

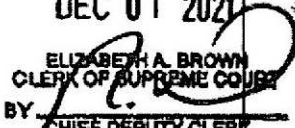
IN THE SUPREME COURT OF THE STATE OF NEVADA

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

ADKT 0588

FILED

DEC 01 2021

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

*ORDER APPROVING AMENDMENTS TO NEVADA CODE OF
JUDICIAL CONDUCT RULE 4.2(C) AND (C)(3) AND NCJC 4.2(A)(6)
AND DELETION OF RULE 4.2(D)*

WHEREAS, on November 4, 2021, James W. Hardesty, Chief Justice of the Nevada Supreme Court, filed a petition seeking to amend Nevada Code of Judicial Conduct (NCJC) Rule 4.2(C) and (C)(3) to comport with the Nevada Legislature's special-session amendments to NRS 293.177 which, for the calendar year 2022 only, changed the filing date for judicial elections from the first Monday in January to the first Monday in March, 2022 to alleviate complications associated with redistricting. The petition also sought to delete NCJC Rule 4.2(D) to comport with the Legislature's 2019 amendment to NRS 293C.145 and NRS 293C.175 relating to the election filing date for municipal court judges; and

WHEREAS, this court solicited public comment on the petition and a public hearing was held in this matter on November 18, 2021; and

WHEREAS, this court concludes that the proposed amendments to NCJC 4.2(C) and (C)(3) and deletion of NCJC 4.2(D) are warranted. The court further concludes that amendments to NCJC 4.2(A)(6) are also warranted; accordingly,

IT IS HEREBY ORDERED that NCJC 4.2(C) and (C)(3) and NCJC 4.2(A)(6) shall be adopted and NCJC 4.2(D) shall be deleted. The Rules shall read as set forth in Exhibit A.

IT IS FURTHER ORDERED that these amendments shall be effective on January 14, 2022, and sunset on February 6, 2023. The amendments to NCJC Rule 4.2(A)(6) and the deletion of NCJC Rule 4.2(D) are exempt from the sunset provision. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada. Publication of this order shall be accomplished by the clerk disseminating copies of this order to all subscribers of the advance sheets of the Nevada Reports and all persons and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk of this court as to the accomplishment of the above described publication of notice of entry and dissemination of this order shall be conclusive evidence of the adoption and publication of the foregoing amendments.

Dated this 1st day of December, 2021.¹

1 Hardesty, C.J.
Hardesty

Stiglich, J.
Stiglich

Cadish, J.
Cadish

Silver, J.
Silver

Pickering, J.
Pickering

Herndon, J.
Herndon

¹The Honorable Ron Parraguirre, Justice, did not participate in the decision in this matter.

cc: Ann Morgan, President, State Bar of Nevada
Kimberly Farmer, Executive Director, State Bar of Nevada
All District Court Judges
All Justice Court Judges
All Municipal Court Judges
Clark County Bar Association
Washoe County Bar Association
First Judicial District Bar Association
Elko County Bar Association
Douglas County Bar Association
Administrative Office of the Courts

EXHIBIT A
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 such [the money] unspent campaign funds in any combination as provided in subsections (a)-(d). ~~[Any other disposition of the money is prohibited.]~~ A judicial candidate who ultimately does not file for judicial election or withdraws their candidacy but raises campaign funds must divest themselves of the unspent campaign funds in accordance with subsections (a), (b), and (d) within 60 days following the close of filing for such election. 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, and will revert to the Rule as it exists before these changes. The amendments to Rule 4.2(A)(6) and the deletion of Rule 4.2(D) are exempt from this sunset provision.