IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE AMENDMENT OF THE NEVADA JUSTICE COURT RULES OF CIVIL PROCEDURE

ADKT 0607

FILED

MAY 12 2023

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

ORDER AMENDING THE NEVADA JUSTICE COURT RULES OF CIVIL PROCEDURE

WHEREAS, on January 24, 2023, Ann Zimmerman, Justice of the Peace, Las Vegas Township Justice Court, on behalf of the Nevada Judges of Limited Jurisdiction, filed a petition in this court seeking to amend the Nevada Justice Court Rules of Civil Procedure. Accordingly,

IT IS HEREBY ORDERED that the proposed amendments to the Nevada Justice Court Rules of Civil Procedure shall be adopted and shall read as set forth in Exhibit A.

IT IS FURTHER ORDERED that the amendments to the Nevada Justice Court Rules of Civil Procedure shall be effective 60 days from the date of this order. 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

23-15030

conclusive evidence of the adoption and publication of the foregoing rule amendments.

Dated this 12TH day of May, 2023.

Stiglich, C.J.

Cadish, J.

Pickering, J.

Herndon, J.

Lee, J.

Parraguirre, J.

Bell, J.

cc: Hon. Ann Zimmerman, Judge, Las Vegas Township Justice Court
All Justices of the Peace
All District Court Judges
Clark County Bar Association
Washoe County Bar Association
First Judicial District Bar Association
Douglas County Bar Association
Paola Armeni, President, State Bar of Nevada
Kimberly Farmer, Executive Director, State Bar of Nevada
Administrative Office of the Courts

EXHIBIT A

ADOPTION OF NEW JUSTICE COURT RULES OF CIVIL PROCEDURE

I. GENERAL PROVISIONS

INTRODUCTION

The following are the Justice Court Rules of Civil Procedure. In each case where there is no corresponding rule in the Nevada Rules of Civil Procedure (NRCP) or there is no rule, the rule number will be followed by the notation "reserved." Any reference to the Nevada Rules of Appellate Procedure will be by abbreviation as "NRAP."

Rule 1. Scope and Application of Rules

(a) These rules may be known and cited as the Justice Court Rules of Civil Procedure, or abbreviated JCRCP.

(b) These rules govern the procedure in the justice courts in all suits of a civil nature. They shall be construed and administered to secure the just, speedy, and inexpensive determination of every action. Whenever it appears to the court that a particular situation does not fall within any of these rules or that the literal application of a rule would work hardship or injustice in a particular situation, the court shall make such order as the interests of justice require.

(c) These rules must not be construed to extend or limit the jurisdiction of the justice courts or the venue of actions therein.

(d) To the extent that any rule herein is in direct conflict with a specific statutory mandate, the statute must control.

(e) Each justice court in a township with more than one justice of the peace may promulgate local rules of practice in any manner not inconsistent with these rules.

(f) Rules 1 and 3-87 also apply to civil proceedings in municipal courts to the extent practicable.

Rule 2. Forms of Actions

There shall be four forms of action in justice courts to be known as "civil actions," "traffic civil infractions," "small claims actions," and "summary eviction actions." Rules 3-80 govern civil actions. Rules governing traffic civil infractions begin with Rule 81 and end with Rule 87. Rules governing small claims actions begin with Rule 88 and end with Rule 100. Rules governing summary evictions commence with Rule 101.

II. COMMENCEMENT OF ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS, AND ORDERS

Rule 3. Commencement of Action

A civil action is commenced by filing a complaint with the court. Upon filing such a complaint, the filing party shall complete a civil cover sheet provided by the justice court and approved by the state court administrator that obtains certain information regarding the nature of the action being filed. This cover sheet shall be signed by the initiating party, or his or her representative, and the filing may be rejected if unaccompanied by such a cover sheet.

Rule 4. Summons and Service

(a) **Summons.**

(1) **Contents.** A summons must:

(A) name the court, the county, and the parties;

(B) be directed to the defendant;

(C) state the name and address of the plaintiff's attorney or—if unrepresented—of the plaintiff;

(D) state the time within which the defendant must appear and defend under Rule 12(a) or any other applicable rule or statute;

(E) notify the defendant that a failure to appear and defend will result in a default judgment against the defendant for the relief demanded in the complaint;

(F) be signed by the clerk;

(G) bear the court's seal; and

(H) comply with Rule 4.4(c)(2)(C) when service is made by publication.

(2) **Amendments.** The court may permit a summons to be amended. Motions for the issuance of an amended summons must include a copy of the proposed summons for the court to issue.

(3) **Unlawful Detainer Actions.** In an unlawful detainer or forcible detainer action, the time to appear and defend may not be shortened to less than 10 calendar days after service of the summons and complaint.

(b) **Issuance.** On or after filing a complaint, the plaintiff must present a summons to the clerk for issuance under signature and seal. If a summons is properly presented, the clerk must issue a summons under signature and seal to the plaintiff for service on the defendant. A summons—or a copy of a

summons that is addressed to multiple defendants—must be issued for each defendant to be served. The court may elect to prepare and issue the summons to the plaintiff upon the filing of the complaint.

(c) **Service.**

(1) **In General.** Unless a defendant voluntarily appears, the plaintiff is responsible for having the summons and complaint served under Rule 4.2, 4.3, or 4.4 within the time allowed by Rule 4(e).

(2) **Service With a Copy of the Complaint.** A summons must be served with a copy of the complaint. The plaintiff must furnish the necessary copies to the person who makes service.

(3) **By Whom.** The summons and complaint may be served by the sheriff, deputy sheriff, constable, or deputy constable of the county where the defendant is found, by a licensed process server, or by any person who is at least 18 years old and not a party to the action.

(4) **Cumulative Service Methods.** The methods of service provided in Rules 4.2, 4.3, and 4.4 are cumulative and may be utilized with, after, or independently of any other methods of service.

(d) **Proof of Service.** Unless a defendant voluntarily appears or waives or admits service, a plaintiff must file proof of service with the court stating the date, place, and manner of service no later than the time permitted for the defendant to respond to the summons.

(1) **Service Within the United States.** Proof of service within Nevada or within the United States must be made by affidavit from the person who served the summons and complaint.

(2) **Service Outside the United States.** Service not within the United States must be proved as follows:

(A) if made under Rule 4.3(b)(1)(A), as provided in the applicable treaty or convention; or

(B) if made under Rule 4.3(b)(1)(B) or (C), by a receipt signed by the addressee, or by other evidence satisfying the court that the summons and complaint were delivered to the addressee.

(3) **Service by Publication.** If service is made by publication, a copy of the publication must be attached to the proof of service, and proof of service must be made by affidavit from:

(A) the publisher or other designated employee having knowledge of the publication; and

(B) if the summons and complaint were mailed to a person's last-known address, the individual depositing the summons and complaint in the mail.

(4) **Amendments.** The court may permit proof of service to be amended.

(5) **Failure to Make Proof of Service.** Failure to make proof of service does not affect the validity of the service.

(e) **Time Limit for Service.**

(1) **In General.** The summons and complaint must be served upon a defendant no later than 120 days after the complaint is filed, unless the court grants an extension of time under this rule.

(2) **Dismissal.** If service of the summons and complaint is not made upon a defendant before the 120-day service period—or any extension thereof—expires, the court must dismiss the action, without prejudice, as to that defendant upon the court's own initiative or upon motion. The court must provide written notice of the dismissal to the plaintiff.

(3) **Timely Motion to Extend Time.** If a plaintiff files a motion for an extension of time before the 120-day service period—or any extension thereof—expires and shows that good cause exists for granting an extension of the service period, the court must extend the service period and set a reasonable date by which service should be made.

(4) **Failure to Make Timely Motion to Extend Time.** If a plaintiff files a motion for an extension of time after the 120-day service period—or any extension thereof—expires but before dismissal of the action, the court must first determine whether good cause exists for the plaintiff's failure to timely file the motion for an extension before the court considers whether good cause exists for granting an extension of the service period. If the plaintiff shows that good cause exists for the plaintiff's failure to timely file the motion and for granting an extension of the service period, the court must extend the time for service and set a reasonable date by which service should be made.

Rule 4.1. Waiving Service

(a) **Requesting a Waiver.** An individual, entity, or association that is subject to service under Rule 4.2(a), 4.2(c)(1) or (2), 4.3(a)(1) or (3), or 4.3(b)(1) or (3) has a duty to avoid unnecessary expenses of serving the summons. The plaintiff may notify such a defendant that an action has been commenced and request that the defendant waive service of a summons. The notice and request must:

(1) be in writing and be addressed:

(A) to the individual defendant; or

(B) for an entity or association, to a person designated by Rule 4.2(c)(1);

(2) name the court where the complaint was filed;

(3) be accompanied by a copy of the complaint, two copies of a waiver form substantially equivalent to Form 2 in the NRCP Appendix of Forms, and a prepaid means for returning the form;

(4) inform the defendant, using the waiver form, of the consequences of waiving and not waiving service;

(5) state the date when the request is sent;

(6) give the defendant a reasonable time of at least 30 days after the request was sent—or at least 60 days if sent to the defendant outside the United States—to return the waiver; and

(7) be sent by first-class mail or other reliable means.

(b) **Failure to Waive.** If a defendant located within the United States fails, without good cause, to sign and return a waiver requested by a plaintiff located within the United States, the court must impose on the defendant:

(1) the expenses later incurred in making service; and

(2) the reasonable expenses, including attorney fees, of any motion required to collect those service expenses.

(c) **Time to Answer After a Waiver.** A defendant who, before being served with process, timely returns a waiver need not serve an answer to the complaint until 60 days after the request was sent—or until 90 days after it was sent to the defendant outside the United States.

(d) **Results of Filing a Waiver.** When the plaintiff files a waiver, proof of service is not required and these rules apply as if a summons and complaint had been served at the time of filing the waiver.

(e) **Jurisdiction and Venue Not Waived.** Waiving service of a summons does not waive any objection to personal jurisdiction or to venue.

Rule 4.2. Service Within Nevada

(a) **Serving an Individual.** Unless otherwise provided by these rules, service may be made on an individual:

(1) by delivering a copy of the summons and complaint to the individual personally;

(2) by leaving a copy of the summons and complaint at the individual's dwelling or usual place of abode with a person of suitable age and discretion who currently resides therein and is not an adverse party to the individual being served; or

(3) by delivering a copy of the summons and complaint to an agent authorized by appointment or by law to receive service of process.

(b) **Serving Minors and Incapacitated Persons.**

(1) **Minors.** A minor must be served by delivering a copy of the summons and complaint:

(A) if the minor is 14 years of age or older, to the minor; and

(B) to one of the following persons:

(i) if a guardian or similar fiduciary has been appointed for the minor, to the fiduciary under Rule 4.2(a), (c), or (d), as appropriate for the type of fiduciary;

(ii) if a fiduciary has not been appointed, to the minor's parent under Rule 4.2(a); or

(iii) if neither a fiduciary nor a parent can be found with reasonable diligence:

(a) to an adult having the care or control of the minor under Rule 4.2(a); or

(b) to a person of suitable age and discretion with whom the minor resides.

(2) **Incapacitated Persons.** An incapacitated person must be served by delivering a copy of the summons and complaint:

(A) to the incapacitated person; and

(B) to one of the following persons:

(i) if a guardian or similar fiduciary has been appointed for the incapacitated person, to the fiduciary under Rule 4.2(a), (c), or (d), as appropriate for the type of fiduciary; or

(ii) if a fiduciary has not been appointed:

(a) to a person of suitable age and discretion with whom the incapacitated person resides;

(b) if the incapacitated person is living in a facility, to the facility under Rule 4.2, as appropriate for the type of facility; or

(c) to another person as provided by court order.

(c) **Serving Entities and Associations.**

(1) **Entities and Associations in Nevada.**

(A) An entity or association that is formed under the laws of this state, is registered to do business in this state, or has appointed a registered agent in this state may be served by delivering a copy of the summons and complaint to:

(i) the registered agent of the entity or association;

(ii) any officer or director of a corporation;

(iii) any partner of a general partnership;

(iv) any general partner of a limited partnership;

(v) any member of a member-managed limited-liability company;

(vi) any manager of a manager-managed limited-liability company;

(vii) any trustee of a business trust;

(viii) any officer or director of a miscellaneous organization mentioned in NRS Chapter 81;

(ix) any managing or general agent of any entity or association; or

(x) any other agent authorized by appointment or by law to receive service of process.

(B) If an agent is one authorized by statute and the statute so requires, a copy of the summons and complaint must also be mailed to the defendant entity or association at its last-known address.

(2) **Other Foreign Entities and Associations.** A foreign entity or association that cannot be served under Rule 4.2(c)(1) may be served by delivering a copy of the summons and complaint to any officer, director, partner, member, manager, trustee, or agent identified in Rule 4.2(c)(1) that is located within this state.

(3) **Service via the Nevada Secretary of State.**

(A) If, for any reason, service on an entity or association required to appoint a registered agent in this state or to register to do business in this state cannot be made under Rule 4.2(c)(1) or (2), then the plaintiff may seek leave of court to serve the Nevada Secretary of State in the entity's or association's stead by filing with the court an affidavit:

(i) setting forth the facts demonstrating the plaintiff's good faith attempts to locate and serve the entity or association;

(ii) explaining the reasons why service on the entity or association cannot be made; and

(iii) stating the last-known address of the entity or association or of any person listed in Rule 4.2(c)(1), if any.

(B) Upon court approval, service may be made by:

(i) delivering a copy of the summons and complaint to the Nevada Secretary of State or his or her deputy; and

(ii) posting a copy of the summons and complaint in the office of the clerk of the court in which such action is brought or pending.

(C) If the plaintiff is aware of the last-known address of any person listed in Rule 4.2(c)(1), the plaintiff must also mail a copy of the summons and complaint to each such person at the person's last-known address by registered or certified mail. The court may also order additional notice to be sent under Rule 4.4(d) if the plaintiff is aware of other contact information of the entity or association or of any person listed in Rule 4.2(c)(1).

(D) Unless otherwise ordered by the court, service under Rule 4.2(c)(3) may not be used as a substitute in place of serving, under Rule 4.3(a), an entity or association through a person listed in Rule 4.2(c)(1) whose address is known but who lives outside this state.

(E) The defendant entity or association must serve a responsive pleading within 21 days after the later of:

(i) the date of service on the Nevada Secretary of State and posting with the clerk of the court; or

(ii) the date of the first mailing of the summons and complaint to the last-known address of any person listed in Rule 4.2(c)(1).

(d) **Serving the State of Nevada, Its Public Entities and Political Subdivisions, and Their Officers and Employees.**

(1) **The State and Its Public Entities.** The State and any public entity of the State must be served by delivering a copy of the summons and complaint to:

(A) the Attorney General, or a person designated by the Attorney General to receive service of process, at the Office of the Attorney General in Carson City; and

(B) the person serving in the office of administrative head of the named public entity, or an agent designated by the administrative head to receive service of process.

(2) **State Officers and Employees.** Any current or former public officer or employee of the State who is sued in his or her official capacity or his or her individual capacity for an act or omission relating to his or her public duties or employment must be served by delivering a copy of the summons and complaint to:

(A) the Attorney General, or a person designated by the Attorney General to receive service of process, at the Office of the Attorney General in Carson City; and

(B) the current or former public officer or employee, or an agent designated by him or her to receive service of process.

(3) **Political Subdivisions and Their Public Entities.** Any county, city, town, or other political subdivision of the State, and any public entity of such a political subdivision, must be served by delivering a copy of the summons and complaint to the presiding officer of the governing body of the political subdivision, or an agent designated by the presiding officer to receive service of process.

(4) **Local Officers and Employees.** Any current or former public officer or employee of any county, city, town, or other political subdivision of the State, or any public entity of such a political subdivision, who is sued in his or her official capacity or his or her individual capacity for an act or omission relating to his or her public duties or employment must be

served by delivering a copy of the summons and complaint to the current or former public officer or employee, or an agent designated by him or her to receive service of process.

(5) **Statutory Requirements.** A party suing the State, its public entities or political subdivisions, or their current or former officers and employees must also comply with any statutory requirements for service of the summons and complaint.

(6) **Extending Time.** The court must allow a party a reasonable time to cure its failure to:

(A) serve a person required to be served under Rule 4.2(d)(1) or (2), if the party has served the Attorney General; or

(B) serve the Attorney General under Rule 4.2(d)(1) or (2), if the party has served the required person.

Rule 4.3. Service Outside Nevada

(a) **Service Outside Nevada but Within the United States.**

(1) **Serving Individuals.** A party may serve process outside Nevada, but within the United States, in the same manner as provided in Rule 4.2(a) for serving such a defendant within Nevada, or as prescribed by the law of the place where the defendant is served.

(2) **Serving Minors and Incapacitated Persons.** A party may serve process outside Nevada, but within the United States, in the same manner as provided in Rule 4.2(b) for serving such a defendant within Nevada.

(3) **Serving Entities and Associations.** A party may serve process outside Nevada, but within the United States, in the same manner as provided in Rule 4.2(c)(1) for serving such a defendant within Nevada, or as prescribed by the law of the place where the defendant is served.

(4) **Serving Another State or Territory.** Service upon another state or territory, its public entities and political subdivisions, and their officers and employees may be made in the manner prescribed by that state's or territory's law for serving a summons or like process on such a defendant.

(5) **Serving the United States.** Service upon the United States and its agencies, corporations, officers, or employees may be made as provided by Rule 4 of the Federal Rules of Civil Procedure.

(6) **Authorized Persons.** Service must be made by a person who is authorized to serve process under the law of the state or territory where service is made.

(b) **Service Outside the United States.**

(1) **Serving an Individual.** Unless otherwise provided by these rules, an individual—other than a minor, an incapacitated person, or a person whose waiver has been filed—may be served at a place outside of the United States:

(A) by any internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents;

(B) if there is no internationally agreed means, or if an international agreement allows but does not specify other means, by a method that is reasonably calculated to give notice:

(i) as prescribed by the foreign country's law for service in that country in an action in its courts of general jurisdiction;

(ii) as the foreign authority directs in response to a letter rogatory or letter of request; or

(iii) unless prohibited by the foreign country's law, by:

(a) delivering a copy of the summons and of the complaint to the individual personally; or

(b) using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt; or

(C) by other means not prohibited by international agreement, as the court orders.

(2) **Serving a Minor or Incapacitated Person.** A minor or an incapacitated person who is outside the United States must be served in the manner prescribed by Rule 4.3(b)(1)(B)(i) or (ii) or 4.3(b)(1)(C).

(3) **Serving Entities or Associations.** An entity or association that is outside the United States may be served in any manner prescribed by Rule 4.3(b)(1) for serving an individual, except personal delivery under Rule 4.3(b)(1)(B)(iii)(a).

(4) **Serving a Foreign Country or Political Subdivision.** A foreign country or a political subdivision, agency, or instrumentality thereof must be served under 28 U.S.C. § 1608.

Rule 4.4. Alternative Service Methods

(a) **Statutory Service.** If a statute provides for service, the summons and complaint may be served under the circumstances and in the manner prescribed by the statute.

(b) **Court-Ordered Service.**

(1) If a party demonstrates that the service methods provided in Rules 4.2, 4.3, and 4.4(a) are impracticable, the court may, upon motion and without notice to the person being served, direct that service be accomplished through any alternative service method.

(2) A motion seeking an order for alternative service must:

(A) provide affidavits, declarations, or other evidence setting forth specific facts demonstrating:

(i) the due diligence that was undertaken to locate and serve the defendant; and

(ii) the defendant's known, or last-known, contact information, including the defendant's address, phone numbers, email addresses, social media accounts, or any other information used to communicate with the defendant; and

(B) state the proposed alternative service method and why it comports with due process.

(3) If the court orders alternative service, the plaintiff must also:

(A) make reasonable efforts to provide additional notice under Rule 4.4(d); and

(B) mail a copy of the summons and complaint, as well as any order of the court authorizing the alternative service method, to the defendant's last-known address.

(4) The plaintiff must provide proof of service under Rule 4(d) or as otherwise directed by the court.

(5) A plaintiff may serve a defendant by publication only if the requirements of Rule 4.4(c) are met and the procedures for publication are followed.

(c) **Service by Publication.** If a party demonstrates that the service methods provided in Rules 4.2, 4.3, and 4.4(a) and (b) are impracticable, the court may, upon motion and without notice to the person being served, direct that service be made by publication.

(1) **Conditions for Publication.** Service by publication may only be ordered when the defendant:

(A) cannot, after due diligence, be found;

(B) by concealment seeks to avoid service of the summons and complaint; or

(C) is an absent or unknown person in an action involving real or personal property under Rule 4.4(c)(3).

(2) **Motion Seeking Publication.** A motion seeking an order for service by publication must:

(A) through pleadings or other evidence establish that:

(i) a cause of action exists against the defendant who is to be served; and

(ii) the defendant is a necessary or proper party to the action;

(B) provide affidavits, declarations, or other evidence setting forth specific facts demonstrating the efforts that the plaintiff made to locate and serve the defendant;

(C) provide the proposed language of the summons to be used in the publication, briefly summarizing the claims asserted and the relief sought and including any special statutory requirements;

(D) suggest one or more newspapers or other periodicals in which the summons should be published that are reasonably calculated to give the defendant actual notice of the proceedings; and

(E) if publication is sought based on the fact that the defendant cannot be found, provide affidavits, declarations, or other evidence establishing the following information:

(i) the defendant's last-known address;

(ii) the dates during which the defendant resided at that location; and

(iii) confirmation that the plaintiff is unaware of any other address at which the defendant has resided since that time, or at which the defendant can be found.

(3) **Service by Publication Concerning Property Located Within Nevada.**

(A) The court may order service by publication in actions for the enforcement of mechanics' liens or other liens against real or personal property located within Nevada if a defendant:

(i) resides in the United States and has been absent from this state for at least 2 years;

(ii) resides in a foreign country and has been absent from the United States for at least 6 months;

(iii) is an unknown heir or devisee of a deceased person; or

(iv) is an unknown owner of real or personal property.

(B) Service by publication on an unknown heir, devisee, or property owner may only be used when the unknown heir, devisee, or property owner must be a party to the action under Rule 19(b).

(C) A plaintiff proceeding under Rule 4.4(c)(3) must provide the information required by Rule 4.4(c)(2), as applicable, in addition to providing affidavits, declarations, or other evidence establishing the facts necessary to satisfy the requirements of Rule 4.4(c)(3).

(4) **The Order for Service by Publication.**

(A) In the order for service by publication, the court must direct publication to be made in one or more newspapers or other periodicals published in Nevada; in the state, territory, or foreign country where the defendant is believed to be located; or in any combination of locations. The

court's designated locations must be reasonably calculated to give the defendant actual notice of the proceedings. The service must be published at least once a week for a period of 4 weeks unless a shorter period is authorized by statute.

(B) If publication is ordered and the plaintiff is aware of the defendant's last-known address, the plaintiff must also mail a copy of the summons and complaint to the defendant's last-known address. The court may also order that additional notice be sent under Rule 4.4(d).

(C) Service by publication is complete 4 weeks, or shorter period if authorized, from the later of:

(i) the date of the first publication; or

(ii) the mailing of the summons and complaint, if mailing is ordered.

(d) **Additional Methods of Notice.**

(1) In addition to any other service method, the court may order a plaintiff to make reasonable efforts to provide additional notice of the commencement of the action to a defendant using other methods of notice, including certified mail, telephone, voice message, email, social media, or any other method of communication.

(2) Unless otherwise ordered, the plaintiff or the plaintiff's attorney may contact the defendant to provide notice of the action, except when the plaintiff or attorney would violate any statute, rule, temporary or extended protective order, or injunction by communicating with the defendant.

(3) The plaintiff must provide proof of notice in the same manner as proof of service under Rule 4(d), or as otherwise directed by the court.

Rule 5. Service and Filing Pleadings and Other Papers

(a) **Service: When Required.**

(1) **In General.** Unless these rules provide otherwise, each of the following papers must be served on every party:

(A) an order stating that service is required;

(B) a pleading filed after the original complaint, unless the court orders otherwise under Rule 5(c) because there are numerous defendants;

(C) any paper relating to discovery required to be served on a party, unless the court orders otherwise;

(D) a written motion, except one that may be heard ex parte; and

(E) a written notice, appearance, demand, offer of judgment, or any similar paper.

(2) **If a Party Fails to Appear.** No service is required on a party who is in default for failing to appear. But a pleading that asserts a new claim for relief against such a party must be served on that party under Rule 4.

(b) **Service: How Made.**

(1) **Serving an Attorney.** If a party is represented by an attorney, service under this rule must be made on the attorney unless the court orders service on the party.

(2) **Service in General.** A paper is served under this rule by:

(A) handing it to the person;

(B) leaving it:

(i) at the person's office with a clerk or other person in charge or, if no one is in charge, in a conspicuous place in the office; or

(ii) if the person has no office or the office is closed, at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there;

(C) mailing it to the person's last-known address—in which event service is complete upon mailing;

(D) leaving it with the court clerk if the person has no known address;

(E) submitting it to the court's electronic filing system, if established under the Nevada Electronic Filing and Conversion Rules (NEFCR), for electronic service under NEFCR 9 or sending it by other electronic means that the person consented to in writing—in which event service is complete upon submission or sending, but is not effective if the serving party learns that it did not reach the person to be served; or

(F) delivering it by any other means that the person consented to in writing—in which event service is complete when the person making service delivers it to the agency designated to make delivery.

(3) **Using Court Facilities.** If the court has established an electronic filing system under the NEFCR through which service may be effected, a party may use the court's transmission facilities to make service under Rule 5(b)(2)(E).

(4) **Proof of Service.** Proof of service may be made by certificate, acknowledgment, or other proof satisfactory to the court. Proof of service should accompany the filing or be filed in a reasonable time thereafter. Failure to make proof of service does not affect the validity of service.

(c) **Serving Numerous Defendants.**

(1) **In General.** If an action involves an unusually large number of defendants, the court may, on motion or on its own, order that:

(A) defendants' pleadings and replies to them need not be served on other defendants;

(B) any cross-claim, counterclaim, avoidance, or affirmative defense in those pleadings and replies to them will be treated as denied or avoided by all other parties; and

(C) filing any such pleading and serving it on the plaintiff constitutes notice of the pleading to all parties.

(2) **Notifying Parties.** A copy of every such order must be served on the parties as the court directs.

(d) **Filing.**

(1) **Required Filings.** Any paper after the complaint that is required to be served must be filed no later than a reasonable time after service. But disclosures under Rule 16.1 and the following discovery requests and responses must not be filed until they are used in the proceeding or the court orders filing: depositions, interrogatories, requests for documents or tangible things or to permit entry onto land, and requests for admission.

(2) **Nonelectronic Filing.** A paper not filed electronically is filed by delivering it:

(A) to the clerk; or

(B) to a judge who agrees to accept it for filing and who must then note the filing date on the paper and promptly send it to the clerk.

(3) **Electronic Filing, Signing, or Verification.** The court may, by local rule, allow papers to be filed, signed, or verified by electronic means that are consistent with any technical standards established by the NEFCR. A paper filed electronically is a written paper for purposes of these rules.

(4) **Acceptance by the Clerk.** The clerk must not refuse to file a paper solely because it is not in the form prescribed by these rules or by a local rule or practice.

(e) **Drop Box Filing.** The court may maintain one or more drop boxes in which papers and pleadings may be stamped with the date and time of receipt and deposited for filing with the court. A court that offers such a system must establish local rules for the use of such drop boxes.

Rule 6. Computing and Extending Time; Time for Motion Papers

(a) **Computing Time.** The following rules apply in computing any time period specified in these rules, in any local rule or 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 6(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 6(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, local rule, 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; and

(B) 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) **In General.** When an act may or must be done within a specified time:

(A) the parties may obtain an extension of time by stipulation if approved by the court, provided that the stipulation is submitted to the court before the original time or its extension expires; or

(B) the court may, for good cause, extend the time:

(i) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or

(ii) on motion made after the time has expired if the party failed to act because of excusable neglect.

(2) **Exceptions.** A court must not extend the time to act under Rules 50(b) and (d), 52(b), 59(b), (d), and (e), and 60(c)(1), and must not extend the time after it has expired under Rule 54(d)(2).

(c) **Motions, Notices of Hearing, and Affidavits.**

(1) **In General.** A written motion and notice of the hearing must be served at least 21 days before the time specified for the hearing, with the following exceptions:

(A) when the motion may be heard ex parte;

(B) when these rules or the local rules provide otherwise; or

(C) when a court order—which a party may, for good cause, apply for ex parte—sets a different time.

(2) **Supporting Affidavit.** Any affidavit supporting a motion must be served with the motion. Except as Rule 59(c) provides otherwise, any opposing affidavit must be served at least 7 days before the hearing, unless the court permits service at another time.

(d) **Additional Time After Certain Kinds of Service.** When a party may or must act within a specified time after being served and service is made under Rule 5(b)(2)(C) (mail), (D) (leaving with the clerk), or (F) (other means

consented to), 3 days are added after the period would otherwise expire under Rule 6(a).

III. PLEADINGS AND MOTIONS

Rule 7. Pleadings Allowed; Form of Motions

(a) **Pleadings.** There must be a complaint and an answer; a reply to a counterclaim denominated as such; an answer to a cross-claim, if the answer contains a cross-claim; a third-party complaint, if a person who was not an original party is summoned under the provisions of Rule 14; and a third-party answer, if a third-party complaint is served. No other pleading shall be allowed, except that the court may order a reply to an answer or a third-party answer.

(b) **Motions and Other Papers.**

(1) An application to the court for an order must be by motion which, unless made during a hearing or trial, must be made in writing, state with particularity the grounds therefor, and set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.

(2) The rules applicable to captions, signing, and other matters of form of pleadings apply to all motions and other papers provided for by these rules.

(3) All motions shall be signed in accordance with Rule 11.

(c) **Demurrers, Pleas, Etc., Abolished.** Demurrers, pleas, and exceptions for insufficiency of a pleading must not be used.

Rule 8. General Rules of Pleading

(a) **Claims for Relief.** A pleading that sets forth a claim for relief, whether an original claim, counterclaim, cross-claim, or third-party claim, must contain:

(1) a short and plain statement of the claim showing that the pleader is entitled to relief; and

(2) a demand for judgment for the relief the pleader seeks.

Relief in the alternative or of several different types may be demanded.

(b) **Defenses; Form of Denials.** A party must state in short and plain terms the party's defenses to each claim asserted and must admit or deny the averments upon which the adverse party relies. If a party is without knowledge or information sufficient to form a belief as to the truth of an averment, the party must so state and this has the effect of a denial. Denials must fairly meet the substance of the averments denied. When a pleader intends in good faith to deny only a part or a qualification of an averment, the pleader must specify so much of it as is true and material and shall deny only the remainder. Unless the pleader intends in good faith to controvert all the averments of the preceding pleading, the pleader may make denials as specific denials of designated averments or paragraphs, or may generally deny all the averments except such designated averments or paragraphs as the pleader expressly admits; but, when the pleader does so intend to controvert all its averments, including averments of the grounds upon which the court's jurisdiction depends, the pleader may do so by general denial subject to the obligations set forth in Rule 11.

(c) **Affirmative Defenses.** In pleading to a preceding pleading, a party must set forth affirmatively accord and satisfaction, arbitration and award, assumption of risk, contributory negligence, discharge in bankruptcy, duress,

estoppel, failure of consideration, fraud, illegality, injury by fellow servant, laches, license, payment, release, res judicata, statute of frauds, statute of limitations, waiver, and any other matter constituting an avoidance or affirmative defense. When a party has mistakenly designated a defense as a counterclaim or a counterclaim as a defense, the court on terms, if justice so requires, must treat the pleading as if there had been a proper designation.

(d) **Effect of Failure to Deny.** Averments in a pleading to which a responsive pleading is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleading. Averments in a pleading to which no responsive pleading is required or permitted must be taken as denied or avoided.

(e) **Pleading to Be Concise and Direct; Consistency.**

(1) Each averment of a pleading must be simple, concise, and direct. No technical forms of pleading or motions are required.

(2) A party may set forth two or more statements of a claim or defense alternately or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as the party has regardless of consistency and whether based on legal or on equitable grounds or on both. All statements must be made subject to the obligations set forth in Rule 11.

(f) **Construction of Pleadings.** All pleadings shall be so construed as to do substantial justice.

Rule 9. Pleading Special Matters

(a) **Capacity.** It is not necessary to aver the capacity of a party to sue or be sued or the authority of a party to sue or be sued in a representative capacity or the legal existence of an organized association of persons that is made a party. When a party desires to raise an issue as to the legal existence of any party or the capacity of any party to sue or be sued or the authority of a party to sue or be sued in a representative capacity, the party desiring to raise the issue must do so by specific negative averment, which must include such supporting particulars as are peculiarly within the pleader's knowledge.

(b) **Fraud, Mistake, Condition of the Mind.** In all averments of fraud or mistake, the circumstances constituting fraud or mistake must be stated with particularity. Malice, intent, knowledge, and other condition of mind of a person may be averred generally.

(c) **Conditions Precedent.** In pleading the performance or occurrence of conditions precedent, it is sufficient to aver generally that all conditions precedent have been performed or have occurred. A denial of performance or occurrence must be made specifically and with particularity.

(d) **Official Document or Act.** In pleading an official document or official act, it is sufficient to aver that the document was issued or the act done in compliance with law.

(e) **Judgment.** In pleading a judgment or decision of a domestic or foreign court, judicial or quasi-judicial tribunal, or of a board or officer, it is sufficient to aver the judgment or decision without setting forth matter showing jurisdiction to render it.

(f) **Time and Place.** For the purpose of testing the sufficiency of a pleading, averments of time and place are material and must be considered like all other averments of material matter.

(g) **Special Damage.** When items of special damage are claimed, they must be specifically stated.

Rule 10. Form of Pleadings

(a) **Caption; Names of Parties.** Every pleading must contain a caption setting forth the name of the court, county and township, the title of the action, the file number, and a designation as in Rule 7(a). In the complaint the title of the action must include the names of all the parties, but in other pleadings it is sufficient to state the name of the first party on each side with an appropriate indication of other parties. A party whose name is not known may be designated by any fictitious name, and when the true name is discovered, the pleading may be amended accordingly.

(b) **Paragraphs; Separate Statements.** All averments of claim or defense must be made in numbered paragraphs, the contents of each of which must be limited as far as practicable to a statement of a single set of circumstances; and a paragraph may be referred to by number in all succeeding pleadings. Each claim founded upon a separate transaction or occurrence and each defense other than denials must be stated in a separate count or defense whenever separation facilitates the clear presentation of the matters set forth.

(c) **Adoption by Reference; Exhibits.** Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in any motion. A copy of any written instrument that is an exhibit to a pleading is a part thereof for all purposes.

Rule 11. Signing of Pleadings

(a) **Signature.** Every pleading, written motion, and other paper must be signed by at least one attorney of record in the attorney's individual name,

or, if the party is not represented by an attorney, must be signed by the party. Each paper must state the signer's address and telephone number, if any. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. An unsigned paper must be stricken by the court unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.

(b) **Representations to Court.** By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase in the cost of litigation;

(2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

(c) **Sanctions.** If, after notice and a reasonable opportunity to respond, the court determines that subsection (b) has been violated, the court may, subject to the conditions stated below, impose an appropriate sanction upon the attorneys, law firms, or parties that have violated subsection (b) or are responsible for the violation.

(1) **How Initiated.**

(A) **By Motion.** A motion for sanctions under this rule must be made separately from other motions or requests and must describe the specific conduct alleged to violate subsection (b). It must be served as provided in Rule 5 but must not be filed with or presented to the court unless, within 21 days after service of the motion (or such other period as the court may prescribe), the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected. If warranted, the court may award to the party prevailing on the motion the reasonable expenses and attorney fees incurred in presenting or opposing the motion. Absent exceptional circumstances, a law firm must be held jointly responsible for violations committed by its partners, associates, and employees.

(B) **On Court's Initiative.** On its own initiative, the court may enter an order describing the specific conduct that appears to violate subsection (b) and directing an attorney, law firm, or party to show cause why it has not violated subsection (b) with respect thereto.

(2) **Nature of Sanction; Limitations.** A sanction imposed for violation of this rule shall be limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated. Subject to the limitations in subsections (A) and (B), the sanction may consist of, or include, directives of a nonmonetary nature, an order to pay a penalty into court, or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of some or all of the reasonable attorney fees and other expenses incurred as a direct result of the violation.

(A) Monetary sanctions may not be awarded against a represented party for a violation of subsection (b)(2).

(B) Monetary sanctions may not be awarded on the court's initiative unless the court issues its order to show cause before a voluntary dismissal or settlement of the claims made by or against the party that is, or whose attorneys are, to be sanctioned.

(3) **Order.** When imposing sanctions, the court must describe the conduct determined to constitute a violation of this rule and explain the basis for the sanction imposed.

(d) **Inapplicability to Discovery.** Subsections (a)-(c) of this rule do not apply to disclosures and discovery requests, responses, objections, and motions that are subject to the provisions of Rules 16.1 and 26-37. Sanctions for refusal to make discovery are governed by Rules 26(g) and 37.

Rule 12. Defenses and Objections: When and How Presented; Motion for Judgment on the Pleadings; Consolidating Motions; Waiving Defenses; Pretrial Hearing

(a) **Time to Serve a Responsive Pleading.**

(1) **In General.** Unless another time is specified by Rule 4.2(c)(3)(E), this rule, or a statute, the time for serving a responsive pleading is as follows:

(A) A defendant must serve an answer:

(i) within 21 days after being served with the summons and complaint; or

(ii) if the defendant has timely waived service under Rule 4.1, within 60 days after the request for a waiver was sent, or within 90 days after the request for a waiver was sent to the defendant outside of the United States.

(B) A party must serve an answer to a counterclaim or cross-claim within 21 days after being served with the pleading that states the counterclaim or cross-claim.

(C) A party must serve a reply to an answer within 21 days after being served with an order to reply, unless the order specifies a different time.

(2) **The State of Nevada, Its Public Entities and Political Subdivisions, and Their Officers and Employees.** Unless another time is specified by Rule 12(a)(3) or a statute, the following parties must serve an answer to a complaint, counterclaim, or cross-claim within 45 days after service on the party, or if required, service on the Attorney General, whichever date of service is later:

(A) the State and any public entity of the State;

(B) any county, city, town, or other political subdivision of the State, and any public entity of such a political subdivision; and

(C) any current or former public officer or employee of the State, any public entity of the State, any county, city, town, or other political subdivision of the State, or any public entity of such a political subdivision, who is sued in his or her official capacity or his or her individual capacity for an act or omission relating to his or her public duties or employment.

(3) **Effect of a Motion.** Unless the court sets a different time, serving a motion under this rule alters these periods as follows:

(A) if the court denies the motion or postpones its disposition until trial, the responsive pleading must be served within 14 days after notice of the court's action; or

(B) if the court grants a motion for a more definite statement, the responsive pleading must be served within 14 days after the more definite statement is served.

(b) **How to Present Defenses.** Every defense to a claim for relief in any pleading must be asserted in the responsive pleading if one is required. But a party may assert the following defenses by motion:

(1) lack of subject-matter jurisdiction;

(2) lack of personal jurisdiction;

(3) insufficient process;

(4) insufficient service of process;

(5) failure to state a claim upon which relief can be granted; and

(6) failure to join a party under Rule 19.

A motion asserting any of these defenses must be made before pleading if a responsive pleading is allowed. If a pleading sets out a claim for relief that does not require a responsive pleading, an opposing party may assert at trial any defense to that claim. No defense or objection is waived by joining it with one or more other defenses or objections in a responsive pleading or in a motion.

(c) **Motion for Judgment on the Pleadings.** After the pleadings are closed—but early enough not to delay trial—a party may move for judgment on the pleadings.

(d) **Result of Presenting Matters Outside the Pleadings.** If, on a motion under Rule 12(b)(5) or 12(c), matters outside the pleadings are presented to and not excluded by the court, the motion must be treated as one for summary judgment under Rule 56. All parties must be given a reasonable opportunity to present all the material that is pertinent to the motion.

(e) **Motion for a More Definite Statement.** A party may move for a more definite statement of a pleading to which a responsive pleading is allowed

but which is so vague or ambiguous that the party cannot reasonably prepare a response. The motion must be made before filing a responsive pleading and must point out the defects complained of and the details desired. If the court orders a more definite statement and the order is not obeyed within 14 days after notice of the order or within the time the court sets, the court may strike the pleading or issue any other appropriate order.

(f) **Motion to Strike.** The court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter. The court may act:

(1) on its own; or

(2) on motion made by a party either before responding to the pleading or, if a response is not allowed, within 21 days after being served with the pleading.

(g) **Joining Motions.**

(1) **Right to Join.** A motion under this rule may be joined with any other motion allowed by this rule.

(2) **Limitation on Further Motions.** Except as provided in Rule 12(h)(2) or (3), a party that makes a motion under this rule must not make another motion under this rule raising a defense or objection that was available to the party but omitted from its earlier motion.

(h) **Waiving and Preserving Certain Defenses.**

(1) **When Some Are Waived.** A party waives any defense listed in Rule 12(b)(2)-(4) by:

(A) omitting it from a motion in the circumstances described in Rule 12(g)(2); or

(B) failing to either:

(i) make it by motion under this rule; or

(ii) include it in a responsive pleading or in an amendment allowed by Rule 15(a)(1) as a matter of course.

(2) **When to Raise Others.** Failure to state a claim upon which relief can be granted, to join a person required by Rule 19(b), or to state a legal defense to a claim may be raised:

(A) in any pleading allowed or ordered under Rule 7(a);

(B) by a motion under Rule 12(c); or

(C) at trial.

(3) **Lack of Subject-Matter Jurisdiction.** If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.

(i) **Hearing Before Trial.** If a party so moves, any defense listed in Rule 12(b)(1)-(6)—whether made in a pleading or by motion—and a motion under Rule 12(c) must be heard and decided before trial unless the court orders a deferral until trial.

Rule 13. Counterclaim and Cross-Claim

(a) **Compulsory Counterclaims.** A pleading must state as a counterclaim any claim that at the time of serving the pleading the pleader has against any opposing party, if it arises out of the transaction or occurrence that is the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties over whom the court cannot acquire jurisdiction, and if an original action might be brought upon it by the defendant against the plaintiff in a justice court. But the pleader need not state the claim if:

(1) at the time the action was commenced the claim was the subject of another pending action; or

(2) the opposing party brought suit upon the claim by attachment or other process by which the court did not acquire jurisdiction to render a personal judgment on that claim, and the pleader is not stating any counterclaim under this rule.

(b) **Permissive Counterclaims.** A pleading may state as a counterclaim any claim against an opposing party not arising out of the transaction or occurrence that is the subject matter of the opposing party's claim if an original action might be brought upon it by the defendant against the plaintiff in a justice court.

(c) **Counterclaim Exceeding Opposing Claim.** A counterclaim may or may not diminish or defeat the recovery sought by the opposing party. It may claim relief exceeding in amount or different in kind from that sought in the pleading of the opposing party but is limited by the provisions of subsection (j).

(d) **Counterclaim Against the State.** These rules must not be construed to enlarge beyond the limits now fixed by law the right to assert counterclaims or to claim credits against the State or an officer or agency thereof.

(e) **Counterclaim Maturing or Acquired After Pleading.** A claim that either matured or was acquired by the pleader after serving a pleading may, with the permission of the court, be presented as a counterclaim by supplemental pleading.

(f) **Omitted Counterclaim.** When a pleader fails to present a counterclaim through oversight, inadvertence, or excusable neglect, or when justice requires, the pleader may by leave of court state the counterclaim by amendment.

(g) **Cross-Claim Against Coparty.** If the cross-claim is a claim upon which an original action might be brought in a justice court, a pleading may state as a cross-claim any claim by one party against a coparty arising out of the transaction or occurrence that is the subject matter either of the original action or of a counterclaim therein or relating to any property that is the subject matter of the original action. Such cross-claim may include a claim that the party against whom it is asserted is or may be liable to the cross-claimant for all or part of a claim asserted in the action against the cross-claimant.

(h) **Joinder of Additional Parties.** Persons other than those made parties to the original action may be made parties to a counterclaim or cross-claim in accordance with the provisions of Rules 19 and 20.

(i) **Separate Trials; Separate Judgment.** If the court orders separate trials as provided in Rule 42(b), judgment on a counterclaim or cross-claim may be rendered in accordance with the terms of Rule 54(b) when the court has jurisdiction so to do, even if the claims of the opposing party have been dismissed or otherwise disposed of.

(j) **Transfer of Action to District Court.** When any counterclaim or other pleading raises any issue or claim that may not be adjudicated in a justice court, the court may separate the issues or claims and adjudicate those over which the court has jurisdiction and require the other issues or claims to be filed in district court or the court may order the entire matter transferred for adjudication in district court. Where justice requires that the matters be heard together, the court must order the entire matter transferred for adjudication in district court.

Rule 14. Third-Party Practice

(a) **When Defendant May Bring in Third Party.** If the claim asserted is a claim upon which an original action might be brought in a justice court:

(1) At any time after commencement of the action a defending party, as a third-party plaintiff, may cause a summons and complaint to be served upon a person not a party to the action who is or may be liable to the third-party plaintiff for all or part of the plaintiff's claim against the third-party plaintiff. The third-party plaintiff need not obtain leave to make the service if the third-party plaintiff files the third-party complaint not later than 14 days after serving the original answer. Otherwise, the third-party plaintiff must obtain leave on motion upon notice to all parties to the action. The person served with the summons and third-party complaint, hereinafter called the third-party defendant, must make any defenses to the third-party plaintiff's claim as provided in Rule 12 and any counterclaims against the third-party plaintiff and cross-claims against other third-party defendants as provided in Rule 13.

(2) The third-party defendant may assert against the plaintiff any defenses that the third-party plaintiff has to the plaintiff's claim.

(3) The third-party defendant may also assert any claim against the plaintiff arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff.

(4) The plaintiff may assert any claim against the third-party defendant arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff, and the third-party defendant thereupon must assert any defenses as provided in Rule 12 and any counterclaims and cross-claims as provided in Rule 13.

(5) Any party may move to strike the third-party claim, or for its severance or separate trial. A third-party defendant may proceed under this rule against any person not a party to the action who is or may be liable to the third-party defendant for all or part of the claim made in the action against the third-party defendant.

(b) **When Plaintiff May Bring in Third Party.** When a counterclaim is asserted against a plaintiff, the plaintiff may cause a third party to be brought in under circumstances which under this rule would entitle a defendant to do so.

Rule 15. Amended and Supplemental Pleadings

(a) **Amendments.** A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, the party may so amend it at any time within 21 days after it is served. Otherwise, a party may amend the party's pleading only by leave of court or by written consent of the adverse party; leave must be freely given when justice so requires. A party must plead in response to an amended pleading within the time remaining for response to the original pleading or within 14 days after service of the amended pleading, whichever period may be the longer, unless the court otherwise orders.

(b) **Amendments to Conform to the Evidence.** When issues not raised by the pleadings are tried by express or implied consent of the parties, they must be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment, but failure so to amend does not

affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be aided and the objecting party fails to satisfy the court that the admission of such evidence would prejudice the party in maintaining the party's action or defense upon the merits. The court may grant a continuance to enable the objecting party to meet such evidence.

(c) **Relation Back of Amendments.**

(1) Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading.

(2) Whenever the amendment changes a party or the naming of a party against whom a claim is asserted, the amendment relates back to the date of the original pleading if Rule 15(c)(1) is satisfied and if, within the period provided by Rule 4(e) for serving the summons and complaint, the party to be brought in by amendment received such notice of the action that it will not be prejudiced in defending on the merits and knew or should have known that the action would have been brought against it, but for a mistake concerning the proper party's identity.

(d) **Supplemental Pleadings.** Upon motion of a party the court may, on reasonable notice and such terms as are just, permit the party to serve a supplemental pleading setting forth transactions or occurrences or events that have happened since the date of the pleading sought to be supplemented. Permission may be granted even though the original pleading is defective in its statement of a claim for relief or defense. If the court deems it advisable

that the adverse party plead to the supplemental pleading, it must so order, specifying the time therefor.

Rule 16. Pretrial Procedures; Formulating Issues

(a) In any action, the court may in its discretion direct the attorneys for the parties to appear before it for a conference to consider:

(1) the simplification of the issues;

(2) the necessity or desirability of amendments to the pleadings;

(3) the possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof;

(4) the limitation of the number of expert witnesses;

(5) the advisability of a preliminary reference of issues to a master for findings, in accordance with the provisions of NRS 4.357, to be used as evidence when the trial is to be by jury; and

(6) such other matters as may aid in the disposition of the action.

(b) The court must make an order that recites the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered and that limits the issues for trial to those not disposed of by admissions or agreements of counsel; such order when entered controls the subsequent course of the action, unless modified at the trial to prevent manifest injustice. The court in its discretion may establish by rule a pretrial calendar on which actions may be placed for consideration as above provided and may either confine the calendar to jury actions or to nonjury actions or extend it to all actions.

Rule 16.1. Mandatory Pretrial Disclosure Requirements for Civil Actions

(a) **Exchange of Documents; Witness Lists.** Within 30 days of the filing of defendant's answer, the parties must disclose and serve on the opposing party:

(1) all documents then reasonably available that are then contemplated to be used in support of the allegations or denials of the pleadings filed by that party, including rebuttal and impeachment documents;

(2) a written list of persons, including expert witnesses, then known to have knowledge of any facts relevant to the allegations of any pleading, including rebuttal or impeachment evidence, stating for each person so identified, that person's name and address and a general description of the subject matter of such knowledge; and

(3) any expert witness reports prepared by an expert witness whose opinions may be presented at trial.

(b) **Early Case Disclosure of Documents and Knowledgeable Persons Report.** Within 10 days of the required disclosures, each party shall file with the court a report containing a list of the documents and a list of persons disclosed and served upon the opposing party. This report may be prepared and filed as a joint report. Any party first served or otherwise joined after the filing of the early disclosure of documents and knowledgeable persons report must make these disclosures within 30 days after being served or joined unless a different time is set by stipulation or court order.

(c) **Duty to Supplement; Sanctions.** Each party is under a continuing duty to promptly supplement disclosure of required documents or that party's list of persons pursuant to this subsection. Failure of a party to promptly disclose supplemental documents or lists of persons may result in the exclusion

of that document(s) or witness(es) or may result in an order to compel disclosures or sanctions pursuant to Rule 37.

IV. PARTIES

Rule 17. Parties Plaintiff and Defendant; Capacity; Public Officers

(a) **Real Party in Interest.**

(1) **Designation in General.** An action must be prosecuted in the name of the real party in interest. The following may sue in their own names without joining the person for whose benefit the action is brought:

(A) an executor;

(B) an administrator;

(C) a guardian;

(D) a bailee;

(E) a trustee of an express trust;

(F) a party with whom or in whose name a contract has been made for another's benefit; and

(G) a party authorized by statute.

(2) **Action in the Name of the State of Nevada for Another's Use or Benefit.** When a statute so provides, an action for another's use or benefit must be brought in the name of the State.

(3) **Joinder of the Real Party in Interest.** The court may not dismiss an action for failure to prosecute in the name of the real party in interest until, after an objection, a reasonable time has been allowed for the real party in interest to ratify, join, or be substituted into the action. After ratification, joinder, or substitution, the action proceeds as if it had been originally commenced by the real party in interest.

(b) **Capacity to Sue or Be Sued.** Capacity to sue or be sued is determined as follows:

(1) for an individual, including one acting in a representative capacity, by the law of this state;

(2) for a corporation, by the law under which it was organized, unless the law of this state provides otherwise; and

(3) for all other parties, by the law of this state.

(c) **Minor or Incapacitated Person.**

(1) **With a Representative.** The following representatives may sue or defend on behalf of a minor or an incapacitated person:

(A) a general guardian;

(B) a committee;

(C) a conservator; or

(D) a like fiduciary.

(2) **Without a Representative.** A minor or an incapacitated person who does not have a duly appointed representative may sue by a next friend or by a guardian ad litem.

(d) **Public Officer's Title and Name.** A public officer who sues or is sued in an official capacity may be designated by official title rather than by name, but the court may order that the officer's name be added.

Rule 18. Joinder of Claims

A party asserting a claim, counterclaim, cross-claim, or third-party claim may join, as independent, contingent, or alternative claims, as many claims as it has against an opposing party.

Rule 19. Required Joinder of Parties

(a) **Persons Required to Be Joined if Feasible.**

(1) **Required Party.** A person who is subject to service of process and whose joinder will not deprive the court of subject-matter jurisdiction must be joined as a party if:

(A) in that person's absence, the court cannot accord complete relief among existing parties; or

(B) that person claims an interest relating to the subject of the action and is so situated that disposing of the action in the person's absence may:

(i) as a practical matter impair or impede the person's ability to protect the interest; or

(ii) leave an existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations because of the interest.

(2) **Joinder by Court Order.** If a person has not been joined as required, the court must order that the person be made a party. A person who refuses to join as a plaintiff may be made either a defendant or, in a proper case, an involuntary plaintiff.

(b) **When Joinder Is Not Feasible.** If a person who is required to be joined if feasible cannot be joined, the court must determine whether, in equity and good conscience, the action should proceed among the existing parties or should be dismissed. The factors for the court to consider include:

(1) the extent to which a judgment rendered in the person's absence might prejudice that person or the existing parties;

(2) the extent to which any prejudice could be lessened or avoided by:

(A) protective provisions in the judgment;

(B) shaping the relief; or

(C) other measures;

(3) whether a judgment rendered in the person's absence would be adequate; and

(4) whether the plaintiff would have an adequate remedy if the action were dismissed for nonjoinder.

(c) **Pleading the Reasons for Nonjoinder.** When asserting a claim for relief, a party must state:

(1) the name, if known, of any person who is required to be joined if feasible but is not joined; and

(2) the reasons for not joining that person.

(d) **Exception for Class Actions.** This rule is subject to Rule 23.

Rule 20. Permissive Joinder of Parties

(a) **Persons Who May Join or Be Joined.**

(1) **Plaintiffs.** Persons may join in one action as plaintiffs if:

(A) they assert any right to relief jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences;

(B) any question of law or fact common to all plaintiffs will arise in the action; and

(C) the total amount claimed by the Plaintiffs does not exceed the court's jurisdictional limit as set forth in NRS 4.370.

(2) **Defendants.** Persons may be joined in one action as defendants if:

(A) any right to relief is asserted against them jointly and severally, does not exceed the court's jurisdictional limit set forth in NRS 4.370, and arises out of the same transaction, occurrence, or series of transactions or occurrences; or

(B) any right to relief is asserted in the alternative arising out of the same transaction, occurrence, or series of transactions or occurrences and the amount claimed against either alternative defendant does not exceed the court's jurisdictional limit set forth in NRS 4.370; and

(C) in addition to the requirements of subsection 2(A) or 2(B), any question of law or fact common to all defendants will arise in the action.

(3) **Extent of Relief.** Neither a plaintiff nor a defendant need be interested in obtaining or defending against all the relief demanded. The court may grant judgment to one or more plaintiffs according to their rights and against one or more defendants according to their liabilities.

(b) **Protective Measures.** The court may issue orders—including an order for separate trials—to protect a party against embarrassment, delay, expense, or other prejudice that arises from including a person against whom the party asserts no claim and who asserts no claim against the party.

Rule 21. Misjoinder and Nonjoinder of Parties

Misjoinder of parties is not ground for dismissing an action. On motion or on its own, the court may at any time, on just terms, add or drop a party. The court may also sever any claim against a party.

Rule 22. Interpleader

(a) **Grounds.**

(1) **By a Plaintiff.** Persons with claims that may expose a plaintiff to double or multiple liability may be joined as defendants and required to interplead. Joinder for interpleader is proper even though:

(A) the claims of the several claimants, or the titles on which their claims depend, lack a common origin or are adverse and independent rather than identical; or

(B) the plaintiff denies liability in whole or in part to any or all of the claimants.

(2) **By a Defendant.** A defendant exposed to similar liability may seek interpleader through a cross-claim or counterclaim.

(b) **Relation to Other Rules and Statutes.** This rule supplements—and does not limit—the joinder of parties allowed by Rule 20. The remedy this rule provides is in addition to—and does not supersede or limit—the remedy provided by any Nevada statute authorizing interpleader. These rules apply to any action brought under statutory interpleader provisions, except as otherwise provided by Rule 1(d).

Rule 23. Class Actions

(a) **Prerequisites to a Class Action.** One or more members of a class may sue or be sued as representative parties on behalf of all only if:

(1) the class is so numerous that joinder of all members is impracticable;

(2) there are questions of law or fact common to the class;

(3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and

(4) the representative parties will fairly and adequately protect the interests of the class.

(b) **Aggregation.** The representative parties may aggregate the value of the individual claims of all potential class members to establish that the district court, rather than the justice court, has jurisdiction over a class action.

(c) **Class Actions Maintainable.** An action may be maintained as a class action if the prerequisites of Rule 23(a) are satisfied, and in addition:

(1) the prosecution of separate actions by or against individual members of the class would create a risk of:

(A) inconsistent or varying adjudications with respect to individual members of the class that would establish incompatible standards of conduct for the party opposing the class; or

(B) adjudications with respect to individual members of the class that would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests;

(2) the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole; or

(3) the court finds that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy. The matters pertinent to the findings include:

(A) the interest of members of the class in individually controlling the prosecution or defense of separate actions;

(B) the extent and nature of any litigation concerning the controversy already commenced by or against members of the class;

(C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and

(D) the difficulties likely to be encountered in the management of a class action.

(d) **Determination by Order Whether Class Action to Be Maintained; Notice; Judgment; Actions Conducted Partially as Class Actions.**

(1) As soon as practicable after the commencement of an action brought as a class action, the court must determine by order whether it is to be so maintained. The order may be conditional and may be altered or amended before the decision on the merits.

(2) When determining whether an action may be maintained as a class action, the representative party's rejection of an offer made under Rule 68 or other offer of compromise that offers to resolve less than all of the class claims asserted by or against the representative party has no impact on the representative party's ability to satisfy the requirements of Rule 23(a)(4). When the representative party is unable or unwilling to continue as the class representative, the court must permit class members an opportunity to substitute a class representative meeting the requirements of Rule 23(a)(4), except in cases where the representative party has been sued.

(3) In any class action maintained under Rule 23(c)(3), the court should direct to the members of the class the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice must advise each member that:

(A) the court will exclude the member from the class if the member so requests by a specified date;

(B) the judgment, whether favorable or not, will include all members who do not request exclusion; and

(C) any member who does not request exclusion may, if the member desires, enter an appearance through the member's counsel.

(4) The judgment in an action maintained as a class action under Rule 23(c)(1) or (2), whether or not favorable to the class, must include and describe those whom the court finds to be members of the class. The judgment in an action maintained as a class action under Rule 23(c)(3), whether or not favorable to the class, must include and specify or describe those to whom the notice provided in Rule 23(d)(3) was directed, and who have not requested exclusion, and whom the court finds to be members of the class.

(5) When appropriate, an action may be brought or maintained as a class action with respect to particular issues, or a class may be divided into subclasses and each subclass treated as a class. In either case, the provisions of this rule should then be construed and applied accordingly.

(e) **Orders in Conduct of Actions.**

(1) When conducting actions to which this rule applies, the court may make appropriate orders:

(A) determining the course of proceedings or prescribing measures to prevent undue repetition or complication in the presentation of evidence or argument;

(B) requiring, for the protection of the members of the class or otherwise for the fair conduct of the action, that notice be given to some or all of the members in such manner as the court may direct:

(i) of any step in the action;

(ii) of the proposed extent of the judgment;

(iii) of the opportunity of members to signify whether they consider the representation fair and adequate;

(iv) to intervene and present claims or defenses; or

(v) to otherwise come into the action;

(C) imposing conditions on the representative parties or on intervenors;

(D) requiring that the pleadings be amended to eliminate therefrom allegations as to representation of absent persons and that the action proceed accordingly; and

(E) dealing with similar procedural matters.

(2) The orders may be combined with an order under Rule 16 and may be altered or amended.

(f) **Dismissal or Compromise.** A class action must not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise must be given to all members of the class in such manner as the court directs.

Rule 23.1. Reserved

Rule 23.2. Actions Relating to Unincorporated Associations

An action brought by or against the members of an unincorporated association as a class by naming certain members as representative parties may be maintained only if it appears that the representative parties will fairly and adequately protect the interests of the association and its members. In conducting the action, the court may issue any appropriate orders corresponding with those in Rule 23(e), and the procedure for dismissal or compromise of the action shall correspond with the procedure in Rule 23(f).

Rule 24. Intervention

(a) **Intervention of Right.** On timely motion, the court must permit anyone to intervene who:

(1) is given an unconditional right to intervene by a state or federal statute; or

(2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

(b) **Permissive Intervention.**

(1) **In General.** On timely motion, the court may permit anyone to intervene who:

(A) is given a conditional right to intervene by a state or federal statute; or

(B) has a claim or defense that shares with the main action a common question of law or fact.

(2) **By a Government Officer or Agency.** On timely motion, the court may permit a state or federal governmental officer or agency to intervene if a party's claim or defense is based on:

(A) a statute or executive order administered by the officer or agency; or

(B) any regulation, order, requirement, or agreement issued or made under the statute or executive order.

(3) **Delay or Prejudice.** In exercising its discretion, the court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights.

(c) **Notice and Pleading Required.** A motion to intervene must be served on the parties as provided in Rule 5. The motion must state the grounds for intervention and be accompanied by a pleading that sets out the claim or defense for which intervention is sought.

Rule 25. Substitution of Parties

(a) **Death.**

(1) **Substitution if the Claim Is Not Extinguished.** If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 180 days after service of a statement noting the death, the claims by or against the decedent must be dismissed.

(2) **Continuation Among the Remaining Parties.** After a party's death, if the right sought to be enforced survives only to or against the remaining parties, the action does not abate but proceeds in favor of or against the remaining parties. The death should be noted on the record.

(3) **Service.** A motion to substitute must be served on the parties as provided in Rule 5 and on nonparties as provided in Rule 4. A statement noting death must be served in the same manner.

(b) **Incapacitated Persons.** If a party becomes incapacitated, the court may, on motion, permit the action to be continued by or against the party's representative. The motion must be served as provided in Rule 25(a)(3).

(c) **Transfer of Interest.** If an interest is transferred, the action may be continued by or against the original party unless the court, on motion, orders the transferee to be substituted in the action or joined with the original party. The motion must be served as provided in Rule 25(a)(3).

(d) **Public Officers; Death or Separation From Office.** An action does not abate when a public officer who is a party in an official capacity dies, resigns, or otherwise ceases to hold office while the action is pending. The officer's successor is automatically substituted as a party. Later proceedings should be in the substituted party's name, but any misnomer not affecting the parties' substantial rights must be disregarded. The court may order substitution at any time, but the absence of such an order does not affect the substitution.

V. DEPOSITIONS AND DISCOVERY

Rule 25A. Leave of Court

(a) **Leave of Court Required.** Except as stated in subsection (b), the taking of depositions, the propounding of interrogatories, the requesting of admissions and all other procedures authorized by Rules 26.2-37 are available only with leave of court first obtained and subject to the limitations, if any, imposed by the court. In exercising its discretion in determining whether discovery will be permitted or limited, the court must consider:

(1) whether all parties are represented by counsel;

(2) whether the factual and legal issues lend themselves to discovery, limited or otherwise;

(3) the anticipated expense for discovery likely to be incurred by a party;

(4) the amount in controversy;

(5) whether undue delay bringing the case to trial or hearing will result; and

(6) whether the interests of justice will be promoted.

(b) **Leave of Court Not Required.** Where all parties are represented by counsel, no leave of court to conduct discovery is required by any party to:

(1) conduct no more than one deposition not to exceed 1 hour in length;

(2) propound up to a total of ten written interrogatories, including all discreet subparts;

(3) request the production of up to ten documents;

(4) request up to ten written admissions; or

(5) conduct depositions in accordance with the notice provisions under the requirements of Rule 30(b)(2).

(c) **Stipulations by Counsel.** Counsel may enter into a stipulated written discovery plan without leave of court, provided, however, that counsel may not stipulate to extend the deadlines for the filing of the early case conference report or pretrial memorandum.

Rule 26. General Provisions Governing Discovery

(a) **Discovery Methods.** At any time after the filing of a report of early case disclosure of documents and knowledgeable persons, a party may obtain discovery by any means permitted in Rule 25A.

(b) **Discovery Scope and Limits.**

(1) **Scope.** Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claims or defenses and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or

expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.

(2) **Limitations.**

(A) **Frequency.** The court may alter the limits in these rules on the number of depositions and interrogatories, the length of depositions under Rule 30, or the number of requests under Rule 36.

(B) **Electronically Stored Information.** A party need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the party from whom discovery is sought must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery, including costs of complying with the court's order.

(C) **When Required.** On motion or on its own, the court must limit the frequency or extent of discovery otherwise allowed by these rules or by local rule if it determines that:

(i) the discovery sought is unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive;

(ii) the party seeking discovery has had ample opportunity to obtain the information by discovery in the action; or

(iii) the proposed discovery is outside the scope permitted by Rule 26(b)(1).

(3) **Trial Preparation: Materials.**

(A) **Documents and Tangible Things.** Ordinarily, a party may not discover documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative (including the other party's attorney, consultant, surety, indemnitor, insurer, or agent). But, subject to Rule 26(b)(4), those materials may be discovered if:

(i) they are otherwise discoverable under Rule 26(b)(1); and

(ii) the party shows that it has substantial need for the materials to prepare its case and cannot, without undue hardship, obtain their substantial equivalent by other means.

(B) **Protection Against Disclosure.** If the court orders discovery of those materials, it must protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of a party's attorney or other representative concerning the litigation.

(C) **Previous Statement.** Any party or other person may, on request and without the required showing, obtain the person's own previous statement about the action or its subject matter. If the request is refused, the person may move for a court order, and Rule 37(a)(5) applies to the award of expenses. A previous statement is either:

(i) a written statement that the person has signed or otherwise adopted or approved; or

(ii) a contemporaneous stenographic, mechanical, electrical, or other recording—or a transcription of it—that recites substantially verbatim the person's oral statement.

(4) **Trial Preparation: Experts.**

(A) **Deposition of an Expert Who May Testify.** A party may depose any person who has been identified as an expert only with leave of the court.

(B) **Trial-Preparation Protection for Draft Reports or Disclosures.** Rule 26(b)(3) protects drafts of any report or disclosure required under Rule 16.1, regardless of the form in which the draft is recorded.

(C) **Trial-Preparation Protection for Communications Between a Party's Attorney and Expert Witnesses.** Rule 26(b)(3) protects communications between the party's attorney and any witness required to provide a report under Rule 16.1, regardless of the form of the communications, except to the extent that the communications:

(i) relate to compensation for the expert's study or testimony;

(ii) identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed; or

(iii) identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions to be expressed.

(D) **Expert Employed Only for Trial Preparation.** Ordinarily, a party may not, by interrogatories or deposition, discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or to prepare for trial and who is not expected to be called as a witness at trial. But a party may do so only:

(i) as provided in Rule 35(b); or

(ii) on showing exceptional circumstances under which it is impracticable for the party to obtain facts or opinions on the same subject by other means.

(5) **Claiming Privilege or Protecting Trial Preparation Materials.**

(A) **Information Withheld.** When a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, the party must:

(i) expressly make the claim; and

(ii) describe the nature of the documents, communications, or tangible things not produced or disclosed—and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.

(B) **Information Produced.** If information produced in discovery is subject to a claim of privilege or of protection as trial-preparation material, the party making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The producing party must preserve the information until the claim is resolved.

(c) **Protective Orders.**

(1) **In General.** A party or any person from whom discovery is sought may move for a protective order in the court where the action is

pending—or as an alternative on matters relating to an out-of-state deposition, in the court for the judicial district where the deposition will be taken. The motion must include a certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without court action. The court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(A) forbidding the disclosure or discovery;

(B) specifying terms, including time and place or the allocation of expenses, for the disclosure or discovery;

(C) prescribing a discovery method other than the one selected by the party seeking discovery;

(D) forbidding inquiry into certain matters, or limiting the scope of disclosure or discovery to certain matters;

(E) designating the persons who may be present while the discovery is conducted;

(F) requiring that a deposition be sealed and opened only on court order;

(G) requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way; and

(H) requiring that the parties simultaneously file specified documents or information in sealed envelopes, to be opened as the court directs.

(2) **Ordering Discovery.** If a motion for a protective order is wholly or partially denied, the court may, on just terms, order that any party or person provide or permit discovery.

(3) **Awarding Expenses.** Rule 37(a)(5) applies to the award of expenses.

(d) **Sequence of Discovery.** Unless the parties stipulate or the court orders otherwise for the parties' and witnesses' convenience and in the interests of justice:

(1) methods of discovery may be used in any sequence; and

(2) discovery by one party does not require any other party to delay its discovery.

(e) **Supplementing Disclosures and Responses.**

(1) **In General.** A party who has made a disclosure under Rule 16.1—or responded to a request for discovery with a disclosure or response—is under a duty to timely supplement or correct the disclosure or response to include information thereafter acquired if the party learns that in some material respect the information disclosed is incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing.

(2) **Expert Witness.** With respect to testimony of an expert from whom a report is required under Rule 16.1 or 39A(f), the duty extends both to information contained in the report and to information provided through a deposition of the expert.

(f) **Form of Responses.** Answers and objections to interrogatories or requests for production must identify and quote each interrogatory or request for production in full immediately preceding the statement of any answer or objections thereto. Answers, denials, and objections to requests for admission shall identify and quote each request for admission in full immediately preceding the statement of any answer, denial, or objection thereto.

(g) **Signing of Disclosures, Discovery Requests, Responses, and Objections.**

(1) **Signature Required; Effect of Signature.** Every disclosure and report made under Rules 16.1, other than reports prepared and signed by an expert witness, and every discovery request, response, or objection must be signed by at least one attorney of record in the attorney's own name—or by the party personally, if self-represented—and must, when available, state the signer's physical and email addresses, and telephone number. By signing, an attorney or party certifies that to the best of the person's knowledge, information, and belief formed after a reasonable inquiry:

(A) with respect to a disclosure, it is complete and correct as of the time it is made; and

(B) with respect to a discovery request, response, or objection, it is:

(i) consistent with these rules and warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law, or for establishing new law;

(ii) not interposed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and

(iii) neither unreasonable nor unduly burdensome or expensive, considering the needs of the case, prior discovery in the case, the amount in controversy, and the importance of the issues at stake in the action.

(2) **Failure to Sign.** Other parties have no duty to act on an unsigned disclosure, request, response, or objection until it is signed, and the court must strike it unless a signature is promptly supplied after the omission is called to the attorney's or party's attention.

(3) **Sanction for Improper Certification.** If a certification violates this rule without substantial justification, the court, on motion or on its own, must impose an appropriate sanction on the signer, the party on whose behalf the signer was acting, or both. The sanction may include an order to pay the reasonable expenses, including attorney fees, caused by the violation.

(h) **Demand for Prior Discovery.** If a party makes a written demand for disclosures or discovery that took place before the demanding party became a party to the action, whether under Rule 16.1 or 26, each party who has previously made disclosures or responded to a request for admission or production or answered interrogatories must make available to the demanding party each document in which the disclosures and responses to discovery are contained for inspection and copying, or furnish the demanding party a list identifying each such document by title. Upon further demand from the demanding party, at the expense of the demanding party, the recipient of such demand must furnish a copy of any listed discovery disclosure or response specified in the demand or, in the case of document disclosure or request for production, must make available for inspection by the demanding party all documents and things previously produced. Further, each party who has taken a deposition must make a copy of the transcript available to the demanding party at its expense.

Rule 27. Reserved

Rule 28. Persons Before Whom Depositions May Be Taken

(a) **Within the United States.** Within the United States or within a territory or insular possession subject to the jurisdiction of the United States, depositions must be taken before an officer authorized to administer oaths by

the laws of the United States or of the place where the examination is held, or before a person appointed by the court in which the action is pending. A person so appointed has power to administer oaths and take testimony. Upon proof that the notice to take a deposition outside the State of Nevada has been given as provided in these rules, the clerk must issue a commission or a letter of request (whether or not captioned a letter rogatory) in the form prescribed by the jurisdiction in which the deposition is to be taken, such form to be presented by the party seeking the deposition. Any error in the form or in the commission or letters is waived unless objection thereto be filed and served on or before the time fixed in the notice. The term "officer" as used in Rules 30, 31, and 32 includes a person appointed by the court or designated by the parties under Rule 29.

(b) **In Foreign Countries.** Depositions may be taken in a foreign country (1) pursuant to any applicable treaty or convention; or (2) pursuant to a letter of request (whether or not captioned a letter rogatory); or (3) on notice before a person authorized to administer oaths in the place where the examination is held, either by the law thereof or by the law of the United States; or (4) before a person commissioned by the court, and a person so commissioned shall have the power by virtue of the commission to administer any necessary oath and take testimony. A commission or a letter of request shall be issued on application and notice and on terms that are just and appropriate. It is not requisite to the issuance of a commission or a letter of request that the taking of the deposition in any other manner is impracticable or inconvenient; and both a commission and a letter of request may be issued in proper cases. A notice or commission may designate the person before whom the deposition is to be taken either by name or descriptive title. A letter of request may be addressed "To the Appropriate Authority in {here name the

country}." When a letter of request or any other device is used pursuant to any applicable treaty or convention, it shall be captioned in the form prescribed by that treaty or convention. Evidence obtained in response to a letter of request need not be excluded merely for the reason that it is not a verbatim transcript because the testimony was not taken under oath, or because of any similar departure from the requirements for depositions taken within the United States under these rules.

(c) **Disqualification for Interest.** A deposition must not be taken before a person who is a relative or employee or attorney or counsel of any of the parties, or is a relative or employee of such attorney or counsel, or is financially interested in the action.

Rule 29. Stipulations Regarding Discovery Procedure

Unless otherwise directed by the court, the parties may stipulate that:

(a) a deposition may be taken before any person, at any time or place, upon any notice, and in the manner specified—in which event it may be used in the same as any other deposition; and

(b) other procedures governing or limiting discovery be modified—but a stipulation extending the time for any form of discovery must have court approval if it would interfere with the time set for completing discovery, for hearing a motion, or for trial.

Rule 30. Depositions by Oral Examination

(a) **When Depositions May Be Taken.**

(1) **Without Leave.** A party may, by oral questions, depose any person, including a party, without leave of court as provided in Rule 25A. The deponent's attendance may be compelled by subpoena under Rule 45.

(2) **With Leave.** With the exception of depositions authorized in Rule 25A, a party must obtain leave of court, and the court must grant leave to the extent consistent with Rule 26(b)(1) and (2):

(A) if the parties have not stipulated to the deposition and:

(i) the deposition would result in more than four depositions being taken under this rule or Rule 31 by the plaintiffs, or by the defendants, or by the third-party defendants, not counting any deposition that is solely a custodian-of-records deposition;

(ii) the deponent has already been deposed in the case; or

(iii) the party seeks to take the deposition before the time specified in Rule 26(a), unless the party certifies in the notice, with supporting facts, that the deponent is expected to leave Nevada and be unavailable for examination in the state after that time; or

(B) if the deponent is confined in prison.

(b) **Notice of the Deposition; Other Formal Requirements.**

(1) **Notice in General.** A party who wants to depose a person by oral questions must give not less than 14 days' written notice to every other party. The notice must state the time and place of the deposition and, if known, the deponent's name and address. If the name is unknown, the notice must provide a general description sufficient to identify the person or the particular class or group to which the person belongs.

(2) **Producing Documents.** If a subpoena duces tecum is to be served on the deponent, the materials designated for production, as set out in

the subpoena, must be listed in the notice or in an attachment. The notice to a party deponent may be accompanied by a request under Rule 34 to produce documents and tangible things at the deposition.

(3) **Method of Recording.**

(A) **Method Stated in the Notice.** The party who notices the deposition must state in the notice the method for recording the testimony. Unless the court orders otherwise, testimony may be recorded by audio, audiovisual, or stenographic means. The noticing party bears the recording costs. Any party may arrange to transcribe a deposition.

(B) **Additional Method.** With prior notice to the deponent and other parties, any party may designate another method for recording the testimony in addition to that specified in the original notice. That party bears the expense of the additional record or transcript unless the court orders otherwise.

(4) **By Remote Means.** The parties may stipulate—or the court may on motion order—that a deposition be taken by telephone or other remote means. For the purpose of this rule and Rules 28(a), 37(a)(2), and 37(b), the deposition takes place where the deponent answers the questions.

(5) **Officer's Duties.**

(A) **Before the Deposition.** Unless the parties stipulate otherwise, a deposition must be conducted before an officer appointed or designated under Rule 28. The officer must begin the deposition with an on-the-record statement that includes:

(i) the officer's name and business address;

(ii) the date, time, and place of the deposition;

(iii) the deponent's name;

(iv) the officer's administration of the oath or affirmation to the deponent; and

(v) the identity of all persons present.

(B) **Conducting the Deposition; Avoiding Distortion.** If the deposition is recorded nonstenographically, the officer must repeat the items in Rule 30(b)(5)(A)(i)-(iii) at the beginning of each unit of the recording medium. The deponent's and attorneys' appearance or demeanor must not be distorted through recording techniques.

(C) **After the Deposition.** At the end of a deposition, the officer must state on the record that the deposition is complete and must set out any stipulations made by the attorneys about custody of the transcript or recording and of the exhibits, or about any other pertinent matters.

(6) **Notice or Subpoena Directed to an Organization.** In its notice or subpoena, a party may name as the deponent a public or private corporation, a partnership, an association, a governmental agency, or other entity and must describe with reasonable particularity the matters for examination. The named organization must then designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on its behalf, and it may set out the matters on which each person designated will testify. A subpoena must advise a nonparty organization of its duty to make this designation. The persons designated must testify about information known or reasonably available to the organization. Rule 30(b)(6) does not preclude a deposition by any other procedure allowed by these rules.

(c) **Examination and Cross-Examination; Record of the Examination; Objections; Written Questions.**

(1) **Examination and Cross-Examination.** The examination and cross-examination of a deponent proceed as they would at trial under

Nevada law of evidence, except NRS 47.040-47.080 and NRS 50.155. After putting the deponent under oath or affirmation, the officer must record the testimony by the method designated under Rule 30(b)(3)(A). The testimony must be recorded by the officer personally or by a person acting in the presence and under the direction of the officer.

(2) **Objections.** An objection at the time of the examination—whether to evidence, to a party's conduct, to the officer's qualifications, to the manner of taking the deposition, or to any other aspect of the deposition—must be noted on the record, but the examination still proceeds; the testimony is taken subject to any objection. An objection must be stated concisely in a nonargumentative and nonsuggestive manner. A person may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation ordered by the court, or to present a motion under Rule 30(d)(3).

(3) **Participating Through Written Questions.** Instead of participating in the oral examination, a party may serve written questions in a sealed envelope on the party noticing the deposition, who must deliver them to the officer. The officer must ask the deponent those questions and record the answers verbatim.

(d) **Duration; Sanction; Motion to Terminate or Limit.**

(1) **Duration.** Unless otherwise stipulated or ordered by the court, a deposition is limited to 1 hour of testimony. The court must allow additional time consistent with Rule 26(b)(1) and (2) if needed to fairly examine the deponent or if the deponent, another person, or any other circumstance impedes or delays the examination.

(2) **Sanction.** The court may impose an appropriate sanction—including the reasonable expenses and attorney fees incurred by any party—

on a person who impedes, delays, or frustrates the fair examination of the deponent.

(3) **Motion to Terminate or Limit.**

(A) **Grounds.** At any time during a deposition, the deponent or a party may move to terminate or limit it on the ground that it is being conducted in bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses the deponent or party. The motion may be filed in the court where the action is pending or, if the deposition is being conducted under an out-of-state subpoena, where the deposition is being taken. If the objecting deponent or party so demands, the deposition must be suspended for the time necessary to obtain an order.

(B) **Order.** The court may order that the deposition be terminated or may limit its scope and manner as provided in Rule 26(c). If terminated, the deposition may be resumed only by order of the court where the action is pending.

(C) **Award of Expenses.** Rule 37(a)(5) applies to the award of expenses.

(e) **Review by the Witness; Changes.**

(1) **Review; Statement of Changes.** On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) **Changes Indicated in the Officer's Certificate.** The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was

requested and, if so, must attach any changes the deponent makes during the 30-day period.

(f) **Certification and Delivery; Exhibits; Copies of the Transcript or Recording; Filing.**

(1) **Certification and Delivery.** The officer must certify in writing that the witness was duly sworn and that the deposition accurately records the witness's testimony. The certificate must accompany the record of the deposition. Unless the court orders otherwise, the officer must seal the deposition in an envelope or package bearing the title of the action and marked "Deposition of [witness's name]" and must promptly send it to the attorney who arranged for the transcript or recording. The attorney must store it under conditions that will protect it against loss, destruction, tampering, or deterioration.

(2) **Documents and Tangible Things.**

(A) **Originals and Copies.** Documents and tangible things produced for inspection during a deposition must, on a party's request, be marked for identification and attached to the deposition. Any party may inspect and copy them. But if the person who produced them wants to keep the originals, the person may:

(i) offer copies to be marked, attached to the deposition, and then used as originals—after giving all parties a fair opportunity to verify the copies by comparing them with the originals; or

(ii) give all parties a fair opportunity to inspect and copy the originals after they are marked—in which event the originals may be used as if attached to the deposition.

(B) **Order Regarding the Originals.** Any party may move for an order that the originals be attached to the deposition pending final disposition of the case.

(3) **Copies of the Transcript or Recording.** Unless otherwise stipulated or ordered by the court, the officer must retain the stenographic notes of a deposition taken stenographically or a copy of the recording of a deposition taken by another method. When paid reasonable charges, the officer must furnish a copy of the transcript or recording to any party or the deponent.

(4) **Notice of Filing.** A party who files the deposition must promptly notify all other parties of the filing.

(g) **Failure to Attend a Deposition or Serve a Subpoena; Expenses.** A party who, expecting a deposition to be taken, attends in person or by an attorney may recover reasonable expenses for attending, including attorney fees, if the noticing party failed to:

(1) attend and proceed with the deposition; or

(2) serve a subpoena on a nonparty deponent, who consequently did not attend.

(h) **Expert Witness Fees.**

(1) **In General.**

(A) A party desiring to depose any expert who is to be asked to express an opinion must pay the reasonable and customary hourly or daily fee for the actual time consumed in the examination of that expert by the party noticing the deposition.

(B) If any other attending party desires to question the witness, that party is responsible for the expert's fee for the actual time consumed in that party's examination.

(2) **Advance Request; Balance Due.**

(A) If requested by the expert before the date of the deposition, the party taking the deposition of an expert must tender the expert's fee based on the anticipated length of that party's examination of the witness.

(B) If the deposition of the expert takes longer than anticipated, any party responsible for any additional fee must pay the balance of that expert's fee within 30 days of receipt of an invoice from the expert.

(3) **Preparation; Review of Transcript.** Any party identifying an expert whom the party expects to call at trial is responsible for any fee charged by the expert for preparing for the deposition and reviewing the deposition transcript.

(4) **Objections.**

(A) **Motion; Contents; Notice.** If a party deems that an expert's hourly or daily fee for providing deposition testimony is unreasonable, that party may move for an order setting the compensation of that expert. This motion must be accompanied by an affidavit stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion. Notice of this motion must be given to the expert.

(B) **Court Determination of Expert Fee.** If the court determines that the fee demanded by the expert is unreasonable, the court must set the fee of the expert for providing deposition testimony.

(C) **Sanctions.** The court may impose a sanction under Rule 37 against any party who does not prevail, and in favor of any party who does prevail, on a motion to set an expert witness fee, provided the prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issues presented by the motion.

Rule 31. Depositions by Written Questions

(a) **When a Deposition May Be Taken.**

(1) **Without Leave.** In accordance with Rule 25A, a party may, by written questions, depose any person, including a party. The deponent's attendance may be compelled by subpoena under Rule 45.

(2) **With Leave.** Except as provided in Rule 25A, a party must obtain leave of court, and the court must grant leave to the extent consistent with Rule 26(b)(1) and (2):

(A) if the parties have not stipulated to the deposition and:

(i) the deposition would result in more than four depositions being taken under this rule or Rule 30 by the plaintiffs, or by the defendants, or by the third-party defendants, not counting any deposition that is solely a custodian-of-records deposition;

(ii) the deponent has already been deposed in the case; or

(iii) the party seeks to take a deposition before the time specified in Rule 26(a); or

(B) if the deponent is confined in prison.

(3) **Service; Required Notice.** A party who wants to depose a person by written questions must serve them on every other party, with a notice stating, if known, the deponent's name and address. If the name is unknown, the notice must provide a general description sufficient to identify the person or the particular class or group to which the person belongs. The notice must also state the name or descriptive title and the address of the officer before whom the deposition will be taken.

(4) **Questions Directed to an Organization.** A public or private corporation, a partnership, an association, a governmental agency, or

other entity may be deposed by written questions in accordance with Rule 30(b)(6).

(5) **Questions From Other Parties.** Any questions to the deponent from other parties must be served on all parties as follows: cross-questions, within 14 days after being served with the notice and direct questions; redirect questions, within 7 days after being served with cross-questions; and recross-questions, within 7 days after being served with redirect questions. The court may, for good cause, extend or shorten these times.

(b) **Delivery to the Officer; Officer's Duties.** The party who noticed the deposition must deliver to the officer a copy of all the questions served and of the notice. The officer must promptly proceed in the manner provided in Rule 30(c), (e), and (f) to:

(1) take the deponent's testimony in response to the questions;

(2) prepare and certify the deposition; and

(3) send it to the party, attaching a copy of the questions and of the notice.

(c) **Notice of Completion or Filing.**

(1) **Completion.** The party who noticed the deposition must notify all other parties when it is completed.

(2) **Filing.** A party who files the deposition must promptly notify all other parties of the filing.

Rule 32. Using Depositions in Court Proceedings

(a) **Using Depositions.**

(1) **In General.** At a hearing or trial, all or part of a deposition may be used against a party on these conditions:

(A) the party was present or represented at the taking of the deposition or had reasonable notice of it;

(B) it is used to the extent it would be admissible under Nevada law of evidence if the deponent were present and testifying; and

(C) the use is allowed by Rule 32(a)(2)-(8).

(2) **Impeachment and Other Uses.** Any party may use a deposition to contradict or impeach the testimony given by the deponent as a witness, or for any other purpose allowed by Nevada law of evidence.

(3) **Deposition of Party, Agent, or Designee.** An adverse party may use for any purpose the deposition of a party or anyone who, when deposed, was the party's officer, director, managing agent, or designee under Rule 30(b)(6) or 31(a)(4).

(4) **Unavailable Witness.** A party may use for any purpose the deposition of a witness, whether or not a party, if the court finds:

(A) that the witness is dead;

(B) that the witness is more than 100 miles from the place of hearing or trial or is out of the state, unless it appears that the witness's absence was procured by the party offering the deposition;

(C) that the witness cannot attend or testify because of age, illness, infirmity, or imprisonment;

(D) that the party offering the deposition could not procure the witness's attendance by subpoena; or

(E) on motion and notice, that exceptional circumstances make it desirable—in the interest of justice and with due regard to the importance of live testimony in open court—to permit the deposition to be used.

(5) **Limitations on Use.**

(A) **Deposition Taken on Short Notice.** A deposition must not be used against a party who, having received less than 14 days' notice of the deposition, promptly moved for a protective order under Rule 26(c)(1)(B) requesting that it not be taken or be taken at a different time or place—and this motion was still pending when the deposition was taken.

(B) **Unavailable Deponent; Party Could Not Obtain an Attorney.**

(i) A deposition taken without leave of court under the unavailability provision of Rule 30(a)(2)(A)(iii) must not be used against a party who shows that, when served with the notice, it could not, despite diligent efforts, obtain an attorney to represent it at the deposition.

(ii) Notwithstanding Rule 32(a)(5)(B)(i), the court may permit a deposition to be used against a party who proceeds pro se after the deposition.

(6) **Using Part of a Deposition.** If a party offers in evidence only part of a deposition, an adverse party may require the offeror to introduce other parts that in fairness should be considered with the part introduced, and any party may itself introduce any other parts.

(7) **Substituting a Party.** Substituting a party under Rule 25 does not affect the right to use a deposition previously taken.

(8) **Deposition Taken in an Earlier Action.** A deposition lawfully taken and, if required, filed in any federal- or state-court action may be used in a later action involving the same subject matter between the same parties, or their representatives or successors in interest, to the same extent as if taken in the later action. A deposition previously taken may also be used as allowed by Nevada law of evidence.

(b) **Objections to Admissibility.** Subject to Rules 28(b) and 32(d)(3), an objection may be made at a hearing or trial to the admission of any deposition testimony that would be inadmissible if the witness were present and testifying.

(c) **Form of Presentation.** Unless the court orders otherwise, a party must provide a transcript of any deposition testimony the party offers, but may provide the court with the testimony in nontranscript form as well. On any party's request, deposition testimony offered in a jury trial for any purpose other than impeachment must be presented in nontranscript form, if available, unless the court for good cause orders otherwise.

(d) **Waiver of Objections.**

(1) **To the Notice.** An objection to an error or irregularity in a deposition notice is waived unless promptly served in writing on the party giving the notice.

(2) **To the Officer's Qualification.** An objection based on disqualification of the officer before whom a deposition is to be taken is waived if not made:

(A) before the deposition begins; or

(B) promptly after the basis for disqualification becomes known or, with reasonable diligence, could have been known.

(3) **To the Taking of the Deposition.**

(A) **Objection to Competence, Relevance, or Materiality.** An objection to a deponent's competence—or to the competence, relevance, or materiality of testimony—is not waived by a failure to make the objection before or during the deposition, unless the ground for it might have been corrected at that time.

(B) **Objection to an Error or Irregularity.** An objection to an error or irregularity at an oral examination is waived if:

(i) it relates to the manner of taking the deposition, the form of a question or answer, the oath or affirmation, a party's conduct, or other matters that might have been corrected at that time; and

(ii) it is not timely made during the deposition.

(C) **Objection to a Written Question.** An objection to the form of a written question under Rule 31 is waived if not served in writing on the party submitting the question within the time for serving responsive questions or, if the question is a recross-question, within 7 days after being served with it.

(4) **To Completing and Returning the Deposition.** An objection to how the officer transcribed the testimony—or prepared, signed, certified, sealed, endorsed, sent, or otherwise dealt with the deposition—is waived unless a motion to suppress is made promptly after the error or irregularity becomes known or, with reasonable diligence, could have been known.

Rule 33. Interrogatories to Parties

(a) **In General.**

(1) **Number.** Subject to Rule 25A, a party may serve on any other party no more than ten written interrogatories, including all discrete subparts. Leave to serve additional interrogatories may be granted to the extent consistent with Rule 26(b)(1) and (2).

(2) **Scope.** An interrogatory may relate to any matter that may be inquired into under Rule 26(b). An interrogatory is not objectionable merely because it asks for an opinion or contention that relates to fact or the

application of law to fact, but the court may order that the interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time.

(b) **Answers and Objections.**

(1) **Responding Party.** The interrogatories must be answered:

(A) by the party to whom they are directed; or

(B) if that party is a public or private corporation, a partnership, an association, a governmental agency, or other entity, by any officer or agent, who must furnish the information available to the party.

(2) **Time to Respond.** The responding party must serve its answers and any objections within 30 days after being served with the interrogatories. A shorter or longer time may be stipulated to under Rule 29 or be ordered by the court.

(3) **Answering Each Interrogatory.** Each interrogatory must be set out and, to the extent it is not objected to, be answered separately and fully in writing under oath.

(4) **Objections.** The grounds for objecting to an interrogatory must be stated with specificity. Any ground not stated in a timely objection is waived unless the court, for good cause, excuses the failure. The interrogating party may move for an order under Rule 37(a) with respect to any objection to or other failure to answer an interrogatory.

(5) **Signature.** The person who makes the answers must sign them, and the attorney who objects must sign any objections.

(c) **Use.** An answer to an interrogatory may be used to the extent allowed by Nevada law of evidence.

(d) **Option to Produce Business Records.** If the answer to an interrogatory may be determined by examining, auditing, compiling,

abstracting, or summarizing a party's business records (including electronically stored information), and if the burden of deriving or ascertaining the answer will be substantially the same for either party, the responding party may answer by:

(1) specifying the records that must be reviewed, in sufficient detail to enable the interrogating party to locate and identify them as readily as the responding party could; and

(2) giving the interrogating party a reasonable opportunity to examine and audit the records and to make copies, compilations, abstracts, or summaries.

Rule 34. Producing Documents, Electronically Stored Information, and Tangible Things, or Entering Onto Land for Inspection and Other Purposes

(a) **In General.** Subject to Rule 25A, a party may serve on any other party a request, not exceeding ten in number:

(1) to produce and permit the requesting party or its representative to inspect, copy, test, or sample the following items in the responding party's possession, custody, or control:

(A) any designated documents or electronically stored information—including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form; or

(B) any designated tangible things; or

(2) to permit entry onto designated land or other property possessed or controlled by the responding party, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

(b) **Procedure.**

(1) **Contents of the Request.** The request:

(A) must describe with reasonable particularity each item or category of items to be inspected;

(B) must specify a reasonable time, place, and manner for the inspection and for performing the related acts; and

(C) may specify the form or forms in which electronically stored information is to be produced.

(2) **Responses and Objections.**

(A) **Time to Respond.** The party to whom the request is directed must respond in writing within 30 days after being served. A shorter or longer time may be stipulated under Rule 29 or be ordered by the court.

(B) **Responding to Each Item.** For each item or category, the response must either state that inspection and related activities will be permitted as requested or state the ground for objecting to the request, with specificity, including the reasons. The responding party may state that it will produce copies of documents or of electronically stored information instead of permitting inspection. The production must then be completed no later than the time for inspection specified in the request or another reasonable time specified in the response.

(C) **Objections.** An objection must state whether any responsive materials are being withheld on the basis of that objection. An

objection to part of a request must specify the part and permit inspection of the rest.

(D) **Responding to a Request for Production of Electronically Stored Information.** The response may state an objection to a requested form for producing electronically stored information. If the responding party objects to a requested form—or if no form was specified in the request—the party must state the form or forms it intends to use.

(E) **Producing the Documents or Electronically Stored Information.** Unless otherwise stipulated or ordered by the court, these procedures apply to producing documents or electronically stored information:

(i) A party must produce documents as they are kept in the usual course of business or must organize and label them to correspond to the categories in the request. If producing the documents as they are kept in the usual course of business would make it unreasonably burdensome for the requesting party to correlate the documents being produced with the categories in its request for production, the responding party must:

(a) specify the records in sufficient detail to permit the requesting party to locate the documents that are responsive to the categories in the request for production; or

(b) organize and label the records to correspond to the categories in the request.

(ii) If a request does not specify a form for producing electronically stored information, a party must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(iii) A party need not produce the same electronically stored information in more than one form.

(c) **Nonparties.** As provided in Rule 45, a nonparty may be compelled to produce documents, electronically stored information, and tangible things or to permit an inspection.

(d) **Expenses of Copying Documents and/or Producing Electronically Stored Information.** Unless the court orders otherwise, the requesting party must pay the responding party the reasonable cost of copying documents. If the responding party produces electronically stored information by a media storage device, the requesting party must pay the reasonable cost of the device.

Rule 35. Physical and Mental Examinations

(a) **Order for Examination.**

(1) **In General.** The court where the action is pending may order a party whose mental or physical condition—including blood group—is in controversy to submit to a physical or mental examination by a suitably licensed or certified examiner. The court has the same authority to order a party to produce for examination a person who is in the party's custody or under the party's legal control.

(2) **Motion and Notice; Contents of the Order.**

(A) The order may be made only on motion for good cause and on notice to all parties and the person to be examined.

(B) The order must specify the time, place, manner, conditions, and scope of the examination, as well as the person or persons who will perform it. The examination must take place in an appropriate professional setting in the judicial district in which the action is pending, unless otherwise agreed by the parties or ordered by the court.

(3) **Recording the Examination.** On request of a party or the examiner, the court may, for good cause shown, require as a condition of the examination that the examination be audio recorded. The party or examiner who requests the audio recording must arrange and pay for the recording and provide a copy of the recording on written request. The examiner and all persons present must be notified before the examination begins that it is being recorded.

(4) **Observers at the Examination.** The party against whom an examination is sought may request as a condition of the examination to have an observer present at the examination. When making the request, the party must identify the observer and state his or her relationship to the party being examined. The observer may not be the party's attorney or anyone employed by the party or the party's attorney.

(A) The party may have one observer present for the examination, unless:

(i) the examination is a neuropsychological, psychological, or psychiatric examination; or

(ii) the court orders otherwise for good cause shown.

(B) The party may not have any observer present for a neuropsychological, psychological, or psychiatric examination, unless the court orders otherwise for good cause shown.

(C) An observer must not in any way interfere, obstruct, or participate in the examination.

(b) **Examiner's Report.**

(1) **Request by the Party or Person Examined.** Unless otherwise ordered by the court or discovery commissioner for good cause, the party who moved for the examination must, upon a request by the party

against whom the examination order was issued, provide a copy of the examiner's report within 30 days of the examination or by the date of the applicable expert disclosure deadline, whichever occurs first.

(2) **Contents.** The examiner's report must be in writing and must set out in detail the examiner's findings, including diagnoses, conclusions, and the results of any tests.

(3) **Request by the Moving Party.** After delivering the reports, the party who moved for the examination may request—and is entitled to receive—from the party against whom the examination order was issued like reports of all earlier or later examinations of the same condition. But those reports need not be delivered by the party with custody or control of the person examined if the party shows that it could not obtain them.

(4) **Waiver of Privilege.** By requesting and obtaining the examiner's report, or by deposing the examiner, the party examined waives any privilege it may have—in that action or any other action involving the same controversy—concerning testimony about all examinations of the same condition.

(5) **Failure to Deliver a Report.** The court on motion may order—on just terms—that a party deliver the report of an examination. If the report(s) is not provided, the court may exclude the examiner's testimony at trial.

(6) **Scope.** Rule 35(b) also applies to an examination made by the parties' agreement, unless the agreement states otherwise. Rule 35(b) does not preclude obtaining an examiner's report or deposing an examiner under other rules.

Rule 36. Requests for Admission

(a) **Scope and Procedure.**

(1) **Scope.** Subject to Rule 25A, a party may serve on any other party a written request to admit, for purposes of the pending action only, the truth of any matters within the scope of Rule 26(b)(1) relating to:

(A) facts, the application of law to fact, or opinions about either; and

(B) the genuineness of any described documents.

(2) **Form; Copy of a Document.** Each matter must be separately stated. A request to admit the genuineness of a document must be accompanied by a copy of the document unless it is, or has been, otherwise furnished or made available for inspection and copying.

(3) **Time to Respond; Effect of Not Responding.** A matter is admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party or its attorney. A shorter or longer time for responding may be stipulated to under Rule 29 or be ordered by the court.

(4) **Answer.** If a matter is not admitted, the answer must specifically deny it or state in detail why the answering party cannot truthfully admit or deny it. A denial must fairly respond to the substance of the matter; and when good faith requires that a party qualify an answer or deny only a part of a matter, the answer must specify the part admitted and qualify or deny the rest. The answering party may assert lack of knowledge or information as a reason for failing to admit or deny only if the party states that it has made reasonable inquiry and that the information it knows or can readily obtain is insufficient to enable it to admit or deny.

(5) **Objections.** The grounds for objecting to a request must be stated. A party must not object solely on the ground that the request presents a genuine issue for trial.

(6) **Motion Regarding the Sufficiency of an Answer or Objection.** The requesting party may move to determine the sufficiency of an answer or objection. Unless the court finds an objection justified, it must order that an answer be served. On finding that an answer does not comply with this rule, the court may order either that the matter is admitted or that an amended answer be served. The court may defer its final decision until a pretrial conference or a specified time before trial. Rule 37(a)(5) applies to an award of expenses.

(7) **Limitations on Number of Requests.**

(A) No party may serve upon any other single party to an action more than ten requests for admission under Rule 36(a)(1)(A) without obtaining:

(i) a written stipulation under Rule 29 of the party to which the additional requests are directed; or

(ii) upon a showing of good cause, a court order granting leave to serve a specific number of additional requests.

(B) Subparts of requests count as separate requests. There is no limitation on requests for admission relating to the genuineness of documents under Rule 36(a)(1)(B).

(b) **Effect of an Admission; Withdrawing or Amending It.** A matter admitted under this rule is conclusively established unless the court, on motion, permits the admission to be withdrawn or amended. Subject to Rule 16(d)-(e), the court may permit withdrawal or amendment if it would promote the presentation of the merits of the action and if the court is not persuaded

that it would prejudice the requesting party in maintaining or defending the action on the merits. An admission under this rule is not an admission for any other purpose and cannot be used against the party in any other proceeding.

Rule 37. Failure to Make Disclosures or to Cooperate in Discovery; Sanctions

(a) **Motion for Order Compelling Disclosure or Discovery.**

(1) **In General.** On notice to other parties and all affected persons, a party may move for an order compelling disclosure or discovery. The motion must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action.

(2) **Appropriate Court.** A motion for an order to a party must be made in the court where the action is pending. A motion for an order to a nonparty must be made in the court where the discovery is or will be taken.

(3) **Specific Motions.**

(A) **To Compel Disclosure.** If a party fails to make a disclosure required by Rule 16.1, any other party may move to compel disclosure and for appropriate sanctions.

(B) **To Compel a Discovery Response.** A party seeking discovery may move for an order compelling an answer, designation, production, or inspection. This motion may be made if:

(i) a deponent fails to answer a question asked under Rule 30 or 31;

(ii) a corporation or other entity fails to make a designation under Rule 30(b)(6) or 31(a)(4);

(iii) a party fails to answer an interrogatory submitted under Rule 33; or

(iv) a party fails to produce documents or fails to respond that inspection will be permitted—or fails to permit inspection—as requested under Rule 34.

(C) **Related to a Deposition.** When taking an oral deposition, the party asking a question may complete or adjourn the examination before moving for an order.

(4) **Evasive or Incomplete Disclosure, Answer, or Response.** For purposes of Rule 37(a), an evasive or incomplete disclosure, answer, or response must be treated as a failure to disclose, answer, or respond. A party's production of documents that is not in compliance with Rule 34(b)(2)(E)(i) may also be treated as a failure to produce documents.

(5) **Payment of Expenses; Protective Orders.**

(A) **If the Motion Is Granted (or Disclosure or Discovery Is Provided After Filing).** If the motion is granted—or if the disclosure or requested discovery is provided after the motion was filed—the court must, after giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the motion, including attorney fees. But the court must not order this payment if:

(i) the movant filed the motion before attempting in good faith to obtain the disclosure or discovery without court action;

(ii) the opposing party's nondisclosure, response, or objection was substantially justified; or

(iii) other circumstances make an award of expenses unjust.

(B) **If the Motion Is Denied.** If the motion is denied, the court may issue any protective order authorized under Rule 26(c) and must, after giving an opportunity to be heard, require the movant, the attorney filing the motion, or both to pay the party or deponent who opposed the motion its reasonable expenses incurred in opposing the motion, including attorney fees. But the court must not order this payment if the motion was substantially justified or other circumstances make an award of expenses unjust.

(C) **If the Motion Is Granted in Part and Denied in Part.** If the motion is granted in part and denied in part, the court may issue any protective order authorized under Rule 26(c) and may, after giving an opportunity to be heard, apportion the reasonable expenses for the motion.

(b) **Sanctions for Failure to Comply With a Court Order.**

(1) **For Not Obeying a Discovery Order.** If a party or a party's officer, director, or managing agent—or a witness designated under Rule 30(b)(6) or 31(a)(4)—fails to obey an order to provide or permit discovery, including an order under Rule 35 or 37(a), the court may issue further just orders that may include the following:

(A) directing that the matters embraced in the order or other designated facts be taken as established for purposes of the action, as the prevailing party claims;

(B) prohibiting the disobedient party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence;

(C) striking pleadings in whole or in part;

(D) staying further proceedings until the order is obeyed;

(E) dismissing the action or proceeding in whole or in part;

(F) rendering a default judgment against the disobedient party; or

(G) treating as contempt of court the failure to obey any order except an order to submit to a physical or mental examination.

(2) **For Not Producing a Person for Examination.** If a party fails to comply with an order under Rule 35(a) requiring it to produce another person for examination, the court may issue any of the orders listed in Rule 37(b)(1), unless the disobedient party shows that it cannot produce the other person.

(3) **Payment of Expenses.** Instead of or in addition to the orders above, the court must order the disobedient party, the attorney advising that party, or both to pay the reasonable expenses, including attorney fees, caused by the failure, unless the failure was substantially justified or other circumstances make an award of expenses unjust.

(c) **Failure to Disclose, to Supplement an Earlier Response, or to Admit.**

(1) **Failure to Disclose or Supplement.** If a party fails to provide information or identify a witness as required by Rule 16.1 or 26(e), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless. In addition to or instead of this sanction, the court, on motion and after giving an opportunity to be heard:

(A) may order payment of the reasonable expenses, including attorney fees, caused by the failure;

(B) may inform the jury of the party's failure; and

(C) may impose other appropriate sanctions, including any of the orders listed in Rule 37(b)(1).

(2) **Failure to Admit.** If a party fails to admit what is requested under Rule 36 and if the requesting party later proves a document to be genuine or the matter true, the requesting party may move that the party who failed to admit pay the reasonable expenses, including attorney fees, incurred in making that proof. The court must so order unless:

(A) the request was held objectionable under Rule 36(a);

(B) the admission sought was of no substantial importance;

(C) the party failing to admit had a reasonable ground to believe that it might prevail on the matter; or

(D) there was other good reason for the failure to admit.

(d) **Party's Failure to Attend Its Own Deposition, Serve Answers to Interrogatories, or Respond to a Request for Inspection.**

(1) **In General.**

(A) **Motion; Grounds for Sanctions.** The court may, on motion, order sanctions if:

(i) a party or a party's officer, director, or managing agent—or a person designated under Rule 30(b)(6) or 31(a)(4)—fails, after being served with proper notice, to appear for that person's deposition; or

(ii) a party, after being properly served with interrogatories under Rule 33 or a request for inspection under Rule 34, fails to serve its answers, objections, or written response.

(B) **Certification.** A motion for sanctions for failing to answer or respond must include a certification that the movant has in good faith conferred or attempted to confer with the party failing to act in an effort to obtain the answer or response without court action.

(2) **Unacceptable Excuse for Failing to Act.** A failure described in Rule 37(d)(1)(A) is not excused on the ground that the discovery sought was objectionable, unless the party failing to act has a pending motion for a protective order under Rule 26(c).

(3) **Types of Sanctions.** Sanctions may include any of the orders listed in Rule 37(b)(1). Instead of or in addition to these sanctions, the court must require the party failing to act, the attorney advising that party, or both to pay the reasonable expenses, including attorney fees, caused by the failure, unless the failure was substantially justified or other circumstances make an award of expenses unjust.

(e) **Failure to Preserve Electronically Stored Information.** If electronically stored information that should have been preserved in the anticipation or conduct of litigation is lost because a party failed to take reasonable steps to preserve it, and it cannot be restored or replaced through additional discovery, the court:

(1) upon finding prejudice to another party from loss of the information, may order measures no greater than necessary to cure the prejudice; or

(2) only upon finding that the party acted with the intent to deprive another party of the information's use in the litigation may:

(A) presume that the lost information was unfavorable to the party;

(B) instruct the jury that it may or must presume the information was unfavorable to the party; or

(C) dismiss the action or enter a default judgment.

VI. TRIALS

Rule 38. Jury Trial of Right

(a) **Right Preserved.** The right of trial by jury as required by law must be preserved to the parties inviolate.

(b) **Demand; Deposit of Jurors' Fees.** On any issue triable of right by a jury, a party may demand a jury trial by:

(1) serving the other parties with a written demand—which may be included in a pleading—at any time after the commencement of the action and not later than the time of the entry of the order first setting the case for trial;

(2) filing the demand in accordance with Rule 5(d); and

(3) unless the local rules provide otherwise, depositing with the court clerk an amount of money equal to the fees to be paid the trial jurors for their services for the first day of trial.

(c) **Specifying Issues.** In the demand, a party may specify the issues that the party wishes so tried; otherwise, it is considered to have demanded a jury trial for all the issues so triable. If the party has demanded a jury trial for only some of the issues, any other party may—within 14 days after service of the demand or within a shorter time ordered by the court—serve a demand for a jury trial on any other or all factual issues triable by jury.

(d) **Waiver; Withdrawal.**

(1) A party's failure to properly file and serve a demand constitutes the party's waiver of a jury trial.

(2) A proper demand for a jury trial may be withdrawn only if the parties consent, or by court order for good cause upon such terms and conditions as the court may fix.

Rule 39. Trial by Jury or by the Court

(a) **By Jury.** When trial by jury has been demanded as provided in Rule 38, the action must be designated as a jury action. The trial of all issues so demanded must be by jury, unless:

(1) the parties or their attorneys file a stipulation to a nonjury trial or so stipulate on the record; or

(2) the court upon motion or of its own initiative finds that on some or all of those issues there is no right to a jury trial.

(b) **By the Court.** Issues not demanded for trial by jury as provided in Rule 38 shall be tried by the court; but, notwithstanding the failure of a party to demand a jury in an action in which such a demand might have been made of right, the court in its discretion upon motion may order a trial by a jury of any or all issues for which a jury might have been demanded.

(c) **Advisory Jury and Trial by Consent.** In all actions not triable of right by a jury the court upon motion may try any issue with an advisory jury or, the court, with the consent of all parties, may order a trial with a jury whose verdict has the same effect as if trial by jury had been a matter of right.

(d) **Unlawful Detainer Trials.** A trial on an unlawful detainer or forcible detainer complaint must not be held less than 21 calendar days after service of summons and complaint. If service of the summons and complaint has not been completed at least 21 calendar days prior to the trial, the court shall continue the trial upon the request of the defendant. An unlawful detainer or forcible detainer trial must not be set and noticed using an order to show cause, unless:

(1) the court issues an order to show cause why a temporary writ of restitution shall not be issued pursuant to Rule 65; and

(2) the order to show cause provides both notice of the date and time of the order to show cause hearing as well as the subsequent date and time of the trial.

Rule 39A. Jury Trial Procedures

(a) **Calendaring.** Unless otherwise stipulated to by the parties, or for good cause shown, jury trials must be calendared, depending on judicial availability, to commence not later than 120 days from the date that a request for trial or scheduling order was filed.

(b) **Reporting of Testimony.** Formal reporting of the jury trial proceedings will not be provided by the court. All arrangements for court reporting must be arranged in accordance with local rules and paid for by the party or parties requesting the same.

(c) **Time Limits for Conduct of Trial.** Plaintiff(s) and defendant(s) will be allowed 2 hours each to present their respective cases unless a different time frame is granted by the court. Presentation includes opening statements, closing statements, presentation of evidence, examination and cross-examination of witnesses, and any other information to be presented to the jury or court, including rebuttal. Cross-examination of witnesses must be attributed to the party cross-examining for calculation of time allowed. For the purposes of this rule, all plaintiffs collectively must be treated as one plaintiff, and all defendants collectively must be treated as one defendant.

(d) **Pretrial Memorandum.** No later than 45 days before the scheduled jury trial, the parties must file with the court a joint pretrial memorandum. Before the deadline for filing the memorandum, the parties must meet, personally or telephonically, to discuss and prepare the memorandum. The memorandum must contain:

(1) A brief statement of the nature of the claim(s) and defense(s).

(2) A complete list of witnesses, including rebuttal and impeachment witnesses, and a description of the substance of the testimony of each witness.

(3) A list of exhibits.

(4) All other matters to be discussed at pretrial conference.

(5) All proposed jury instructions. Standard jury instructions should be taken from the Nevada Pattern Civil Jury Instruction Booklet unless a particular instruction has been disapproved by the Nevada Supreme Court. If a proposed instruction is taken from a source other than the Nevada Pattern Civil Jury Instruction Booklet, the proposed instruction shall include citation to, and a copy of, the statute, rule, or caselaw supporting the proposed instruction. The court shall encourage limited jury instructions.

(6) All objections to proposed jury instructions.

(7) Any other requirements under local rules.

(e) **Evidentiary Objections.** No later than 30 days before the scheduled jury trial, the parties must file with the court, and serve upon opposing counsel, all evidentiary objections to reports, documents, or other items proposed to be utilized as evidence and presented to the jury or trial judge at the time of trial, and all motions in limine. All oppositions to evidentiary objections or motions in limine must be filed and served no later than 20 days before the scheduled jury trial. No replies or supplemental pleadings are permitted.

(f) **Experts.**

(1) **Form of Expert Evidence.** The parties are not required to present oral testimony from experts and are encouraged to use written reports in lieu of oral testimony in court.

(2) **Use of Oral Testimony; Disclosure.** If a party elects to use oral testimony, that party must include the expert's name on the witness list submitted with the pretrial memorandum under subsection (d) of this rule. At the court's discretion, oral testimony may be provided by telephone or other remote electronic means.

(3) **Use of Written Report; Disclosure.** If a party elects to use a written report, that party must provide a copy of the written report to other parties no later than 30 days before the scheduled trial. Any written report intended solely to contradict or rebut another written report must be provided to other parties no later than 15 days before the scheduled trial.

(4) **Qualification of Expert Witness.** No later than 30 days before the scheduled trial, the parties must file with the court and serve on each other any documents establishing an expert's qualifications to testify as an expert on a given subject. There must be no voir dire of an expert regarding that expert's qualifications. The trial judge may rule on any disputes regarding the qualifications of an expert during the pretrial conference under subsection (g) of this rule.

(5) **Cap on Recovery for Expert Witness Fees.** Recovery for expert witness fees is limited to $500 per expert.

(6) **Scope of Rule.** For purposes of this rule, a treating physician is an expert witness.

(g) **Pretrial Conference.** At a time set by the court, the parties must have a conference with the trial judge to discuss all matters needing attention prior to the trial date. At the discretion of the trial judge, such conference may be conducted telephonically. During the pretrial conference, the judge may rule on any motions or disputes, including motions to exclude evidence, witnesses, jury instructions, or other pretrial evidentiary matters.

(h) **Evidentiary Booklets.** Each party must create an evidentiary booklet that contains all exhibits and evidence to be presented. Plaintiffs' proposed exhibits must be marked 1, 2, 3, etc., and defense exhibits must be marked A, B, C, etc. The booklet must be submitted with the joint pretrial memorandum. Any evidentiary objections relating to any proposed exhibit must be raised pursuant to Rule 39A(e) or shall be deemed waived.

(i) **Attorney Fees and Costs.**

(1) The prevailing party at a jury trial is entitled to all recoverable fees, costs, and interest pursuant to statute or Rule 68.

(2) An award of attorney fees under subsection (i)(1) of this rule may not exceed a total of $3,000, unless recoverable attorney fees are governed by a written agreement between the parties allowing a greater award.

Rule 40. Assignment of Cases for Trial

The justice courts must provide by local rule the procedure for scheduling trials. The court must give priority to actions entitled to priority by statute.

Rule 41. Dismissal of Actions

(a) **Voluntary Dismissal: Effect Thereof.**

(1) **By the Plaintiff.**

(A) **Without a Court Order.** Subject to Rules 23(f) and 23.2 and any applicable statute, the plaintiff may dismiss an action without a court order by filing:

(i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or

(ii) a stipulation of dismissal signed by all parties who have appeared.

(B) **Effect.** Unless the notice or stipulation states otherwise, the dismissal is without prejudice. But if the plaintiff previously dismissed any federal- or state-court action based on or including the same claim, a notice of dismissal operates as an adjudication on the merits.

(C) **Filing Fees.** Unless otherwise stipulated, the plaintiff must repay the defendant's filing fees.

(2) **By Order of Court; Effect.** Except as provided in Rule 41(a)(1), an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper. If a defendant has pleaded a counterclaim before being served with the plaintiff's motion to dismiss, the action may be dismissed over the defendant's objection only if the counterclaim can remain pending for independent adjudication. Unless the order states otherwise, a dismissal under Rule 41(a)(2) is without prejudice.

(b) **Involuntary Dismissal: Effect.** If the plaintiff fails to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against the defendant. Unless the dismissal order or an applicable statute provides otherwise, a dismissal under Rule 41(b) and any dismissal not under this rule—except one for lack of jurisdiction, improper venue, or failure to join a party under Rule 19—operates as an adjudication on the merits.

(c) **Dismissing a Counterclaim, Cross-claim, or Third-Party Claim.** This rule applies to a dismissal of any counterclaim, cross-claim, or third-party claim. A claimant's voluntary dismissal under Rule 41(a)(1)(A)(i) must be made:

(1) before a responsive pleading is served; or

(2) if there is no responsive pleading, before evidence is introduced at a hearing or trial.

(d) **Costs of a Previously Dismissed Action.** If a plaintiff who previously dismissed an action in any court files an action based on or including the same claim against the same defendant, the court:

(1) may order the plaintiff to pay all or part of the costs of that previous action; and

(2) may stay the proceedings until the plaintiff has complied.

(e) **Dismissal for Want of Prosecution.**

(1) **Procedure.** When the time periods in this rule have expired:

(A) any party may move to dismiss an action for lack of prosecution; or

(B) the court may, on its own, issue an order to show cause why an action should not be dismissed for lack of prosecution. After briefing, the court may hold a hearing or take the matter under submission, as provided by local rules on motion practice.

(2) **Dismissing an Action Before Trial.**

(A) The court may dismiss an action for want of prosecution if a plaintiff fails to bring the action to trial within 2 years after the action was filed.

(B) The court must dismiss an action for want of prosecution if a plaintiff fails to bring the action to trial within 5 years after the action was filed.

(3) **Dismissing an Action After a New Trial Is Granted.** The court must dismiss an action for want of prosecution if a plaintiff fails to bring the action to trial within 3 years after the entry of an order granting a new trial.

(4) **Dismissing an Action After an Appeal.**

(A) If a party appeals an order granting a new trial and the order is affirmed, the court must dismiss the action for want of prosecution if a plaintiff fails to bring the action to trial within 3 years after the remittitur was filed in the trial court.

(B) If a party appeals a judgment and the judgment is reversed on appeal and remanded for a new trial, the court must dismiss the action for want of prosecution if a plaintiff fails to bring the action to trial within 3 years after the remittitur was filed in the trial court.

(5) **Extending Time; Computing Time.** The parties may stipulate in writing to extend the time in which to prosecute an action. If two time periods requiring mandatory dismissal apply, the longer time period controls.

(6) **Dismissal With Prejudice.** A dismissal under Rule 41(e) is a bar to another action upon the same claim for relief against the same defendants unless the court provides otherwise in its order dismissing the action.

Rule 42. Consolidation; Separate Trials

(a) **Consolidation.** If actions before the court involve a common question of law or fact, the court may:

(1) join for hearing or trial any or all matters at issue in the actions;

(2) consolidate the actions; or

(3) issue any other orders to avoid unnecessary cost or delay.

(b) **Separate Trials.** For convenience, to avoid prejudice, or to expedite and economize, the court may order a separate trial of one or more separate

issues, claims, cross-claims, counterclaims, or third-party claims. When ordering a separate trial, the court must preserve any right to a jury trial.

Rule 43. Evidence

(a) **Form.** In every trial, the testimony of witnesses must be taken in open court, unless otherwise provided by court rule or by statute.

(b) **Affirmation in Lieu of Oath.** Whenever under these rules an oath is required to be taken, a solemn affirmation may be accepted in lieu thereof.

(c) **Evidence on Motions.** When a motion is based on facts not appearing of record, the court may hear the matter on affidavits presented by the respective parties, but the court may direct that the matter be heard wholly or partly on oral testimony or depositions.

(d) **Depositions, Interrogatories, and Admissions.** Each party is permitted to quote directly from relevant transcribed or video depositions, interrogatories, requests for admissions, or any other evidence as stipulated to by the parties.

(e) **Documentary Evidence.** Unless a timely objection has been made pursuant to Rule 39A(e), or a stipulation of admissibility has been reached by the parties, any and all documents that would be admitted upon testimony by a custodian of records or other originator, such as wage loss records, auto repair estimate records, or photographs, may be admitted into evidence without necessity of authentication or foundation by a live witness.

(f) **Interpreters.** The court may appoint an interpreter of its own selection and may fix the interpreter's reasonable compensation. The compensation must be paid out of funds provided by law or by one or more of the parties as the court may direct and may be taxed ultimately as costs in the discretion of the court.

Rule 44. Proving an Official Record

(a) **Means of Proving.**

(1) **Domestic Record.** Each of the following evidences an official record—or an entry in it—that is otherwise admissible and is kept within the United States, any state, district, or commonwealth, or any territory subject to the administrative or judicial jurisdiction of the United States:

(A) an official publication of the record; or

(B) a copy attested by the officer with legal custody of the record—or by the officer's deputy—and accompanied by a certificate that the officer has custody. The certificate must be made under seal:

(i) by a judge of a court of record in the district or political subdivision where the record is kept; or

(ii) by any public officer with a seal of office and with official duties in the district or political subdivision where the record is kept.

(2) **Foreign Record.**

(A) **In General.** Each of the following evidences a foreign official record—or an entry in it—that is otherwise admissible:

(i) an official publication of the record; or

(ii) the record—or a copy—that is attested by an authorized person and is accompanied either by a final certification of genuineness or by a certification under a treaty or convention to which the United States and the country where the record is located are parties.

(B) **Final Certification of Genuineness.** A final certification must certify the genuineness of the signature and official position of the attester or of any foreign official whose certificate of genuineness relates to the attestation or is in a chain of certificates of genuineness relating to the attestation. A final certification may be made by a secretary of a United States

embassy or legation; by a consul general, vice consul, or consular agent of the United States; or by a diplomatic or consular official of the foreign country assigned or accredited to the United States.

(C) **Other Means of Proof.** If all parties have had a reasonable opportunity to investigate a foreign record's authenticity and accuracy, the court may, for good cause, either:

(i) admit an attested copy without final certification; or

(ii) permit the record to be evidenced by an attested summary with or without a final certification.

(b) **Lack of a Record.** A written statement that a diligent search of designated records revealed no record or entry of a specified tenor is admissible as evidence that the records contain no such record or entry. For domestic records, the statement must be authenticated under Rule 44(a)(1). For foreign records, the statement must comply with Rule 44(a)(2)(C)(ii).

(c) **Other Proof.** A party may prove an official record—or an entry or lack of an entry in it—by any other method authorized by law.

Rule 44.1. Determination of Foreign Law

A party who intends to raise an issue concerning the law of a foreign country must give notice by pleadings or other reasonable written notice. The court, in determining foreign law, may consider any relevant material or source, including testimony, whether or not submitted by a party or admissible under Rule 43. The court's determination must be treated as a ruling on a question of law.

Rule 45. Subpoena

(a) **In General.**

(1) **Form and Contents.**

(A) **Requirements—In General.** Every subpoena must:

(i) state the court from which it is issued;

(ii) state the title and case number of the action and the name and address of the party or attorney responsible for issuing the subpoena;

(iii) command each person to whom it is directed to do the following at a specified time and place: attend and testify; produce designated documents, electronically stored information, or tangible things in that person's possession, custody, or control; or permit the inspection of premises; and

(iv) set out the text of Rule 45(c) and (d).

(B) **Command to Attend a Deposition—Notice of the Recording Method.** A subpoena commanding attendance at a deposition must state the method for recording the testimony.

(C) **Combining or Separating a Command to Produce or to Permit Inspection; Specifying the Form for Electronically Stored Information.** A command to produce documents, electronically stored information, or tangible things or to permit the inspection of premises may be included in a subpoena commanding attendance at a deposition, hearing, or trial or may be set out in a separate subpoena. A subpoena may specify the form or forms in which electronically stored information is to be produced.

(D) **Command to Produce; Included Obligations.** A command in a subpoena to produce documents, electronically stored

information, or tangible things requires the responding person to permit inspection, copying, testing, or sampling of the materials.

(2) **Issuing Court.** A subpoena must issue from the court where the action is pending.

(3) **Issued by Whom.** The clerk must issue a subpoena, signed but otherwise in blank, to a party who requests it. That party must complete it before service. An attorney also may issue and sign a subpoena if the attorney is authorized to practice in the issuing court.

(4) **Prior Notice to Parties; Party Objections.**

(A) **Notice to Other Parties Before Service.** If the subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, then at least 7 days before it is served on the person to whom it is directed, a notice and a copy of the subpoena must be served on each party to permit a party to object to and seek issuance of a protective order against the subpoena during that time.

(B) **Party Objections.**

(i) A party who receives notice under Rule 45(a)(4)(A) that another party intends to serve a subpoena duces tecum on a third party that will require disclosure of privileged, confidential, or other protected matter, to which no exception or waiver applies, may object to the subpoena by filing and serving written objections to the subpoena and a motion for a protective order.

(ii) To invoke the protections of this rule, the objecting party must file and serve written objections to the subpoena and a motion for a protective order under Rule 26(c) within 7 days after being served with notice and a copy of the subpoena under Rule 45(a)(4)(A).

(iii) In the objections and the motion, the party must specifically state the party's objections to each command to produce documents, electronically stored information, or tangible things or to permit the inspection of premises and demonstrate a basis for asserting that the command will require disclosure of privileged, confidential, or other protected matter and establish that no exception or waiver applies and that the objecting party is entitled to assert the claim of privilege or other protection against disclosure.

(iv) If the party objects based upon privilege, confidentiality, or other protection and timely files and serves objections and a motion for a protective order, the subpoena may not be served, unless revised to eliminate the objected-to commands, until the court that issued the subpoena has ruled on the objections and motion.

(v) The objections and motion practice are subject to the provisions of Rules 26(c) and (g) and 37(a)(5).

(b) **Service.**

(1) **By Whom and How; Tendering Fees.** Any person who is at least 18 years old and not a party may serve a subpoena, as appropriate under Rule 4.2 or 4.3. If the subpoena requires that person's attendance, the serving party must tender the fee for 1 day's attendance and the mileage allowed by law. Fees and mileage need not be tendered when the subpoena issues on behalf of the State or any of its officers or agencies.

(2) **Service in Nevada.** Subject to the provisions of Rule 45(c)(3)(A)(ii), a subpoena may be served at any place within the state.

(3) **Service in Another State or Territory.** A subpoena may be served in another state or territory of the United States as provided by the law of that state or territory.

(4) **Service in a Foreign Country.** A subpoena may be served in a foreign country as provided by the law of that country.

(5) **Service of a Subpoena From Another State or Territory in Nevada.** A subpoena issued by a court in another state or territory of the United States that is directed to a person in Nevada must be presented to the clerk of the district court in the county in which discovery is sought to be conducted. A subpoena issued under NRS Chapter 53 may be served under this rule.

(6) **Proof of Service.** Proving service, when necessary, requires filing with the issuing court a statement showing the date and manner of service and the names of the persons served. The statement must be certified by the server.

(c) **Protection of Persons Subject to Subpoena.**

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court that issued the subpoena must enforce this duty and may impose an appropriate sanction—which may include lost earnings and reasonable attorney fees—on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**

(A) **Appearance Not Required.**

(i) A person commanded to produce documents, electronically stored information, or tangible things or to permit the inspection of premises need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(ii) If documents, electronically stored information, or tangible things are produced to the party that issued the subpoena without an appearance at the place of production, that party must, unless otherwise stipulated by the parties or ordered by the court, promptly copy or electronically reproduce the documents or information, photograph any tangible items not subject to copying, and serve these items on every other party. The party that issued the subpoena may also serve a statement of the reasonable cost of copying, reproducing, or photographing, which a party receiving the copies, reproductions, or photographs must promptly pay. If a party disputes the cost, then the court, on motion, must determine the reasonable cost of copying the documents or information or of photographing the tangible items.

(B) **Objections.** A person commanded to produce documents, electronically stored information, or tangible things or to permit the inspection of premises, or a person claiming a proprietary interest in the subpoenaed documents, information, tangible things, or premises to be inspected, may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The person making the objection must serve it before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made:

(i) the party serving the subpoena is not entitled to inspect, copy, test, or sample the materials or tangible things or to inspect the premises except by order of the court that issued the subpoena;

(ii) on notice to the parties, the objecting person, and the person commanded to produce or permit inspection, the party serving the

subpoena may move the court that issued the subpoena for an order compelling production or inspection; and

(iii) if the court enters an order compelling production or inspection, the order must protect the person commanded to produce or permit inspection from significant expense resulting from compliance.

(3) **Quashing or Modifying a Subpoena.**

(A) **When Required.** On timely motion, the court that issued a subpoena must quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance;

(ii) requires a person to travel to a place more than 100 miles from the place where that person resides, is employed, or regularly transacts business in person, unless the person is commanded to attend trial within Nevada;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to an undue burden.

(B) **When Permitted.** On timely motion, the court that issued a subpoena may quash or modify the subpoena if it requires disclosing:

(i) a trade secret or other confidential research, development, or commercial information; or

(ii) an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order an appearance or production under specified conditions if the party serving the subpoena:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) **Duties in Responding to a Subpoena.**

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such

sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) **Claiming Privilege or Protection.**

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) **Contempt; Costs.** Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court that issued the subpoena. In connection with a motion for a protective order brought under Rule 26(c), a motion to compel brought under Rule 45(c)(2)(B), or a motion to quash or modify the subpoena brought under Rule

45(c)(3), the court may consider the provisions of Rule 37(a)(5) in awarding the prevailing person reasonable expenses incurred in making or opposing the motion.

Rule 46. Objecting to a Ruling or Order

A formal exception to a ruling or order is unnecessary. When the ruling or order is requested or made, a party need only state the action that it wants the court to take or objects to, along with the grounds for the request or objection. Failing to object does not prejudice a party who had no opportunity to do so when the ruling or order was made.

Rule 47. Size of Jury; Juror Selection and Voir Dire

(a) **Size of Jury.** The jury shall be composed of four jurors. For good cause shown to the court, a party may request a jury of six members and, unless otherwise stipulated, additional jurors' fees for a six-member jury shall be paid by the party requesting the same within 14 days after approval by the court of the jury expansion request.

(b) **Juror Selection.** Twelve potential jurors will be selected from the county jury pool for a jury of four members; fourteen potential jurors will be selected for a jury of six members. If, after the exercise of all peremptory challenges or challenges for cause, the resulting jury panel is greater than four members for a four-member jury, the first four members called will constitute the jury panel. In the event the resulting jury panel is greater than six members for a six-member jury, the first six members called will constitute the jury panel.

(c) **Examination of Jurors.** Each side shall be allowed 15 minutes of voir dire, which time shall not be deducted from the 2 hours of presentation time provided under Rule 39A(c).

(d) **Challenges.** The court must allow peremptory challenges and challenges for cause as provided in NRS Chapter 16, except that each side is only entitled to two peremptory challenges.

(e) **Alternate Juror.** In addition to the regular jury, the court may direct that one alternate juror be called and impaneled to sit. The alternate juror must be the next potential juror from the pool. The alternate juror must replace a juror who, prior to the time the jury retires to consider its verdict, becomes or is found to be unable or disqualified to perform his or her duties. The alternate juror must be drawn in the same manner, have the same qualifications, be subject to the same examination and challenges, take the same oath, and have the same functions, powers, facilities, and privileges as the regular jurors. An alternate juror may replace a regular juror during trial or after the jury retires to consider its verdict. If an alternate juror replaces a regular juror after the jury has retired to deliberate, the court must recall the jury, seat the alternate, and resubmit the case to the jury. Alternate jurors must be discharged when the regular jury is discharged.

Rule 48. Majority Verdict

A verdict or a finding of three of the jurors must be taken as a verdict or finding of the jury composed of four members. For a six-member jury, a verdict or a finding of five of the jurors must be taken as a verdict or finding of the jury.

Rule 49. Special Verdict; General Verdict and Questions

(a) **Special Verdict.**

(1) **In General.** The court may require a jury to return only a special verdict in the form of a special written finding on each issue of fact. The court may do so by:

(A) submitting written questions susceptible of a categorical or other brief answer;

(B) submitting written forms of the special findings that might properly be made under the pleadings and evidence; or

(C) using any other method that the court considers appropriate.

(2) **Instructions.** The court must give the instructions and explanations necessary to enable the jury to make its findings on each submitted issue.

(3) **Issues Not Submitted.** A party waives the right to a jury trial on any issue of fact raised by the pleadings or evidence but not submitted to the jury unless, before the jury retires, the party demands its submission to the jury. If the party does not demand submission, the court may make a finding on the issue. If the court makes no finding, it is considered to have made a finding consistent with its judgment on the special verdict.

(b) **General Verdict With Answers to Written Questions.**

(1) **In General.** The court may submit to the jury forms for a general verdict, together with written questions on one or more issues of fact that the jury must decide. The court must give the instructions and explanations necessary to enable the jury to render a general verdict and answer the questions in writing and must direct the jury to do both.

(2) **Verdict and Answers Consistent.** When the general verdict and the answers are consistent, the court must approve, for entry under Rule 58, an appropriate judgment on the verdict and answers.

(3) **Answers Inconsistent With the Verdict.** When the answers are consistent with each other but one or more is inconsistent with the general verdict, the court may:

(A) approve, for entry under Rule 58, an appropriate judgment according to the answers, notwithstanding the general verdict;

(B) direct the jury to further consider its answers and verdict; or

(C) order a new trial.

(4) **Answers Inconsistent With Each Other and the Verdict.** When the answers are inconsistent with each other and one or more is also inconsistent with the general verdict, judgment must not be entered; instead, the court may:

(A) direct the jury to further consider its answers and verdict; or

(B) order a new trial.

Rule 50. Judgment as a Matter of Law in a Jury Trial; Related Motion for a New Trial; Conditional Ruling

(a) **Judgment as a Matter of Law.**

(1) **In General.** If a party has been fully heard on an issue during a jury trial and the court finds that a reasonable jury would not have a legally sufficient evidentiary basis to find for the party on that issue, the court may:

(A) resolve the issue against the party; and

(B) grant a motion for judgment as a matter of law against the party on a claim or defense that, under the controlling law, can be maintained or defeated only with a favorable finding on that issue.

(2) **Motion.** A motion for judgment as a matter of law may be made at any time before the case is submitted to the jury. The motion must specify the judgment sought and the law and facts that entitle the movant to the judgment.

(b) **Renewing the Motion After Trial; Alternative Motion for a New Trial.** If the court does not grant a motion for judgment as a matter of law made under Rule 50(a), the court is considered to have submitted the action to the jury subject to the court's later deciding the legal questions raised by the motion. No later than 28 days after service of written notice of entry of judgment—or if the motion addresses a jury issue not decided by a verdict, no later than 28 days after the jury was discharged—the movant may file a renewed motion for judgment as a matter of law and may include an alternative or joint request for a new trial under Rule 59. The time for filing the motion cannot be extended under Rule 6(b). In ruling on the renewed motion, the court may:

(1) allow judgment on the verdict, if the jury returned a verdict;

(2) order a new trial; or

(3) direct the entry of judgment as a matter of law.

(c) **Granting the Renewed Motion; Conditional Ruling on a Motion for a New Trial.**

(1) **In General.** If the court grants a renewed motion for judgment as a matter of law, it must also conditionally rule on any motion for a new trial by determining whether a new trial should be granted if the

judgment is later vacated or reversed. The court must state the grounds for conditionally granting or denying the motion for a new trial.

(2) **Effect of a Conditional Ruling.** Conditionally granting the motion for a new trial does not affect the judgment's finality; if the judgment is reversed, the new trial must proceed unless the appellate court orders otherwise. If the motion for a new trial is conditionally denied, the appellee may assert error in that denial; if the judgment is reversed, the case must proceed as the appellate court orders.

(d) **Time for a Losing Party's New-Trial Motion.** Any motion for a new trial under Rule 59 by a party against whom judgment as a matter of law is rendered must be filed no later than 28 days after service of written notice of entry of judgment. The time for filing the motion cannot be extended under Rule 6(b).

(e) **Denying the Motion for Judgment as a Matter of Law; Reversal on Appeal.** If the court denies the motion for judgment as a matter of law, the prevailing party may, as appellee, assert grounds entitling it to a new trial should the appellate court conclude that the trial court erred in denying the motion. If the appellate court reverses the judgment, it may order a new trial, direct the trial court to determine whether a new trial should be granted, or direct the entry of judgment.

Rule 51. Instructions to the Jury; Objections; Preserving a Claim of Error

(a) **Requests.**

(1) **Before or at the Close of the Evidence.** At the close of the evidence or at any earlier reasonable time that the court orders, a party may

file and furnish to every other party written requests for the jury instructions it wants the court to give.

(2) **After the Close of the Evidence.** After the close of the evidence, a party may:

(A) file requests for instructions on issues that could not reasonably have been anticipated by an earlier time that the court set for requests; and

(B) with the court's permission, file untimely requests for instructions on any issue.

(3) **Format; Citation.** The written requests must be in the format directed by the court. If a party relies on any statute, rule, caselaw, or other legal authority to support a requested instruction, the party must cite or provide a copy of the authority.

(b) **Settling Instructions.**

(1) The court must inform the parties of its proposed instructions and proposed action on the requests before instructing the jury.

(2) The court must give the parties an opportunity to object on the record and out of the jury's hearing before the instructions and arguments are delivered.

(3) The court and the parties must make a record of the instructions that were proposed, that the court rejected or modified, and that the court gave to the jury. If the court modifies an instruction, the court must clearly indicate how the instruction was modified.

(c) **Objections.**

(1) **How to Make.** A party who objects to an instruction or the failure to give an instruction must do so on the record, stating distinctly the matter objected to and the grounds for the objection. If a party relies on any

statute, rule, caselaw, or other legal authority to object to a requested instruction, the party must cite or provide a copy of the authority.

(2) **When to Make.** An objection is timely if:

(A) a party objects at the opportunity provided under Rule 51(b)(2); or

(B) a party was not informed of an instruction or action on a request before that opportunity to object, and the party objects promptly after learning that the instruction or request will be, or has been, given or refused.

(d) **Giving Instructions.**

(1) The court must instruct the jury before the parties' closing arguments.

(2) The court may also give the jury further instructions that may become necessary by reason of the parties' closing arguments.

(3) The final instructions given to the jury must be bound together in the order given and the court must sign the last instruction. The court must provide the original instructions or a copy of them to the jury.

(4) After the jury has reached a verdict and been discharged, the originals and copies of all given instructions must be made part of the trial court record.

(e) **Assigning Error; Plain Error.**

(1) **Assigning Error.** A party may assign as error:

(A) an error in an instruction actually given, if that party properly objected; or

(B) a failure to give an instruction, if that party properly requested it and—unless the court rejected the request in a definitive ruling on the record—also properly objected.

(2) **Plain Error.** A court may consider a plain error in the instructions that has not been preserved as required by Rule 51(e)(1) if the error affects substantial rights.

(f) **Scope.**

(1) **Preliminary Instructions.** Nothing in this rule prevents a party from requesting, or the court from giving, preliminary instructions to the jury. A request for preliminary instructions must be made at any reasonable time that the court orders. If preliminary instructions are requested or given, the court and the parties must comply with Rules 51(a)(3), 51(b), and 51(d)(4), as applicable.

(2) **Other Instructions.** This rule governs instructions to the jury on the law that governs the verdict. Other instructions, including instructions to a venire and cautionary or limiting instructions delivered in immediate response to events at trial, are outside the scope of this rule.

Rule 52. Findings and Conclusions by the Court; Judgment on Partial Findings

(a) **Findings and Conclusions.**

(1) **In General.** In an action tried on the facts without a jury or with an advisory jury, the court must find the facts specially and state its conclusions of law separately. The findings and conclusions may be stated on the record after the close of the evidence or may appear in an opinion or a memorandum of decision filed by the court. Judgment must be entered under Rule 58.

(2) **For an Interlocutory Injunction.** In granting or refusing an interlocutory injunction, the court must similarly state the findings and conclusions that support its action.

(3) **For a Motion.** The court is not required to state findings or conclusions when ruling on a motion under Rule 12 or 56 or, unless these rules provide otherwise, on any other motion. The court should, however, state on the record the reasons for granting or denying a motion.

(4) **Effect of a Master's Findings.** A master's findings, to the extent adopted by the court, must be considered the court's findings.

(5) **Questioning the Evidentiary Support.** A party may later question the sufficiency of the evidence supporting the findings, whether or not the party requested findings, objected to them, moved to amend them, or moved for partial findings.

(6) **Setting Aside the Findings.** Findings of fact, whether based on oral or other evidence, must not be set aside unless clearly erroneous, and the reviewing court must give due regard to the trial court's opportunity to judge the witnesses' credibility.

(b) **Amended or Additional Findings.** On a party's motion filed no later than 28 days after service of written notice of entry of judgment, the court may amend its findings—or make additional findings—and may amend the judgment accordingly. The time for filing the motion cannot be extended under Rule 6(b). The motion may accompany a motion for a new trial under Rule 59.

(c) **Judgment on Partial Findings.** If a party has been fully heard on an issue during a nonjury trial and the court finds against the party on that issue, the court may enter judgment against the party on a claim or defense that, under the controlling law, can be maintained or defeated only with a favorable finding on that issue. The court may, however, decline to render any judgment until the close of the evidence. A judgment on partial findings must be supported by findings of fact and conclusions of law as required by Rule 52(a).

Rule 53. Reserved

VII. JUDGMENT

Rule 54. Judgments

(a) **Definition; Form.** "Judgment" as used in these rules includes a decree and any order from which an appeal lies. A judgment shall not contain a recital of pleadings, the record of prior proceedings, or itemization of costs and fees.

(b) **Judgment on Multiple Claims or Involving Multiple Parties.** When an action presents more than one claim for relief—whether as a claim, counterclaim, cross-claim, or third-party claim—or when multiple parties are involved, the court may direct the entry of a final judgment as to one or more but fewer than all claims or parties only if the court expressly determines that there is no just reason for delay. Otherwise, any order or other decision, however designated, that adjudicates the rights and liabilities of fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of judgment adjudicating all the claims and all the parties' rights and liabilities.

(c) **Demand for Judgment.** A default judgment must not differ in kind from or exceed in amount what is demanded in the pleadings. Every other final judgment should grant the relief to which each party is entitled, even if the party has not demanded such relief in the party's pleadings.

(d) **Reserved.**

Rule 55. Default and Default Judgment

(a) **Entering a Default.** When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend and that failure is shown by affidavit or otherwise, the clerk must enter the party's default.

(b) **Entering a Default Judgment.**

(1) **By the Clerk.** If the plaintiff's claim is for a sum certain or for a sum that can by computation be made certain, the clerk—on plaintiff's request, with an affidavit of the amount due—must enter judgment for that amount and costs against the defendant who has been defaulted for not appearing and who is neither a minor nor an incapacitated person.

(2) **By the Court.** In all other cases, the party must apply to the court for a default judgment. A default judgment may be entered against a minor or incapacitated person only if represented by a general guardian, conservator, or other like fiduciary who has appeared. If the party against whom a default judgment is sought has appeared personally or by a representative, that party or its representative must be served with written notice of the application for judgment at least 7 days prior to the hearing. The court may conduct hearings or make referrals—preserving any statutory right to a jury trial—when, to enter and effectuate judgment, it needs to:

(A) conduct an accounting;

(B) determine the amount of damages;

(C) establish the truth of any allegation by evidence; or

(D) investigate any other matter.

(c) **Setting Aside Default.** The court may set aside an entry of default for good cause, and it may set aside a final judgment under Rule 60(b).

(d) **Default Judgment Damages.** In all cases, a default judgment is subject to the limitations of Rule 54(c).

(e) **Plaintiffs, Counterclaimants, Cross-Claimants.** The provisions of this rule apply whether the party entitled to the judgment by default is a plaintiff, a third-party plaintiff, or a party who has pleaded a cross-claim or counterclaim.

(f) **Judgment Against the State.** A default judgment may be entered against the State, its officers, or its agencies only if the claimant establishes a claim or right to relief by evidence satisfactory to the court.

Rule 56. Summary Judgment

(a) **Motion for Summary Judgment or Partial Summary Judgment.** A party may move for summary judgment, identifying each claim or defense—or the part of each claim or defense—on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion.

(b) **Time to File a Motion.** Unless a different time is set by local rule or the court orders otherwise, a party may file a motion for summary judgment at any time until 30 days after the close of all discovery.

(c) **Procedures.**

(1) **Supporting Factual Positions.** A party asserting that a fact cannot be disputed or is genuinely disputed must support the assertion by:

(A) citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits

or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials; or

(B) showing that the materials cited do not establish the absence or presence of a genuine dispute or that an adverse party cannot produce admissible evidence to support the fact.

(2) **Objection That a Fact Is Not Supported by Admissible Evidence.** A party may object that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence.

(3) **Materials Not Cited.** The court need consider only the cited materials, but it may consider other materials in the record.

(4) **Affidavits or Declarations.** An affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated.

(d) **When Facts Are Unavailable to the Nonmovant.** If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may:

(1) defer considering the motion or deny it;

(2) allow time to obtain affidavits or declarations or to take discovery; or

(3) issue any other appropriate order.

(e) **Failing to Properly Support or Address a Fact.** If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c), the court may:

(1) give an opportunity to properly support or address the fact;

(2) consider the fact undisputed for purposes of the motion;

(3) grant summary judgment if the motion and supporting materials—including the facts considered undisputed—show that the movant is entitled to it; or

(4) issue any other appropriate order.

(f) **Judgment Independent of the Motion.** After giving notice and a reasonable time to respond, the court may:

(1) grant summary judgment for a nonmovant;

(2) grant the motion on grounds not raised by a party; or

(3) consider summary judgment on its own after identifying for the parties material facts that may not be genuinely in dispute.

(g) **Failing to Grant All the Requested Relief.** If the court does not grant all the relief requested by the motion, it may enter an order stating any material fact—including an item of damages or other relief—that is not genuinely in dispute and treating the fact as established in the case.

(h) **Affidavit or Declaration Submitted in Bad Faith.** If satisfied that an affidavit or declaration under this rule is submitted in bad faith or solely for delay, the court—after notice and a reasonable time to respond—may order the submitting party to pay the other party the reasonable expenses, including attorney fees, it incurred as a result. An offending party or attorney may also be held in contempt or subjected to other appropriate sanctions.

Rule 57. Reserved

Rule 58. Entering Judgment

(a) **Judgment.**

(1) Subject to the provisions of Rule 54(b) and except as provided in Rule 55(b)(1), all judgments must be approved and signed by the court and filed with the clerk.

(2) The court shall designate a party to serve written notice of entry of the judgment on the other parties under Rule 58(e).

(b) **When Judgment Entered.** The filing with the clerk of a judgment, signed by the court or by the clerk, as authorized by these rules, constitutes the entry of the judgment, and no judgment is effective for any purpose until it is entered. The entry of the judgment may not be delayed for the taxing of costs.

(c) **Judgment Roll.** The judgment, as signed and filed, constitutes the judgment roll.

(d) **Notice of Entry of Judgment.**

(1) Within 14 days after entry of a judgment or an order, a party designated by the court under Rule 58(a)(2) must serve written notice of such entry, together with a copy of the judgment or order, upon each party who is not in default for failure to appear and must file the notice of entry with the clerk of the court. Any other party, or the court in family law cases, may also serve and file a written notice of such entry. Service must be made as provided in Rule 5(b).

(2) Failure to serve written notice of entry does not affect the validity of the judgment, but the judgment may not be executed upon until notice of its entry is served.

Rule 59. New Trials; Amendment of Judgments

(a) **In General.**

(1) **Grounds for New Trial.** The court may, on motion, grant a new trial on all or some of the issues—and to any party—for any of the following causes or grounds materially affecting the substantial rights of the moving party:

(A) irregularity in the proceedings of the court, jury, master, or adverse party or in any order of the court or master, or any abuse of discretion by which either party was prevented from having a fair trial;

(B) misconduct of the jury or prevailing party;

(C) accident or surprise that ordinary prudence could not have guarded against;

(D) newly discovered evidence material for the party making the motion that the party could not, with reasonable diligence, have discovered and produced at the trial;

(E) manifest disregard by the jury of the instructions of the court;

(F) excessive damages appearing to have been given under the influence of passion or prejudice; or

(G) error in law occurring at the trial and objected to by the party making the motion.

(2) **Further Action After a Nonjury Trial.** On a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new judgment.

(b) **Time to File a Motion for a New Trial.** A motion for a new trial must be filed no later than 28 days after service of written notice of entry of judgment.

(c) **Time to Serve Affidavits.** When a motion for a new trial is based on affidavits, they must be filed with the motion. The opposing party has 14 days after being served to file opposing affidavits. The court may permit reply affidavits.

(d) **New Trial on the Court's Initiative or for Reasons Not in the Motion.** No later than 28 days after service of written notice of entry of judgment, the court, on its own, may issue an order to show cause why a new trial should not be granted for any reason that would justify granting one on a party's motion. After giving the parties notice and the opportunity to be heard, the court may grant a party's timely motion for a new trial for a reason not stated in the motion. In either event, the court must specify the reasons in its order.

(e) **Motion to Alter or Amend a Judgment.** A motion to alter or amend a judgment must be filed no later than 28 days after service of written notice of entry of judgment.

(f) **No Extensions of Time.** The 28-day time periods specified in this rule cannot be extended under Rule 6(b).

Rule 60. Relief From a Judgment or Order

(a) **Corrections Based on Clerical Mistakes; Oversights and Omissions.** The court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. The court may do so on motion or on its own, with or without notice. But after an appeal has been docketed in the appellate court and while it is pending, such a mistake may be corrected only with the appellate court's leave.

(b) **Grounds for Relief From a Final Judgment, Order, or Proceeding.** On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect;

(2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);

(3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;

(4) the judgment is void;

(5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or

(6) any other reason that justifies relief.

(c) **Timing and Effect of the Motion.**

(1) **Timing.** A motion under Rule 60(b) must be made within a reasonable time—and for reasons (1), (2), and (3) no more than 6 months after the date of the proceeding or the date of service of written notice of entry of the judgment or order, whichever date is later. The time for filing the motion cannot be extended under Rule 6(b).

(2) **Effect on Finality.** The motion does not affect the judgment's finality or suspend its operation.

(d) **Other Powers to Grant Relief.** This rule does not limit a court's power to:

(1) entertain an independent action to relieve a party from a judgment, order, or proceeding;

(2) upon motion filed within 6 months after written notice of entry of a default judgment is served, set aside the default judgment against a defendant who was not personally served with a summons and complaint and who has not appeared in the action, admitted service, signed a waiver of service, or otherwise waived service; or

(3) set aside a judgment for fraud upon the court.

Rule 61. Harmless Error

Unless justice requires otherwise, no error in admitting or excluding evidence—or any other error by the court or a party—is ground for granting a new trial, for setting aside a verdict, or for vacating, modifying, or otherwise disturbing a judgment or order. At every stage of the proceeding, the court must disregard all errors and defects that do not affect any party's substantial rights.

Rule 62. Stay of Proceedings to Enforce a Judgment

(a) **Automatic Stay; Exceptions for Injunctions and Receiverships.**

(1) **In General.** Except as stated in this rule, no execution may issue on a judgment, nor may proceedings be taken to enforce it, until 30 days have passed after service of written notice of its entry, unless the court orders otherwise.

(2) **Exceptions for Injunctions and Receiverships.** An interlocutory or final judgment in an action for an injunction or a receivership is not automatically stayed, unless the court orders otherwise.

(b) **Stay Pending the Disposition of Certain Post-judgment Motions.** On appropriate terms for the opposing party's security, the court

may stay execution on a judgment—or any proceedings to enforce it—pending disposition of any of the following motions:

(1) under Rule 50, for judgment as a matter of law;

(2) under Rule 52(b), to amend the findings or for additional findings;

(3) under Rule 59, for a new trial or to alter or amend a judgment; or

(4) under Rule 60, for relief from a judgment or order.

(c) **Injunction Pending an Appeal.** While an appeal is pending from an interlocutory order or final judgment that grants or refuses to grant, or dissolves or refuses to dissolve, an injunction, the court may stay, suspend, modify, restore, or grant an injunction on terms for bond or other terms that secure the opposing party's rights.

(d) **Stay Pending an Appeal.**

(1) **By Supersedeas Bond.** If an appeal is taken, the appellant may obtain a stay by supersedeas bond, except in an action described in Rule 62(a)(2). The bond may be given upon or after filing the notice of appeal or after obtaining the order allowing the appeal. The stay is effective when the supersedeas bond is filed.

(2) **By Other Bond or Security.** If an appeal is taken, a party is entitled to a stay by providing a bond or other security. Unless the court orders otherwise, the stay takes effect when the court approves the bond or other security and remains in effect for the time specified in the bond or other security.

(e) **Stay Without Bond on Appeal by the State of Nevada, Its Political Subdivisions, or Their Agencies or Officers.** When an appeal is taken by the State or by any county, city, town, or other political subdivision

of the State, or an officer or agency thereof, and the operation or enforcement of the judgment is stayed, no bond, obligation, or other security is required from the appellant.

(f) **Reserved.**

(g) **Appellate Court's Power Not Limited.** This rule does not limit the power of an appellate court or one of its judges or justices:

(1) to stay proceedings—or suspend, modify, restore, or grant an injunction—while an appeal is pending; or

(2) to issue an order to preserve the status quo or the effectiveness of the judgment to be entered.

(h) **Stay With Multiple Claims or Parties.** A court may stay the enforcement of a final judgment entered under Rule 54(b) until it enters a later judgment or judgments and may prescribe terms necessary to secure the benefit of the stayed judgment for the party in whose favor it was entered.

Rule 62.1. Indicative Ruling on a Motion for Relief That Is Barred by a Pending Appeal

(a) **Relief Pending Appeal.** If a timely motion is made for relief that the court lacks authority to grant because of an appeal that has been docketed and is pending, the court may:

(1) defer considering the motion;

(2) deny the motion; or

(3) state either that it would grant the motion if the appellate court remands for that purpose or that the motion raises a substantial issue.

(b) **Notice to the Appellate Court.** The movant must promptly notify the clerk of the district court if the justice court states that it would grant the motion or that the motion raises a substantial issue.

(c) **Remand.** The justice court may decide the motion if the appellate court remands for that purpose.

Rule 63. Inability of a Justice of the Peace to Proceed

If a justice of the peace conducting a hearing or trial is unable to proceed, any other justice may proceed upon certifying familiarity with the record and determining that the case may be completed without prejudice to the parties. In a hearing or a nonjury trial, the successor justice must, at a party's request, recall any witness whose testimony is material and disputed and who is available to testify again without undue burden. The successor justice may also recall any other witness. But if such successor justice cannot perform those duties because the successor justice did not preside at the trial or for any other reason, the successor justice may, in that justice's discretion, grant a new trial.

VIII. PROVISIONAL AND FINAL REMEDIES AND SPECIAL PROCEEDINGS

Rule 64. Seizing a Person or Property

(a) **Remedies—In General.** At the commencement of and throughout an action, every remedy is available that, under state law, provides for seizing a person or property to secure satisfaction of the potential judgment.

(b) **Specific Kinds of Remedies.** The remedies available under this rule include the following:

(1) arrest;

(2) attachment;

(3) garnishment;

(4) replevin;

(5) sequestration; and

(6) other corresponding or equivalent remedies.

Rule 65. Temporary Writ of Restitution Pursuant to NRS 40.300(3)

(a) Except for extraordinary circumstances, an order to show cause hearing to determine whether a temporary writ of restitution shall issue pursuant to NRS 40.300(3) may not occur until at least 11 calendar days after service of a summons and complaint upon the Defendant/Tenant/Occupant.

(b) All orders issued requiring the Defendant/Tenant/Occupant to show cause why a temporary writ of restitution should not be entered shall indicate that such hearing is not the trial on the merits, shall describe how such trial date will be set or indicate the trial date, and shall indicate that such trial will be set no earlier than 20 calendar days after service of summons and complaint.

(c) The process described at NRS 40.300(3) shall not be used as a forum for a trial upon which a judgment for the restitution of the premises pursuant to NRS 40.360 may be entered.

(d) The court may not issue a temporary writ of restitution if the hearing considering such request occurs prior to 11 calendar days after the service of summons and complaint unless the court finds that extraordinary circumstances are present and enters those extraordinary circumstances in the record.

(e) If a hearing to determine whether a temporary writ of restitution shall issue is scheduled pursuant to an Order to Show Cause, a Default Judgment shall not be entered until such hearing has occurred, notwithstanding the fact that time for answering has expired.

(f) A temporary writ of restitution is not a final adjudication of the case.

Rule 65.1. Security: Proceedings Against Sureties

Whenever these rules require or allow a party to give security, and security is given with one or more security providers, each provider submits to the court's jurisdiction and irrevocably appoints the court clerk as its agent for receiving service of any papers that affect its liability on the security. The security provider's liability may be enforced on motion without an independent action. The motion and any notice that the court orders may be served on the court clerk, who must promptly send a copy of each to every security provider whose address is known.

Rule 66. Reserved

Rule 67. Deposit in Court

(a) **Depositing Property.**

(1) In an action in which any part of the relief sought is a money judgment, the disposition of a sum of money, or the disposition of any other deliverable thing, a party, upon notice to every other party and by leave of court, may deposit with the court all or any part of the money or thing.

(2) When a party admits having possession or control of any money or other deliverable thing, which, being the subject of litigation, is held by the party as trustee for another party, or which belongs or is due to another party, on motion, the court may order all or any part of the money or thing to be deposited with the court.

(b) **Custodian; Investment of Funds.**

(1) Unless ordered otherwise, the deposited money or thing must be held by the clerk of the court.

(2) The court may order that:

(A) money deposited with the court be deposited in an interest-bearing account or invested in a court-approved, interest-bearing instrument, subject to withdrawal, in whole or in part, at any time thereafter upon order of the court; or

(B) money or a thing held in trust for a party be delivered to that party, upon such conditions as may be just, subject to the further direction of the court.

Rule 68. Offers of Judgment

(a) **The Offer.** At any time more than 21 days before trial, any party may serve an offer in writing to allow judgment to be taken in accordance with its terms and conditions. Unless otherwise specified, an offer made under this rule is an offer to resolve all claims in the action between the parties to the date of the offer, including costs, expenses, interest, and if attorney fees are permitted by law or contract, attorney fees.

(b) **Apportioned Conditional Offers.** An apportioned offer of judgment to more than one party may be conditioned upon the acceptance by all parties to whom the offer is directed.

(c) **Joint Unapportioned Offers.**

(1) **Multiple Offerors.** A joint offer may be made by multiple offerors.

(2) **Offers to Multiple Defendants.** An offer made to multiple defendants will invoke the penalties of this rule only if:

(A) there is a single common theory of liability against all the offeree defendants, such as where the liability of some is entirely derivative

of the others or where the liability of all is derivative of common acts by another; and

(B) the same entity, person, or group is authorized to decide whether to settle the claims against the offerees.

(3) **Offers to Multiple Plaintiffs.** An offer made to multiple plaintiffs will invoke the penalties of this rule only if:

(A) the damages claimed by all the offeree plaintiffs are solely derivative, such as where the damages claimed by some offerees are entirely derivative of an injury to the others or where the damages claimed by all offerees are derivative of an injury to another; and

(B) the same entity, person, or group is authorized to decide whether to settle the claims of the offerees.

(d) **Acceptance of the Offer and Dismissal or Entry of Judgment.**

(1) Within 14 days after service of the offer, the offeree may accept the offer by serving written notice that the offer is accepted.

(2) Within 21 days after service of written notice that the offer is accepted, the obligated party may pay the amount of the offer and obtain dismissal of the claims, rather than entry of a judgment.

(3) If the claims are not dismissed, at any time after 21 days after service of written notice that the offer is accepted, either party may file the offer and notice of acceptance together with proof of service. The clerk must then enter judgment accordingly. The court must not make a separate award of costs and attorney fees pursuant to NRS 69.020-69.040 unless specified in the original offer. Any judgment entered under this section must be expressly designated a compromise settlement.

(e) **Failure to Accept Offer.** If the offer is not accepted within 14 days after service, it will be considered rejected by the offeree and deemed

withdrawn by the offeror. Evidence of the offer is not admissible except in a proceeding to determine costs, expenses, and fees. The fact that an offer is made but not accepted does not preclude a subsequent offer. With offers to multiple offerees, each offeree may serve a separate acceptance of the apportioned offer, but if the offer is not accepted by all offerees, the action will proceed as to all. Any offeree who fails to accept the offer may be subject to the penalties of this rule.

(f) **Penalties for Rejection of Offer.**

(1) **In General.** If the offeree rejects an offer and fails to obtain a more favorable judgment:

(A) the offeree cannot recover any costs, expenses, or attorney fees and may not recover interest for the period after the service of the offer and before the judgment; and

(B) the offeree must pay the offeror's post-offer costs and expenses, including a reasonable sum to cover any expenses incurred by the offeror for each expert witness whose services were reasonably necessary to prepare for and conduct the trial of the case, applicable interest on the judgment from the time of the offer to the time of entry of the judgment, and reasonable attorney fees, if any be allowed, actually incurred by the offeror from the time of the offer. If the offeror's attorney is collecting a contingent fee, the amount of any attorney fees awarded to the party for whom the offer is made must be deducted from that contingent fee.

(2) **Multiple Offers.** The penalties in this rule run from the date of service of the earliest rejected offer for which the offeree failed to obtain a more favorable judgment.

(g) **How Costs, Expenses, Interest, and Attorney Fees Are Considered.** To invoke the penalties of this rule, the court must determine if

the offeree failed to obtain a more favorable judgment. If the offer expressly provided that costs, expenses, interest, and if attorney fees are permitted by law or contract, attorney fees, would be added by the court, the court must compare the amount of the offer with the principal amount of the judgment, without inclusion of costs, expenses, interest, and if attorney fees are permitted by law or contract, attorney fees. If a party made an offer in a set amount that is presumed to preclude a separate award of costs, expenses, interest, and if attorney fees are permitted by law or contract, attorney fees, the court must compare the amount of the offer, together with the offeree's pre-offer taxable costs, expenses, interest, and if attorney fees are permitted by law or contract, attorney fees, with the principal amount of the judgment.

(h) **Offers After Determination of Liability.** When the liability of one party to another has been determined by verdict, order, or judgment, but the amount or extent of the liability remains to be determined by further proceedings, the party adjudged liable may make an offer of judgment, which has the same effect as an offer made before trial if it is served within a reasonable time not less than 14 days before the commencement of hearings to determine the amount or extent of liability.

Rule 69. Execution

(a) **In General.**

(1) **Money Judgment; Applicable Procedure.** A money judgment is enforced by a writ of execution, unless the court directs otherwise. The procedure on execution in proceedings supplementary to and in aid of judgment or execution must accord with these rules and state law.

(2) **Obtaining Discovery.** In aid of the judgment or execution, the judgment creditor or a successor in interest whose interest appears of

record may obtain discovery from any person—including the judgment debtor—as provided in these rules or by state law.

(b) **Service of Notice of Entry Required Prior to Execution.** Service of written notice of entry of the judgment must be made in accordance with Rule 58(e) before execution upon the judgment.

Rule 70. Enforcing a Judgment for a Specific Act

(a) **Party's Failure to Act; Ordering Another to Act.** If a judgment requires a party to convey land, to deliver a deed or other document, or to perform any other specific act and the party fails to comply within the time specified, the court may order the act to be done—at the disobedient party's expense—by another person appointed by the court. When done, the act has the same effect as if done by the party.

(b) **Vesting Title.** If the real or personal property is within this state, the court—instead of ordering a conveyance—may enter a judgment divesting any party's title and vesting it in others. That judgment has the effect of a legally executed conveyance.

(c) **Obtaining a Writ of Attachment or Sequestration.** On application by a party entitled to performance of an act, the clerk must issue a writ of attachment or sequestration against the disobedient party's property to compel obedience.

(d) **Obtaining a Writ of Execution or Assistance.** On application by a party who obtains a judgment or order for possession, the clerk must issue a writ of execution or assistance.

(e) **Holding in Contempt.** The court may also hold the disobedient party in contempt.

Rule 71. Enforcing a Judgment for a Specific Act

When an order is made in favor of nonparty, the procedure for enforcing the order is the same as for a party.

IX. CIVIL APPEALS FROM JUSTICE COURTS

Rule 72. Appeal—How Taken

(a) **Filing the Notice of Appeal.**

(1) An appeal permitted by law from a justice court civil action may be taken only by filing a notice of appeal with the justice court clerk within the time allowed by Rule 72B, unless a different period is specified by statute.

(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 grounds only for the district court to act as it deems appropriate, including dismissing the appeal.

(3) **Deficient Notice of Appeal.** The justice court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the justice court or district court filing fee. The justice court shall apprise appellant of the deficiencies in writing and shall send the notice of appeal to the district court in accordance with subsection (f) with a notation to the district court clerk setting forth the deficiencies.

(b) **Joint or Consolidated Appeals.**

(1) When two or more parties are entitled to appeal from a justice 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:

(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) 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.

(d) **Serving the Notice of Appeal.**

(1) **In General.** The appellant shall serve the notice of appeal on all parties to the action in the justice court. Service on a party represented by counsel shall be made on counsel. If a party is not represented by counsel, appellant shall 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. The notice of appeal filed with the justice court clerk shall contain an acknowledgment of service or proof of service that conforms to the requirements of Rule 5.

(e) **Payment of Fees.** Except where provided by statute, upon filing a notice of appeal, the appellant must pay the justice court clerk the district court filing fee and any additional fees charged by the justice court.

(f) **Forwarding Appeal Documents to District Court.**

(1) **Justice Court Clerk's Duty to Forward.**

(A) Upon the filing of the notice of appeal, the justice court clerk shall immediately forward to the clerk of the district court the required filing fee and file-stamped copies of the following documents:

(i) the notice of appeal;

(ii) the justice court docket entries;

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

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

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

(vi) any certification order directing entry of judgment in accordance with Rule 54(b);

(vii) the minutes of the justice court proceedings; and

(viii) any exhibits offered into evidence.

(B) If, at the time of filing of the notice of appeal, any of the documents listed in Rule 72(f)(1)(A) have not been filed in the justice court, the justice court clerk shall nonetheless forward the notice of appeal together with all documents then on file with the clerk.

(C) The justice court clerk shall promptly forward any later docket entries to the clerk of the district court.

(2) **Appellant's Duty.** An appellant shall take all action necessary to enable the clerk to assemble and forward the documents enumerated in this subsection.

Rule 72A. 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 justice 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 order granting or denying a motion for a new trial.

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

(4) 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.

(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 justice court shall forthwith certify and transmit to the clerk of the district court, as the record on appeal, the original papers on which the motion was heard in the justice court.

(5) A special order entered after final judgment, excluding an order granting a motion to set aside a default judgment under Rule 60(b)(1) when

the motion was filed and served within 60 days after entry of the default judgment.

(6) 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.

(c) **Summary Judgment.** No appeal may be taken from an order of a justice court denying a motion for summary judgment; however, such an order may be reviewed by the district court in an original proceeding in mandamus when from the record it appears that no factual dispute exists and it is the duty of the justice court to enter summary judgment pursuant to clear authority under a statute or rule, or an important issue of law needs clarification and considerations of sound judicial economy and administration militate in favor of granting the petition.

Rule 72B. Appeal—When Taken

(a) **Time and Location for Filing a Notice of Appeal.** In a civil action in which an appeal is permitted by law from a justice court, the notice of appeal required by Rule 72 shall be filed with the justice court clerk. Except as provided in Rule 72A(b)(4) a notice of appeal must be filed after entry of a written judgment or order, and no later than 21 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.

(b) **Multiple Appeals.** If one party timely files a notice of appeal, any other party may file and serve a notice of appeal within 14 days after the date

when the first notice was served, or within the time otherwise prescribed by Rule 72B(a), whichever period last expires.

(c) **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 Rule 41(a) 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.

(d) **Effect of Certain Motions on a Notice of Appeal.** If a party timely files in the justice court any of the following motions under these rules, 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 21 days from the date of service of written notice of entry of that order:

(1) a motion for judgment under Rule 50(b);

(2) a motion under Rule 52(b) to amend or make additional findings of fact;

(3) a motion under Rule 59 to alter or amend the judgment; and

(4) a motion for a new trial under Rule 59.

(e) **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 72B(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 72. 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 21 days from the date of service of written notice of entry of that order.

(f) **Premature Notice of Appeal.** A premature notice of appeal does not divest the justice court of jurisdiction. The justice 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 72B(a)(4). If, however, a written order or judgment, or a written disposition of the last-remaining timely motion listed in Rule 72B(a)(4), is entered before dismissal of the premature appeal, the notice of appeal shall be considered filed on the date of and after entry of the order, judgment, or written disposition of the last-remaining timely motion.

(g) **Amended Notice of Appeal.** No additional fees shall be required if any party files an amended notice of appeal in order to comply with the provisions of this rule.

(h) **Appeal by an Inmate Confined in an Institution.** If an inmate confined in an institution files a notice of appeal in a civil action, 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.

Rule 73. Bond for Costs on Appeal

(a) **When Bond Required.** Unless an appellant in a civil action 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 must file a bond for costs on appeal or equivalent security in the justice court with the

notice of appeal. A bond must not be required of an appellant who is not subject to costs.

(b) **Amount of Bond.** The bond or equivalent security must be in the sum or value of $250 unless the justice court fixes a different amount. A bond for costs on appeal must have sufficient surety, and it or any equivalent security must be conditioned to secure the payment of costs in an amount directed by the district court if the appeal is finally dismissed or the judgment affirmed, or of such costs as the district court may direct if the judgment is modified.

(c) **Objections.** After a bond for costs on appeal is filed, a respondent may raise for determination by the court objections to the form of the bond or to the sufficiency of the surety.

(d) **Proceeding Against a Surety.** Rule 73A applies to a surety upon a bond given under this rule.

Rule 73A. Stay on Appeal—Supersedeas Bond

(a) **Motion for Stay.**

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

(A) a stay of the judgment or order of, or proceedings in, a justice court pending appeal; or

(B) approval of a supersedeas bond.

(2) **Motion in the District Court; Conditions on Relief.** A motion for the relief mentioned in Rule 73A(a)(1) may be made in the district court and is subject to the Nevada Rules of Civil Procedure or any local court rules.

(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 justice court and irrevocably appoints the justice 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 justice court without the necessity of an independent action. The motion and any notice that the justice court prescribes may be served on the justice court clerk, who shall promptly mail a copy to each surety whose address is known.

Rule 73B. Reserved

Rule 74. Reserved

Rule 74A. Reserved

Rule 74B. Reserved

Rule 75. Reserved

Rule 75A. Reserved

Rule 76. Reserved

Rule 76A. Reserved

Rule 76B. Reserved

X. JUSTICE COURTS AND CLERKS

Rule 77. Conducting Business; Clerk's Authority

(a) **When Court Is Open.** Every justice court is considered always open for filing any paper, issuing and returning process, making a motion, or entering an order.

(b) **Place for Trial and Other Proceedings.** Every trial on the merits must be conducted in open court and, so far as convenient, in a regular courtroom or virtually as authorized by Supreme Court Rules, but a private trial may be had as provided by statute. Any other act or proceeding may be done or conducted by a judge in chambers, without the attendance of the clerk or other court official, or anywhere inside or outside the judicial district. But no hearing—other than one ex parte—may be conducted outside this state unless all the affected parties consent.

(c) **Clerk's Office Hours; Clerk's Actions.**

(1) **Hours.** Every clerk's office and branch office must be open—with a clerk or deputy on duty—during business hours as established by each justice court.

(2) **Clerk's Actions.** Subject to the court's power to suspend, alter, or rescind the clerk's action for good cause, the clerk may:

(A) issue process;

(B) enter a default;

(C) enter a default judgment under Rule 55(b)(1); and

(D) act on any other matter that does not require the court's action.

(d) **Reserved.**

Rule 78. Hearing Motions; Submission on Briefs

(a) **Providing a Regular Schedule for Oral Hearings.** A court may establish regular times and places for oral hearings on motions.

(b) **Providing for Submission on Briefs.** By rule or order, a court may provide for submitting and determining motions on briefs, without oral hearings.

Rule 79. Reserved

Rule 80. Record or Transcript of Proceedings

(a) **Sound Recording Operator.** Whenever sound recording equipment is used to record proceedings, the court shall appoint a suitable person to operate the sound recording equipment and such person shall subscribe to an oath that the person will so operate it as to record all of the proceedings to which the person is assigned.

(b) **Preservation of Sound Recording.** Each court must establish a reliable method of preserving all sound recordings made in compliance with NRS 4.390. The sound recording of each proceeding shall be preserved until at least 30 days after the time for filing an appeal has expired. If an appeal is not taken and the prescribed period has elapsed, the court may order the destruction of the recording. If an appeal is taken, the recording shall be retained until at least 30 days after final disposition of the case on appeal. The court may order the destruction of the recording at any time after that date. Upon order of the district court, the recording must be transmitted to the district court.

XI. CIVIL TRAFFIC INFRACTIONS

Rule 81. Civil Penalty Schedule

The limited jurisdiction courts must adopt a statewide civil penalty schedule.

Rule 82. Discovery

Formal discovery as conducted in a civil action under these rules is not authorized regarding contested civil traffic infractions, except as provided by Rule 83. A copy of the civil traffic infraction and any statement of the issuing officer is deemed the discovery and may be obtained from the court through a court records request and payment of the requisite copy fees as set forth in NRS 4.060.

Rule 83. Subpoenas

Procedures for issuing a subpoena for a contested hearing on a civil traffic infraction will follow Rule 45.

Rule 84. Reserved

Rule 85. Reserved

Rule 86. Reserved

Rule 87. Reserved

XII. SMALL CLAIMS

Rule 88. Action for Small Claims

(a) In all cases for the recovery of money only, where the amount claimed does not exceed the statutory limit set for a small claims action, the action may be commenced by the filing of an affidavit of complaint as set forth in Rule 89.

(b) When any counterclaim or other pleading raises any issue or claim that may not be adjudicated as a small claims action, the court may separate the issues or claims and adjudicate those that may be resolved as a small claims action and require the other issues or claims to be filed separately in the justice court as a civil action. Where justice requires that the matters be heard together, the court must order the entire matter be reclassified as a civil action in the justice court or transferred for adjudication in the district court.

(1) Where a case is reclassified as a civil action in the justice court, the court may require the parties to amend their pleadings to conform with the requirements for a complaint and answer in a civil action under these rules.

(2) Where a case is reclassified as a civil action in the justice court, the court may require the parties to pay the appropriate filing fees.

(c) Debts owing and due to one creditor or claimant from the same person may not be severed in order to bring such claims within the jurisdiction of a small claims court. Such claims must be combined and any amount in excess of the jurisdictional limit must be waived by the plaintiff in order for such claim to be adjudicated in the small claims court. Notwithstanding the above, the court may, in its discretion, order that claims which are legally or factually dissimilar be tried separately.

Rule 89. Form of Affidavit

(a) The affidavit of small claims complaint must contain:

(1) a statement that the defendant is indebted to the plaintiff in a specified amount;

(2) a brief summary of the basis of the indebtedness; and

(3) a statement that the small claims court has jurisdiction over the case pursuant to NRS 73.010.

(b) The affidavit of small claims complaint must include:

(1) an order for the defendant to appear and be prepared to answer the claim on the date and time of the trial; and

(2) a notice to the defendant that failure to appear at the date and time of the trial may result in the entry of a judgment against the defendant.

Rule 90. Date of Trial Appearance Fixed by Court

(a) Upon the filing of the affidavit of small claims complaint, the court or clerk must complete the order by setting the date, time, and location of the small claims trial.

(b) The trial date must not be set more than 90 days from the filing of the affidavit of complaint, unless the court finds good cause.

(c) The court or clerk may amend the date and time of the small claims trial, upon motion, if it appears that service of the affidavit of complaint cannot be made in sufficient time to allow the defendant to prepare for trial or to allow the court to efficiently control its calendar.

Rule 91. Service of Small Claims

(a) Immediately after receipt of the filed affidavit of complaint, the plaintiff must serve the affidavit of complaint on the defendant in the manner set forth in Rule 4(d).

(b) Upon motion, the court may order an alternative method of service to be made upon the defendant. The service may be by registered or certified mail, return receipt requested, or other methods the court deems most likely to provide notice to the defendant.

(c) Service of the affidavit of complaint and order must be made on the defendant at least 14 days prior to the date of trial. Proof of service must immediately be filed with the court.

Rule 92. Motions

(a) Small claims actions are informal proceedings in which motions based upon Rules 3-71 do not apply. (*See* Rule 2.) Motions based upon Rules 3-71 may be summarily denied.

(b) Motions requiring factual findings or an evidentiary hearing may be resolved at the time of the small claims trial or in advance, at the discretion of the court.

(c) Motions to dismiss for lack of jurisdiction must be based upon NRS 73.010 and may be considered in advance of the small claims trial.

Rule 93. Dismissal Without Prejudice

Any affidavit of complaint and order that remains unserved for a period of 1 year from the original filing date may be dismissed by the court without prejudice. Written notice of entry of a dismissal pursuant to this rule must be

mailed to the plaintiff at the address provided by the plaintiff to the court in this action.

Rule 94. Docket Entries

The justice of the peace or clerk shall enter in the docket kept by the court:

(a) the title of every small claim action;

(b) the sum of money claimed;

(c) the date of the order provided for in Rule 89 and the date of the trial as stated in the order;

(d) the date when the parties appear, or their nonappearance if default is made;

(e) every adjournment, stating on whose application and to what time and date;

(f) the judgment of the court and when returned;

(g) a statement of any money paid to the court or paid as a result of an execution, when, and by whom and the date of the issuance of any abstract of judgment; and

(h) the date of the receipt of a notice of appeal, if any is given, and of the appeal bond, if any is filed.

Rule 95. Witnesses

The plaintiff and defendant must have the right to offer evidence in their behalf by witnesses appearing at such hearing in the same manner as other cases arising in the justice courts.

Rule 96. Informal Trials

No formal pleading other than the claim and notice is necessary, and the trials and dispositions of all such actions must be informal, with the sole object of dispensing fair and speedy justice between the parties. Formal discovery as conducted in a civil action is not authorized.

Rule 97. Payment of Judgment

If the judgment or order is against the defendant, the defendant must pay the same forthwith or at such times and upon such terms and conditions as the justice court must prescribe.

Rule 98. Appeals—Small Claims

(a) A plaintiff or defendant may appeal from the judgment against him or her to the district court as in other cases arising in the justice courts.

(b) The filing of a notice of appeal must be done within 5 days from the entry of the judgment.

(c) No formal notice of entry of judgment is required.

(d) The form of appeal and appeal bond shall be pursuant to Rules 99 and 100.

Rule 99. Form of Appeal—Small Claims

(a) The appeal may be taken by filing in the justice court a notice of appeal containing the following information:

(1) a brief statement of the basis for the appeal; and

(2) an acknowledgment that the appellant is required to post an appeal bond as set forth in Rule 100.

Rule 100. Appeal Bond—Small Claims

(a) **Bond on Appeal—General.** The notice of appeal required in Rule 99 must be accompanied by an appeal bond. The appeal bond may be in the form of a cash bond, a formal surety bond, or an informal surety bond. After an appeal bond is filed, the other party may raise, for determination by the court objections to the form of the bond or to sufficiency of the surety.

(b) **Bond on Appeal—Judgment Debtor.** Where a judgment debtor appeals a small claims judgment, the bond posted must undertake and promise to pay to the judgment creditor should the judgment be affirmed or the appeal dismissed:

(1) an amount equal to the judgment, plus interest; plus

(2) $100 to cover the costs of the filing fees and any other costs of defending the appeal awarded by the district court; plus

(3) $15 to cover the respondent's attorney fees should such attorney fees be awarded by the district court.

(c) **Bond on Appeal—Plaintiff.** Where a plaintiff appeals a small claims judgment in favor of the defendant or in an amount less than claimed, the bond posted must undertake and promise to pay to the defendant should the judgment be affirmed or the appeal dismissed:

(1) $100 to cover the costs of the filing fees and any other costs of defending the appeal awarded by the district court; plus

(2) $15 to cover the respondent's attorney fees should such attorney fees be awarded by the district court.

XIII. SUMMARY EVICTION PROCEEDINGS

Rule 101. Notice Requirements

Notices required for summary eviction under NRS 40.253, NRS 40.254, and NRS 40.2542 must be specific when alleging any ground for the existence of an unlawful detainer.

Rule 102. Filing of Summary Eviction Cases

A summary eviction case is deemed filed with a justice court upon the timely filing of a contesting affidavit by a tenant or upon the filing of an affidavit of complaint for summary eviction by the landlord, together with the payment of the required filing fee. The filing party must complete a civil cover sheet provided by the justice court and approved by the state court administrator that obtains certain information regarding the nature of the action being filed.

Rule 103. Requirement of Hearing

No hearing is required when the landlord files an affidavit of complaint for summary eviction if the tenant has not filed an affidavit contesting the notice of eviction. Nothing in this rule is intended to prevent the court from conducting a hearing on the court's own motion.

Rule 104. Notice of Hearing

Each justice court must establish local procedures for notifying the parties of the hearing date, time, and location for a summary eviction matter. Notice of the hearing must provide sufficient time and opportunity for the parties to prepare their case and be present at the hearing.

Rule 105. Hearings to Be Informal

Hearings regarding affidavits of complaint for summary eviction must be informal. No formal pleading other than those required by statute may be required.

Rule 106. Reserved

Rule 107. Reserved

Rule 108. Reserved

Rule 109. Reserved

Rule 110. Motion to Stay Enforcement of a Summary Eviction Order

(a) A tenant may file a motion to stay a summary eviction order pursuant to NRS 70.010 at any time after a notice for eviction is served upon the tenant. Such motion must be included within the tenant's affidavit in response to the notice of eviction.

(b) If such a motion is filed before the court issues a summary eviction order, the court must consider the motion and, if granted, reflect in the summary eviction order the time and date to which the order is stayed.

(c) If such a motion is filed after the court has already issued a summary eviction order, or after the sheriff or constable has already executed the summary eviction order, it is untimely and may be summarily denied.

Rule 111. Applications for in Forma Pauperis Status in Summary Eviction Cases Only

(a) Any party to a summary eviction action brought pursuant to NRS 40.253 or 40.254 may file an Application to Proceed in Forma Pauperis on a form provided by the court that has jurisdiction over the summary eviction action.

(1) The application must include:

(A) an affidavit or unsworn declaration pursuant to NRS 53.045 setting forth with particularity facts concerning the person's income and other factors which establish that the person is unable to pay the filing fees or costs of the proceeding; or

(B) a statement or other indication to the court that the person is a client of a program for legal aid.

(2) The application must be filed contemporaneously with the document being submitted to the court for filing.

(b) The court must establish financial qualification guidelines for the review of an application filed pursuant to subsection (a)(1) to ensure clear and consistent application by the clerk or justice of the peace.

(c) Applications must be reviewed forthwith by the clerk or justice for qualification of in forma pauperis status.

(d) If the clerk or justice is satisfied that a person who files an application pursuant to subsection (a)(1) is unable to pay the filing fees or costs of the proceeding or if the clerk or justice finds that a person is a client of a program for legal aid, the party must be authorized to file documents with the court without the payment of filing fees otherwise required pursuant to NRS 4.060.

(e) Where the application is approved, the running of the time within which the tenant's answering affidavit is required is tolled during the period

between the filing of the application and the ruling of the court thereon, provided the documents are submitted to the court at the same time.

(f) Where the applicant fails to qualify for in forma pauperis status, the party's proposed document must be rejected by the court for failure to include the filing fee. The clerk must notify the party of the reason for the rejection in an expeditious manner in order to afford the party an opportunity to timely resubmit the document along with the required filing fee. A party who fails to qualify for in forma pauperis status is responsible for meeting all statutory filing deadlines.

(g) As used in this section, "client of a program for legal aid" means a person:

(1) who is represented by an attorney who is employed by or volunteering for a program for legal aid organized under the auspices of the State Bar of Nevada, a county or local bar association, a county or municipal program for legal services or other program funded by this State or the United States to provide legal assistance to indigent persons; and

(2) whose eligibility for such representation is based upon indigency.