


FILED

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EXHIBIT B

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CLERK OF SUPREME COURT
BY  CHIEF DEPUTY CLERK

**ADOPTION OF NEW RULE 1.2 UNDER PART 1 AND RULES 5.1
THROUGH 5.15 UNDER PART 5 OF THE LAS VEGAS JUSTICE
COURT LOCAL RULES OF PRACTICE**

PART 1. USE AND CONSTRUCTION OF RULES

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Rule 1.2. Definitions. As used in these rules, unless the context otherwise requires, the words and terms below have the following meanings:

(a) "Cash" means U.S. currency, approved credit or debit cards, money orders, cashier's checks, and checks drawn on a business account, trust account, or legal aid account.

(b) "Clerk" means the Clerk of the Las Vegas Justice Court.

(c) "Court" means the Las Vegas Justice Court.

(d) "Day(s)" means calendar days.

(e) "Electronic service" or "electronically served" means the electronic transmission of a document to a party at the email address on file with the court via the court's electronic filing system or by mail if no email address exists.

(f) "Inmate" means anyone who is currently being held in any detention facility, jail, or prison.

(g) "Party," "petitioner," "applicant," "claimant," "plaintiff," "defendant," or any other designation of a party to any action or proceeding, case, or other court matter must include and apply to such party's attorney of record.

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(h) "Person" must include and apply to corporations, firms, associates and all other entities, as well as natural persons.

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

(j) The past, present, and future tenses must each include the others; the masculine, feminine, and neuter genders will include the others; and the singular and plural numbers will each include the other.

PART 5. SMALL CLAIMS

Rule 5.1. Scope and application of rules. These rules are intended to simplify procedures for small claims litigants, as small claims cases are intended to be litigated by individuals appearing pro se without specialized training.

Rule 5.2. Small claims complaint.

(a) The small claims complaint must be electronically filed unless the exception in subsection (d) below applies. Plaintiffs who electronically file a small claims complaint should maintain a current email address with the court through the electronic filing system. All litigants who electronically file documents automatically consent to receive all notices and documents from the court through electronic service.

(b) The small claims complaint must include a statement detailed enough to provide notice to the defendant of the basis for the cause of action and debt claimed. Formal adherence to rules applicable to general civil actions is not required.

(c) A small claims complaint that alleges a cause of action not authorized for small claims cases pursuant to Rule 5.3 must be dismissed by the court

with prejudice to refile as a small claims case, but without prejudice to refile as a civil action in the appropriate court.

(d) Inmates are exempt from the electronic filing requirement and may mail the small claims complaint to the court for filing. All inmates must exhaust the administrative process set forth in NRS 41.0322 and 209.243, where applicable, prior to filing a small claims complaint. Proof of the exhaustion of administrative remedies available under NRS 209.243 must be attached to the small claims complaint.

Rule 5.3. Types of actions not authorized in small claims court.

(a) The following actions are not authorized for small claims court and are subject to dismissal with prejudice to refile as a small claims case, but without prejudice to refile as a civil action in the appropriate court:

- (1) Actions arising under NRS Chapter 40 alleging constructional defect;
- (2) Actions for professional negligence arising under NRS Chapter 41A;
- (3) Actions arising under NRS 41.635-.670;
- (4) Actions arising under NRS Chapter 97A;
- (5) Actions arising under NRS Chapter 604A;
- (6) Actions for defamation, whether libel or slander;
- (7) Actions against a homeowners' association;
- (8) Actions contingent upon the resolution of a probate or estate action; and
- (9) Actions seeking exemplary and punitive damages.

(b) In order to promote the policy set forth in Rule 5.1, causes of action needing evidentiary support by an expert witness or expert witness report are not authorized in a small claims action.

(c) Parties may not stipulate to the admissibility of documents or witnesses not authorized under subsection (b) of this rule, but parties may stipulate to agreed-upon facts.

Rule 5.4. Small claims trial setting.

(a) Upon filing of the small claims complaint, the deputy clerk will endorse the small claims complaint with the date, time, and place of trial. This endorsed small claims complaint will be returned to the plaintiff via electronic service.

(b) An endorsed small claims complaint filed by an inmate will be returned by mail.

Rule 5.5. Service of small claims complaint and notice of trial date.

(a) A plaintiff must serve the defendant with a copy of the small claims complaint with the endorsed notice of trial date at least 10 days prior to the trial date.

(b) Personal service in accordance with JCRCP 4 or service under NRS Chapter 14 is required unless an alternate method of service is requested by written motion and authorized by the court.

(c) Service by certified mail may be authorized if, in the court's discretion, all available means of personal service have been exhausted and the plaintiff can establish that a valid address exists where the defendant can receive mail.

(d) If the small claims complaint with endorsed notice of trial date is not served within the time frame set forth in JCRCP 91, a plaintiff may file a motion to continue the trial date in order to effectuate service.

(e) Proof of service must be filed with the court as soon as possible after service is completed.

Rule 5.6. Counterclaim.

(a) Although no answer is required, any small claims counterclaim must be filed at least 5 days prior to the date set for trial.

(b) A defendant filing a small claims counterclaim must pay the filing fee in the amount set forth in NRS Chapter 4 for the answer or appearance of any party.

(c) A small claims counterclaim must be electronically filed. Every counterclaimant who electronically files a small claims counterclaim must maintain a current email address with the court through the electronic filing system and automatically consents to receive all notices and documents from the court through electronic service.

(d) Upon filing of the small claims counterclaim, the deputy clerk will endorse the small claims counterclaim with the same date, time, and place of the trial as the original complaint. The endorsed small claims counterclaim will be returned to the defendant via electronic service.

(e) Service of the small claims counterclaim must be completed by electronic service prior to the date of trial.

(f) If service of the endorsed small claims counterclaim is not completed before trial, the court may allow service in open court or may continue the trial to afford time to effectuate service, if requested.

(g) Any small claims counterclaim that alleges a cause of action not authorized for small claims cases pursuant to Rule 5.3 may be dismissed by the court without prejudice, or the court may reclassify the action as a civil action in the Las Vegas Justice Court.

(h) A small claims counterclaim that prays for damages in an amount above the jurisdictional limit for a small claims case will be treated as follows:

(1) If the amount claimed exceeds the jurisdictional limit for a civil action in the Las Vegas Justice Court, JCRCP 13 governs.

(2) If the amount claimed exceeds the jurisdictional limit for a small claims case but does not exceed the jurisdictional limit for a civil action in the Las Vegas Justice Court, the court may separate the claims and adjudicate those over which the small claims court has jurisdiction and require the other claims to be transferred and reclassified as a civil action. The new civil action will be heard in the same judicial department as the original small claims action. The court may require the parties to file pleadings complying with JCRCP 7-12, or the court may transfer and reclassify the entire case as a civil action.

Rule 5.7. Discovery. The provisions of JCRCP 16.1 and JCRCP 25A-37 regarding discovery and exchange of documents or witness lists are not applicable in a small claims case pursuant to JCRCP 2.

Rule 5.8. Motions.

(a) Pursuant to JCRCP 2, motions based on JCRCP 3-87 may be summarily denied.

(b) All motions must be electronically filed. All motions must be served on the opposing party by regular mail or electronic service. A certificate of mailing must be filed with the court.

(c) The justice will review all motions in chambers and may issue a written order without a hearing. The order will be electronically served on all parties.

(d) Motions requiring additional argument or evidence will be scheduled for hearing. Notice of the hearing will be electronically served on all parties.

(e) Motions to continue a trial date should be filed at least 5 days prior to the date of trial. Continuance of the trial will only be granted upon a showing of good cause.

(f) Motions to appear by telephone or video must comply with Part IX-B of the Supreme Court Rules.

Rule 5.9. Small claims subpoenas.

(a) All subpoenas submitted to the court must comply with JCRCP 45.

(1) Every subpoena must be presented on a form provided by the court. This form is available at the Civil Law Self-Help Center.

(2) Every subpoena must command each person to whom it is directed to attend and give testimony, or to produce documents or tangible things in the possession, custody, or control of that person, at the time of trial.

(b) The clerk will issue a subpoena, signed but otherwise in blank, to a party requesting it, who must complete it before service.

(c) A subpoena may be served by any person who is not a party and is not less than 18 years of age. Service of a subpoena upon a person named therein must be made by delivering a copy thereof to such person and, if the person's attendance is commanded, by tendering to that person the fees for one day's

attendance and the mileage allowed by law as required by NRS 50.225. When the subpoena is issued on behalf of the State or an officer or agency thereof, fees and mileage need not be tendered.

(d) Any person who fails to obey a subpoena properly served upon that person, without adequate excuse, may be held in contempt.

Rule 5.10. Trial.

(a) A complaint or a counterclaim may be dismissed for failure to prosecute if the plaintiff or counterclaimant fails to appear for trial.

(b) A judgment may be entered against a defendant or counterdefendant who fails to appear for trial.

(c) Prior to the entry of a judgment, the plaintiff(s) or counterclaimant(s) are required to present evidence proving the basis for the cause of action and the damages sought. This may be done by way of written affidavit or sworn testimony of the plaintiff, counterclaimant, or witness.

(d) Parties intending to introduce exhibits at the small claims trial must bring the original and two copies of each exhibit to the trial.

(e) Attorneys are not prohibited from representing small claims litigants; however, appearance of counsel must not interfere with the informal nature and simplified procedures of a small claims trial.

(f) Each party to the small claims trial may present sworn testimony or documentary evidence supporting or defending against the cause(s) of action. Attorneys representing litigants may make legal arguments on their client's behalf but are not authorized to conduct formal direct and cross-examination of witnesses unless the court deems it appropriate. The court may pose questions to any party or witness in order to clarify facts or legal issues.

(g) Evidence must be marked and a ruling on admissibility must be made by the court at the time of trial.

Rule 5.11. Mediation.

(a) Mediation of small claims cases is encouraged and is available to all parties who are interested in resolving their disputes without the need for a trial. Mediation services are available through the Neighborhood Justice Center at 702-455-3898 or mediation.works@clarkcountynv.gov. Parties should provide a case number, if available, and contact information when contacting the Neighborhood Justice Center.

(b) All mediation proceedings are settlement conferences. Evidence that any mediation effort or offer of settlement has occurred is inadmissible at the trial. Admissions of any party during a mediation proceeding are also inadmissible at the trial.

(c) Unless otherwise ordered by the court, all cases in which a settlement is reached must have a written settlement or mediation agreement signed by both parties and filed with the court, or the terms of the agreement must be placed on the record. In the event that one party fails to comply with the agreement, the aggrieved party may file a motion to enforce settlement or mediation agreement. Such motion must be accompanied by an affidavit from the aggrieved party outlining the failure to comply.

Rule 5.12. Stipulated judgments. Settlements that result in an agreed-upon money judgment must be submitted to the court in writing as a stipulated judgment signed by both parties for approval by the court.

Rule 5.13. Record of the court. All proceedings and trials are recorded using sound recording equipment and the recording is the record of the court. Minute entries are not the record of the Court.

Rule 5.14. Costs. The prevailing party is entitled to an award of the costs actually incurred in the action. The court record may be used to support the award of filing fees and/or service of process costs. The court may require additional costs sought to be itemized in a memorandum of costs verified by the oath of the party.

Rule 5.15. Appeals.

(a) A party seeking to appeal the judgment of the court must file a notice of appeal accompanied by an appropriate bond and filing fees.

(b) Unless an appellant is exempted by law, a bond to cover the costs of the appeal must be in the form of cash or surety in the amount of \$250, unless the court fixes a different amount.

(c) An appellant seeking a stay of execution of the judgment pending the decision of the district court on appeal must post a bond to cover the full amount of the judgment plus the amount for costs in subsection (b).

(d) Pursuant to JCRCP 74(a), the court approves the record on appeal to be transmitted to the district court without a transcript of the proceedings.