

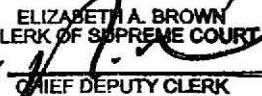
IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF AMENDMENTS  
TO NEVADA CODE OF JUDICIAL  
CONDUCT RULE 4.2

ADKT 0588

**FILED**

NOV 04 2021

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

*PETITION*

James W. Hardesty, Chief Justice of the Nevada Supreme Court, petitions the Supreme Court to amend Nevada Code of Judicial Conduct (NCJC) Rule 4.2(C) and (C)(3) to comport with the Nevada Legislature's anticipated amendments to NRS 293.177 relating to the declaration of candidacy in elections. Petitioner also seeks to delete NCJC 4.2(D) to comport with the Legislature's 2019 amendment to NRS 293(C).145 and NRS 293C.175 relating to the election filing date for municipal court judges.

NCJC Rule 4.1(A)(4) precludes a judge or judicial candidate from soliciting "funds for a political organization or a candidate for political office" unless such candidate has an opponent. NCJC Rule 4.2(C)(1) provides that "[a] candidate becomes opposed in an election when, at the closing of filing, another candidate has filed a declaration of candidacy or acceptance of candidacy for the same judicial office." Petitioner is informed and believes that the Legislature intends to consider amending the judicial filing period provided in NRS 293.177 from the period between the first Monday in January of the election year to the second Friday after the first Monday to the period between the first Monday in March to the second

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Friday after the first Monday. The proposed amendment to NRS 293.177 is set forth in Exhibit A to this petition. Such amendment has been requested by the voter registrars throughout the state to accommodate state and local reapportionment. No change has been made to the primary election date of June 14, 2022. If the Legislature passes the proposed amendment to NRS 293.177 during the special session related to reapportionment, judges or judicial candidates will be unfairly limited in their ability to engage in campaign financing for campaigns. As noted in the proposed amendment, the change to the election filing period sunsets on December 31, 2022.

Petitioner therefore believes that, for the November 2022 election only, the court should consider a one-time modification to NCJC 4.2(C) and (C)(3) as set forth in Exhibit B to this petition.

In addition, NJCJ Rule 4.2(D) provides:

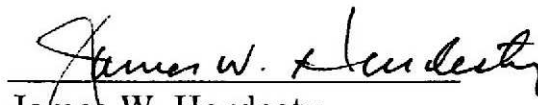
(D) Candidates running exclusively for municipal court, however, may solicit or accept contributions for the candidate's campaign no earlier than 120 days before the primary election and no later than 90 days after the last election in which the candidate participates during the election year. If, at the close of filing for judicial office in a municipal court election a candidate is unopposed, the candidate must not solicit or accept campaign contributions after the close of filing.

NCJC Rule 4.2(D) was added to accommodate municipal court judges whose election filing dates differed from all other judicial offices. However, in 2019, the Legislature amended NRS 293C.145 and NRS 293C.175 to make the election filing date for municipal court judges the same as the election filing date for all judicial offices. In light of the 2019 amendments to NRS 293C.145 and NRS 293C.175, petitioner requests that NCJC 4.2(D) be

deleted as set forth in Exhibit B to this petition applying NCJC campaign finance rules to municipal court judges as are applicable to all other judges and candidates for judicial office.

Petitioner requests that the Supreme Court place this matter on its administrative docket, hold such hearings as it deems necessary, and consider the proposed amendments to NCJC 4.2(C) and (C)(3) and deletion of NCJC 4.2(D).

Respectfully submitted this 4 day of November, 2021.

  
James W. Hardesty  
Chief Justice, Supreme Court

## EXHIBIT A

### PROPOSED LEGISLATIVE AMENDMENT TO NRS 293.177

**NRS 293.177 Declaration of candidacy: Filing required; fee; filing periods; forms; contents; submission and retention of proof of identity, address and residency; appointment of agent for service of process; investigation and challenge of candidates; unlawful for candidates to make certain false statements.**

1. Except as otherwise provided in NRS 293.165 and 293.166, a name may not be printed on a ballot to be used at a primary election unless the person named has filed a declaration of candidacy with the appropriate filing officer and paid the filing fee required by NRS 293.193 not earlier than:

~~[(a) For a candidate for judicial office, the first Monday in January of the year in which the election is to be held and not later than 5 p.m. on the second Friday after the first Monday in January; and~~

~~(b) For all other candidates,]~~ the first Monday in March of the year in which the election is to be held and not later than 5 p.m. on the second Friday after the first Monday in March.

Sunset: December 31, 2022.

**EXHIBIT B**  
**AMENDMENT TO CODE OF JUDICIAL CONDUCT RULE 4.2**

**Rule 4.2. Political and Campaign Activities of Judicial Candidates in Public Elections.**

(A) A judicial candidate in a public election shall:

(1) act at all times in a manner consistent with the independence, integrity, and impartiality of the judiciary;

(2) comply with all applicable election, election campaign, and election campaign fund-raising laws and regulations of this jurisdiction;

(3) review and approve the content of all campaign statements and materials produced by the candidate or his or her campaign committee, as authorized by Rule 4.4, before their dissemination; and

(4) take reasonable measures to ensure that other persons do not undertake on behalf of the candidate activities that the candidate is prohibited from doing by Rule 4.1.

(5) report contributions received and campaign expenses in accordance with NRS Chapter 294A.

(6) if elected to judicial office, a candidate who received contributions that were not spent or committed for expenditure as a result of the campaign may dispose of the money in any combination as provided in subsections (a)-(d). Any other disposition of the money is prohibited.

(a) return the unspent money to contributors;

(b) donate the money to the general fund of the state, county or city relating to the judge's office;

(c) use the money in the judge's next election or for the payment of other expenses related to the judge's public office or the judge's previous campaigns for judicial office;

(d) donate the money to any tax-exempt nonprofit entity, including a nonprofit state or local bar association, the Administrative Office of the Courts or any foundation entrusted with the distribution of Interest on Lawyer's Trust Accounts (IOLTA) funds.

(7) unless a candidate for other judicial office, a judge who does not run for reelection shall, not later than the 15th day of the second month after the expiration of the judge's term of office, dispose of those contributions in the manner provided in Rule 4.2(A)(6).

(B) A candidate for elective judicial office may, unless prohibited by law:

(1) establish a campaign committee pursuant to the provisions of Rule 4.4;

(2) speak on behalf of his or her candidacy through any medium, including but not limited to advertisements, websites, or other campaign literature;

(3) publicly oppose candidates for the same judicial office for which he or she is running;

(4) in accordance with Rules 4.2(C), 4.2(D) and other applicable law, solicit and accept campaign contributions, either personally or through a campaign committee.

(5) seek, accept, or use endorsements from any person or organization other than a partisan political organization.

(C) A judge or judicial candidate who is not opposed in an election must not solicit or accept contributions for the candidate's campaign, either

personally or through a candidate's committee, ~~[at any time]~~ from and after 5 p.m. on March 17, 2022.

(1) A candidate becomes opposed in an election when, at the close of filing, another candidate has filed a declaration of candidacy or acceptance of candidacy for the same judicial office.

(2) If a candidate's opponent files a withdrawal of candidacy, the candidate is deemed unopposed as of the effective date of the withdrawal of candidacy and must not solicit or accept campaign contributions after that date.

(3) A judge or candidate for judicial office ~~[who is opposed]~~ who has announced their intention to file for a judicial office and/or the judge or candidate's committees may solicit or accept contributions for the judge or candidate's campaign no earlier than 5:00 p.m. on January 15, 2022, ~~[the last day for filing a declaration of candidacy for judicial office]~~ and, unless unopposed, no later than 90 days after the last election in which the candidate participates during the election year.

~~[(D) Candidates running exclusively for municipal court, however, may solicit or accept contributions for the candidate's campaign no earlier than 120 days before the primary election and no later than 90 days after the last election in which the candidate participates during the election year. If, at the close of filing for judicial office in a municipal court election a candidate is unopposed, the candidate must not solicit or accept campaign contributions after the close of filing.]~~

The amendments to Rule 4.2(C) and (C)(3) shall sunset on February 6, 2023.