complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:~~

~~[ ] This fast track response has been prepared in a proportionally spaced typeface using [*state name and version of word processing program*] in [*state font size and name of type style*]; or~~

~~[ ] This fast track response has been prepared in a monospaced typeface using [*state name and version of word processing program*] with [*state number of characters per inch and name of type style*].~~

~~2. I further certify that this fast track response complies with the page- or type-volume limitations of NRAP 3C(h)(2) because it is either:~~

~~[ ] Proportionately spaced, has a typeface of 14 points or more, and contains _____ words; or~~

~~[ ] Monospaced, has 10.5 or fewer characters per inch, and contains _____ words or _____ lines of text; or~~

~~[ ] Does not exceed _____ pages.~~

~~3. Finally, I recognize that pursuant to NRAP 3C I am responsible for filing a timely fast track response and that the Supreme Court of Nevada may sanction an attorney for failing to file a timely fast track response, or failing to cooperate fully with appellate counsel during the course of an appeal. I therefore certify that the information provided in this fast track response is true and complete to the best of my knowledge, information and belief.~~

~~Dated this ..... day of ....., 20.....~~

~~_____~~

~~.....~~

~~.....~~

(Signature of Attorney)

.....

(Nevada Bar Identification No.)

.....

(Law Firm)

.....

(Address)

.....

(Telephone Number)

Form 8. Notice of Withdrawal of Appeal

IN THE SUPREME COURT OF THE STATE OF NEVADA

A. B., Appellant }
No.....
v. }
C. D., Respondent }

NOTICE OF WITHDRAWAL OF APPEAL

(A.B.), appellant named above, hereby moves to voluntarily withdraw the appeal mentioned above.

I ....., as counsel for the appellant, explained and informed (A.B.) of the legal effects and consequences of this voluntary withdrawal of this appeal, including that (A.B.) cannot hereafter seek to reinstate this appeal and that any issues that were or could have been brought in this appeal are forever waived. Having been so informed, (A.B.) hereby consents to a voluntary dismissal of the above mentioned appeal.

VERIFICATION

~~I recognize that pursuant to NRAP 3C I am responsible for filing a notice of withdrawal of appeal and that the Supreme Court of Nevada may sanction an attorney for failing to file such a notice. I therefore certify that the information provided in this notice of withdrawal of appeal is true and complete to the best of my knowledge, information and belief.~~

~~Dated this ..... day of ....., 20..... .~~

~~..... (Signature of Attorney)~~

~~..... (Nevada Bar Identification No.)~~

~~..... (Law Firm)~~

~~..... (Address)~~

~~..... (Telephone Number)~~

~~Form 9. Certificate of Compliance~~

~~1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:~~

~~[ ] This brief has been prepared in a proportionally spaced typeface using [*state name and version of word-processing program*] in [*state font size and name of type style*]; or~~

~~[ ] This brief has been prepared in a monospaced typeface using [*state name and version of word processing program*] with [*state number of characters per inch and name of type style*].~~

2. I further certify that this brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is either:

[ ] Proportionately spaced, has a typeface of 14 points or more, and contains _____ words; or

[ ] Monospaced, has 10.5 or fewer characters per inch, and contains _____ words or _____ lines of text; or

[ ] Does not exceed _____ pages.

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(c)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this ..... day of ....., 20..... .

_____

(Signature of Attorney)

.....

(Nevada Bar Identification No.)

.....

(Law Firm)

.....

(Address)

.....

(Telephone Number)

Form 10. Settlement Statement

~~IN THE SUPREME COURT OF THE STATE OF NEVADA~~

~~A. B., Appellant~~
~~}~~ ~~No.....~~
~~*v.*~~ ~~}~~
~~C. D., Respondent~~ ~~}~~

~~CONFIDENTIAL SETTLEMENT STATEMENT~~

~~TO: [Settlement Judge Name]~~

1. ~~Name of party filing this settlement statement:~~
2. ~~Concisely state the relevant facts:~~
3. ~~Concisely state the issues on appeal:~~
4. ~~Concisely state the argument supporting your position on appeal:~~
5. ~~Concisely state the weakest points of your position on appeal:~~
6. ~~Concisely state the settlement proposal you believe would be fair or you would be willing to make in order to conclude this matter:~~
7. ~~Concisely state all matters which, in counsel's professional opinion, may assist the settlement judge in conducting the settlement conference.~~

~~Dated this ..... day of ....., 20..... .~~

~~.....~~
~~(Signature of Attorney)~~
~~.....~~
~~(Nevada Bar Identification No.)~~
~~.....~~
~~(Law Firm)~~
~~.....~~
~~(Address)~~
~~.....~~
~~(Telephone Number)~~

~~Form 11. Request for Rough Draft Transcript of Child Custody Proceeding in the District Court~~

~~No. ..... Dept. No. .....~~

~~IN THE ..... JUDICIAL DISTRICT COURT~~
~~OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF .....~~

~~A. B., Plaintiff }~~
~~*v.* }~~
~~C. D., Defendant }~~

~~REQUEST FOR ROUGH DRAFT TRANSCRIPT~~

~~TO: [Court Reporter Name]~~

~~(C.D.), plaintiff/defendant named above, requests preparation of a rough draft transcript of certain portions of the proceedings before the district court, as follows:~~

~~Specific individual dates of proceedings for which transcripts are being requested (a range of dates is not acceptable):~~

~~Specific portions of the transcript being requested (e.g., suppression hearing, trial, closing argument, etc.):~~

~~This notice requests a transcript of only those portions of the district court proceedings that counsel reasonably and in good faith believes are necessary for resolution of appellate issues.~~

~~I recognize that I must serve a copy of this form on the above named court reporter and opposing party, and that the above named court reporter shall have twenty-one (21) days from the receipt of this notice to prepare and submit to the district court the rough draft transcript requested herein.~~

~~Dated this ..... day of ....., 20.....~~

~~_____ .....~~

~~(Signature of Attorney)~~

~~_____ .....~~

~~(Nevada Bar Identification No.)~~

~~_____ .....~~

~~(Law Firm)~~

~~_____ .....~~

~~(Address)~~

~~_____ .....~~

~~(Telephone Number)~~

~~Form 12. Child Custody Fast Track Statement~~

~~IN THE SUPREME COURT OF THE STATE OF NEVADA~~

~~A. B., Appellant } No.....~~

~~v. }~~

~~C. D., Respondent }~~

~~CHILD CUSTODY FAST TRACK STATEMENT~~

~~1. Name of party filing this fast track statement:~~

~~2. Name, law firm, address, and telephone number of attorney submitting this fast track statement:~~

~~3. Judicial district, county, and district court docket number of lower court proceedings:~~

~~4. Name of judge issuing judgment or order appealed from:~~

~~5. Length of trial or evidentiary hearing. If the order appealed from was entered following a trial or evidentiary hearing, then how many days did the trial or evidentiary hearing last?~~

~~6. Written order or judgment appealed from:~~

~~7. Date that written notice of the appealed written judgment or order's entry was served:~~

~~8. If the time for filing the notice of appeal was tolled by the timely filing of a motion listed in NRAP 4(a)(4),~~

~~(a) specify the type of motion, and the date and method of service of the motion, and date of filing:~~

~~(b) date of entry of written order resolving tolling motion:~~

~~9. Date notice of appeal was filed:~~

~~10. Specify statute or rule governing the time limit for filing the notice of appeal, *e.g.*, NRAP 4(a), NRS 155.190, or other:~~

~~11. Specify the statute, rule or other authority, which grants this court jurisdiction to review the judgment or order appealed from:~~

~~12. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which involve the same or some of the same parties to this appeal:~~

~~13. Proceedings raising same issues. If you are aware of any other appeal or original proceeding presently pending before this court, which raise the same legal issue(s) you intend to raise in this appeal, list the case name(s) and docket number(s) of those proceedings:~~

~~14. Procedural history. Briefly describe the procedural history of the case (provide citations for every assertion of fact to the appendix or record, if any, or to the transcript or rough draft transcript):~~

~~15. Statement of facts. Briefly set forth the facts material to the issues on appeal (provide citations for every assertion of fact to the appendix or record, if any, or to the transcript or rough draft transcript):~~

~~16. Issues on appeal. State concisely the principal issue(s) in this appeal:~~

~~17. Legal argument, including authorities:~~

~~18. Issues of first impression or of public interest. Does this appeal present a substantial legal issue of first impression in this jurisdiction or one affecting an important public interest: Yes ..... No ..... . If so, explain:~~

~~VERIFICATION~~

~~1. I hereby certify that this fast track statement complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:~~

[ ] This fast track statement has been prepared in a proportionally spaced typeface using [*state name and version of word-processing program*] in [*state font size and name of type style*]; or

[ ] This fast track statement has been prepared in a monospaced typeface using [*state name and version of word-processing program*] with [*state number of characters per inch and name of type style*].

2. I further certify that this fast track statement complies with the page- or type-volume limitations of NRAP 3E(c)(2) because it is either:

[ ] Proportionately spaced, has a typeface of 14 points or more, and contains _____ words; or

[ ] Monospaced, has 10.5 or fewer characters per inch, and contains _____ words or _____ lines of text; or

[ ] Does not exceed _____ pages.

3. Finally, I recognize that under NRAP 3E I am responsible for timely filing a fast track statement and that the Supreme Court of Nevada may impose sanctions for failing to timely file a fast track statement, or failing to raise material issues or arguments in the fast track statement. I therefore certify that the information provided in this fast track statement is true and complete to the best of my knowledge, information, and belief.

Dated this ..... day of ....., 20..... .

.....

(Signature of Attorney)

.....

(Nevada Bar Identification No.)

.....

(Law Firm)

.....

(Address)

.....

(Telephone Number)

~~Form 13. Child Custody Fast Track Response~~

~~IN THE SUPREME COURT OF THE STATE OF NEVADA~~

~~A. B., Appellant~~
~~}~~ ~~No.....~~
~~*v.*~~ ~~}~~
~~C. D., Respondent~~ ~~}~~

~~CHILD CUSTODY FAST TRACK RESPONSE~~

~~1. Name of party filing this fast track response:~~
~~2. Name, law firm, address, and telephone number of attorney or proper person respondent submitting this fast track response:~~
~~3. Proceedings raising same issues. If you are aware of any other appeal or original proceeding presently pending before this court, which raise the same legal issue(s) you intend to raise in this appeal, list the case name(s) and docket number(s) of those proceedings:~~
~~4. Procedural history. Briefly describe the procedural history of the case only if dissatisfied with the history set forth in the fast track statement (provide citations for every assertion of fact to the appendix or record, if any, or to the transcript or rough draft transcript):~~
~~5. Statement of facts. Briefly set forth the facts material to the issues on appeal only if dissatisfied with the statement set forth in the fast track statement (provide citations for every assertion of fact to the appendix or record, if any, or to the transcript or rough draft transcript):~~
~~6. Issues on appeal. State concisely your response to the principal issue(s) in this appeal:~~
~~7. Legal argument, including authorities:~~

~~VERIFICATION~~

~~1. I hereby certify that this fast track response complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:~~
~~[ ] This fast track response has been prepared in a proportionally spaced typeface using [*state name and version of word processing program*] in [*state font size and name of type style*]; or~~

~~[ ] This fast track response has been prepared in a monospaced typeface using [*state name and version of word-processing program*] with [*state number of characters per inch and name of type style*].~~

~~2. I further certify that this fast track response complies with the page- or type-volume limitations of NRAP 3E(e)(2) because it is either:~~

~~[ ] Proportionately spaced, has a typeface of 14 points or more, and contains _____ words; or~~

~~[ ] Monospaced, has 10.5 or fewer characters per inch, and contains _____ words or _____ lines of text; or~~

~~[ ] Does not exceed _____ pages.~~

~~3. Finally, I recognize that under NRAP 3E I am responsible for timely filing a fast track response and that the Supreme Court of Nevada may impose sanctions for failing to timely file a fast track response. I therefore certify that the information provided in this fast track response is true and complete to the best of my knowledge, information, and belief.~~

~~Dated this ..... day of ....., 20.....~~

~~.....~~

~~(Signature of Attorney)~~

~~.....~~

~~(Nevada Bar Identification No.)~~

~~.....~~

~~(Law Firm)~~

~~.....~~

~~(Address)~~

~~.....~~

~~(Telephone Number)~~

~~Form 14. Certificate of No Transcript Request~~

~~IN THE SUPREME COURT OF THE STATE OF NEVADA~~

A. B., Appellant }
No.....
v. }
C. D., Respondent }

CERTIFICATE THAT NO TRANSCRIPT IS BEING REQUESTED

Notice is hereby given that appellant A.B. is not requesting the preparation of transcripts for this appeal.

Dated this ..... day of ....., 20..... .

.....
(Signature of Attorney)
.....
(Nevada Bar Identification No.)
.....
(Law Firm)
.....
(Address)
.....
(Telephone Number)

Form 15. Notice of Completion and Delivery of Transcript

IN THE SUPREME COURT OF THE STATE OF NEVADA

A. B., Appellant }
No.....
v. }
C. D., Respondent }

NOTICE OF COMPLETION AND DELIVERY OF TRANSCRIPT(S)

Name of court reporter/recorder filing this notice:

Specific transcripts that were prepared in response to a transcript request form filed in this appeal:

On the ..... day of ....., 20....., I filed the original transcript(s) listed above in the district court.

On the ..... day of ....., 20....., I delivered copies of the transcript(s) listed above to the following (indicate name and address at which the transcripts were served and indicate number of copies delivered to each):

Dated this ..... day of ....., 20.....

.....

(Signature of Court Reporter/Recorder)

.....

.....

(Address)

.....

.....

(Telephone Number)

Form 16. Certificate of Compliance Pursuant to Rules 40 and 40A

1. I hereby certify that this petition for rehearing/reconsideration or answer complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:

[ ] It has been prepared in a proportionally spaced typeface using [*state name and version of word processing program*] in [*state font size and name of type style*]; or

[ ] It has been prepared in a monospaced typeface using [*state name and version of word processing program*] with [*state number of characters per inch and name of type style*].

~~2. I further certify that this brief complies with the page- or type-volume limitations of NRAP 40 or 40A because it is either:~~

~~[ ] Proportionately spaced, has a typeface of 14 points or more, and contains ____ words; or~~

~~[ ] Monospaced, has 10.5 or fewer characters per inch, and contains ____ words or ____ lines of text; or~~

~~[ ] Does not exceed ____ pages.~~

~~Dated this ..... day of ....., 20..... .~~

~~.....~~

~~(Signature of Attorney)~~

~~.....~~

~~(Nevada Bar Identification No.)~~

~~.....~~

~~(Law Firm)~~

~~.....~~

~~(Address)~~

~~.....~~

~~(Telephone Number)~~

~~Form 17. Pro Se Request for Transcript of District Court Hearing or Trial~~

~~IN THE SUPREME COURT OF THE STATE OF NEVADA~~

~~A. B., Appellant } No. .....~~

~~*v.* }~~

~~C. D., Respondent }~~

~~TO: .....~~

~~Court Reporter Name~~

~~..... requests preparation of a transcript of the proceedings before the district court, as follows:~~

Judge or officer hearing the trial or hearing: .....

Date(s) of trial or hearing: .....
.....
.....

Portions of the transcript requested: .....
.....
.....
.....
.....

Number of copies required: .....

_____ .....
.....

_____ Name of person requesting transcripts

_____ .....
.....

_____ Address

_____ .....
.....

_____ City/State/Zip

_____ .....
.....

_____ Telephone number

CERTIFICATION

I certify that on this date I ordered these transcripts from the court reporter(s) named above by mailing or delivering this form to the court reporter(s) and I paid the required deposit.

_____ .....
.....

_____ Signature

~~_____ .....~~

~~Date~~

~~**CERTIFICATION**~~

~~I certify that on the date indicated below, I served a copy of this completed transcript request form upon the court reporter(s) and all parties to the appeal:~~

~~[ ] By personally serving it upon him/her; or~~

~~[ ] By mailing it by first class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served by mail):~~

~~DATED this ..... day of ....., 20.....~~

~~_____ .....~~

~~Signature~~

~~_____ .....~~

~~Print Name~~

~~_____ .....~~

~~Address~~

~~_____ .....~~

~~City/State/Zip~~

~~_____ .....~~

~~Telephone number]~~

EXHIBIT D

APPENDIX OF FORMS

The 2024 NRAP amendments delete the forms previously appended to the NRAP. Current forms are maintained and available on the Nevada Supreme Court website.