IN THE SUPREME COURT OF NEVADA

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

ADKT NO.: 607

FILED
OCT 10 2023
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

WHEREAS, the Nevada Supreme Court has previously approved a body of rules known as the Justice Court Rules of Civil Procedure; and

WHEREAS, the Nevada Judges of Limited Jurisdiction have determined that extensive amendments to the existing body of rules are necessary to align with the corresponding Nevada Rules of Civil Procedure (NRCP). Additional significant amendments to specific rules (though not an exhaustive list) are summarized as follows:

Rule 1	Moves existing general provisions content from Section XI, Rules 81 – 86 to this rule and allows for the creation of local rules.
Rule 2	Updates rule to include a fourth cause of action for civil traffic infractions.
Rule 4	A complete rewrite of this rule is necessary to update procedures for issuance and service of a Summons, to better organize the information within the Rule, and to align the rule with the corresponding NRCP. Adds Rules 4.1 – 4.4.
Rule 5	A complete rewrite of this rule is necessary to align with NRCP.
Rule 6	A complete rewrite of this rule is necessary to align with NRCP.
Rule 7	A complete rewrite of this rule is necessary to align with NRCP.
Rule 8	A complete rewrite of this rule is necessary to align with NRCP.
Rule 9	A complete rewrite of this rule is necessary to align with NRCP.
Rule 10	A complete rewrite of this rule is necessary to align with NRCP.
Rule 11	A complete rewrite of this rule is necessary to align with NRCP.
Rule 12	A complete rewrite of this rule is necessary to align with NRCP.
Rule 13	A complete rewrite of this rule is necessary to align with NRCP.
Rule 14	A complete rewrite of this rule is necessary to align with NRCP.
Rule 15	A complete rewrite of this rule is necessary to align with NRCP.
Rule 16	Updates and clarifies the procedures for Pre-trial Conferences.
Rule 16.1	Simplifies procedures and renames the Early Case Conference Report to an Initial Disclosures Report to clarify that the rule requires the exchange of documents, not a meeting between parties. Also updates and clarifies the rules and deadlines for disclosing expert testimony.
Rule 17	A complete rewrite of this rule is necessary to align with NRCP.
Rule 18	A complete rewrite of this rule is necessary to align with NRCP.
Rule 19	A complete rewrite of this rule is necessary to align with NRCP.

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Rule 20	A complete rewrite of this rule is necessary to align with NRCP.
Rule 21	Grammatical changes.
Rule 22	A complete rewrite of this rule is necessary to align with NRCP.
Rule 23	A complete rewrite of this rule is necessary to align with NRCP.
Rule 23.2	Minor grammatical change.
Rule 24	A complete rewrite of this rule is necessary to align with NRCP.
Rule 25	A complete rewrite of this rule is necessary to align with NRCP.
Rule 25A	Grammatical changes.
Rule 26	A complete rewrite of this rule is necessary to align with NRCP.
Rule 27	Deleted as unnecessary in a justice court action.
Rule 28	A complete rewrite of this rule is necessary to align with NRCP.
Rule 29	Grammatical changes to align with NRCP.
Rule 30	A complete rewrite of this rule is necessary to align with NRCP.
Rule 31	A complete rewrite of this rule is necessary to align with NRCP.
Rule 32	A complete rewrite of this rule is necessary to align with NRCP.
Rule 33	A complete rewrite of this rule is necessary to align with NRCP.
Rule 34	A complete rewrite of this rule is necessary to align with NRCP.
Rule 35	A complete rewrite of this rule is necessary to align with NRCP and new statutory provisions re: Rule 35 exams.
Rule 36	A complete rewrite of this rule is necessary to align with NRCP.
Rule 37	A complete rewrite of this rule is necessary to align with NRCP.
Rule 38	Clarifies procedures for requesting a jury trial and makes grammatical changes.
Rule 39	Moves information currently contained in Rule 109 as it pertains to an unlawful detainer civil action rather than a summary eviction (Rule 2 designates all rules commencing with Rule 101 are reserved for summary evictions). As such, existing Rule 109 is misplaced.
Rule 39A	Updates jury trial procedures, including increases the maximum allowable attorney's fees in a jury trial to $5,000 and the maximum allowable expert fee to $1,500 in a jury trial.
Rule 40	Allows for local rules pertaining to the scheduling of jury trials.
Rule 41	A complete rewrite of this rule is necessary to align with NRCP.
Rule 42	A complete rewrite of this rule is necessary to align with NRCP.
Rule 43	Makes minor grammatical changes.
Rule 44	A complete rewrite of this rule is necessary to align with NRCP.
Rule 45	A complete rewrite of this rule is necessary to align with NRCP.
Rule 46	A complete rewrite of this rule is necessary to align with NRCP.
Rule 47	Changes the number of jurors to 4 and clarifies procedures for jury selection and alternate jurors.
Rule 48	Removes the language regarding a 6 member jury.
Rule 49	A complete rewrite of this rule is necessary to align with NRCP.
Rule 50	A complete rewrite of this rule is necessary to align with NRCP.
Rule 51	A complete rewrite of this rule is necessary to align with NRCP.
Rule 52	A complete rewrite of this rule is necessary to align with NRCP.
Rule 53	Deleted. The justice courts do not use special masters as the district court. Instead, where authorized, the justice courts employ hearing

	masters whose authority is set forth in NRS 4.357 rendering this rule unnecessary.
Rule 54	Makes grammatical changes.
Rule 55	Makes grammatical changes.
Rule 56	A complete rewrite of this rule is necessary to align with NRCP.
Rule 58	Updates and clarifies the process for entering a judgment.
Rule 59	A complete rewrite of this rule is necessary to align with NRCP.
Rule 60	A complete rewrite of this rule is necessary to align with NRCP.
Rule 61	A complete rewrite of this rule is necessary to align with NRCP.
Rule 62	A complete rewrite of this rule is necessary to align with NRCP, and removes a provision that is not applicable in justice court.
Rule 62.1	A complete rewrite of this rule is necessary to align with NRCP.
Rule 63	A complete rewrite of this rule is necessary to align with NRCP.
Rule 64	A complete rewrite of this rule is necessary to align with NRCP.
Rule 65	Moves information currently contained in Rule 107 as it pertains to an unlawful detainer civil action rather than a summary eviction (Rule 2 designates all rules commencing with Rule 101 are reserved for summary evictions). As such, existing Rule 107 is misplaced. This rule relates to a provisional remedy of a temporary writ of restitution and is more appropriately placed in Section VIII. Existing rule was reserved.
Rule 65.1	A complete rewrite of this rule is necessary to align with NRCP.
Rule 67	A complete rewrite of this rule is necessary to align with NRCP.
Rule 68	A complete rewrite of this rule is necessary to align with NRCP.
Rule 69	Grammatical changes.
Rule 70	A complete rewrite of this rule is necessary to align with NRCP.
Rule 71	Grammatical changes.
Rule 72	A complete rewrite of this rule is necessary to clarify procedures and align with NRCP. Adds procedures for transmittal of the justice court record to the district court.
Rule 72A	A complete rewrite of this rule is necessary to clarify procedures and align with NRCP.
Rule 72B	A complete rewrite of this rule is necessary to clarify procedures and align with NRCP. Authorizes the justice courts to dismiss a premature Notice of Appeal.
Rule 73	A complete rewrite of this rule is necessary to clarify procedures and align with NRCP. Clarifies that the district court must determine the costs incurred on appeal.
Rule 73A	A complete rewrite of this rule is necessary to clarify procedures. It is more appropriate to include subsection (a)(2) in the NRCP rather than here as it pertains to requirements for a motion filed in the district court.
Rule 73B	Deleted. The appellate procedures in this rule are more appropriate in the NRCP as they pertain to the district court.
Rule 74	Deleted. The appellate procedures in this rule are more appropriate in the NRCP as they pertain to the district court.

Rule 74A	Deleted. The appellate procedures in this rule are more appropriate in the NRCP as they pertain to the district court. Portions of the rule pertaining to the transmittal of the justice court record have been incorporated into Rule 72.
Rule 74B	Deleted. The appellate procedures in this rule are more appropriate in the NRCP as they pertain to the district court.
Rule 75	Deleted. The appellate procedures in this rule are more appropriate in the NRCP as they pertain to the district court.
Rule 75A	Deleted. The appellate procedures in this rule are more appropriate in the NRCP as they pertain to the district court.
Rule 76	Deleted. The appellate procedures in this rule are more appropriate in the NRCP as they pertain to the district court.
Rule 76A	Deleted. The appellate procedures in this rule are more appropriate in the NRCP as they pertain to the district court.
Rule 76B	Deleted. The appellate procedures in this rule are more appropriate in the NRCP as they pertain to the district court.
Rule 77	A complete rewrite of this rule is necessary to align with NRCP.
Rule 78	A complete rewrite of this rule is necessary to align with NRCP.
Rule 79	Allows for the creation of an Appendix of Forms.
Rule 80	Deleted portions that are redundant or contradictory to NRS 4.390-4.420. Also, updated provisions to relate to audio and/or video recording.
Rule 81	Moved to Rule 1. Creates a new rule relating to civil traffic infractions allowing for a statewide civil penalty schedule.
Rule 82	Moved to Rule 1. Creates a new rule relating to discovery in a civil traffic infraction case.
Rule 83	Moved to rule 1. Creates a new rule relating to the issuance of subpoenas for a contested hearing on a civil traffic infraction.
Rule 84	Removes the requirement to hold elections during a specific timeframe and allows local courts to establish their own rules regarding successive terms. Creates a new rule related to motions in civil traffic infraction cases.
Rule 85	Moved to rule 1. Reserved for future rule related to civil traffic infractions.
Rule 86	Moved to rule 1. Reserved for future rule related to civil traffic infractions.
Rule 88	Clarifies procedures when a small claims counterclaim raises claims outside of the small claims jurisdiction.
Rule 89	Removes the form in favor of a clarifying rule.
Rule 90	Deleted to remove language that the clerk or justice would complete the affidavit on behalf of a plaintiff.
Rule 91	Clarifies methods of service authorized.
Rule 92	Moves the content of the rule to Rule 90. Creates a new rule related to motion practice in small claims cases.
Rule 93	Makes grammatical changes.
Rule 94	Makes grammatical changes.
Rule 95	Makes grammatical changes.

Rule 96	Clarifies that formal discovery as conducted in a civil action is not authorized for a small claims case.
Rule 97	Makes grammatical changes.
Rule 98	Deletes unnecessary language to align with other rule amendments. Removes the formality of a civil action appeal from an appeal from a small claims case and simplifies the process.
Rule 99	Deletes the form in favor of a clear statement of the required contents of a Notice of Appeal.
Rule 100	Clarifies the amount of the appeal bond and purpose of the appeal bond.
Rule 101	Adds the statute for summary eviction from commercial property.
Rule 102	Makes grammatical changes.
Rule 103	Makes grammatical changes.
Rule 104	Allows for local rules regarding the procedure for summary evictions.
Rule 105	Clarifies that summary evictions are informal.
Rule 107	Deleted and moved to Rule 65.
Rule 108	Deleted and moved to Rule 4(a)(3) as it relates to a summons in an unlawful detainer civil action and is misplaced. Rule 2 specifies that rules beginning with Rule 101 apply only to summary eviction actions.
Rule 109	Deleted and moved to Rule 39 as it relates to a trial setting for an unlawful detainer civil action and is misplaced. Rule 2 specifies that rules beginning with Rule 101 apply only to summary eviction actions.
Rule 110	Clarifies actions based on the timing of a motion to stay the execution of an eviction order.

WHEREAS, Rule 83 of the Justice Court Rules of Civil Procedure provides that copies of any proposed rule changes "shall upon their promulgation be furnished to the Supreme Court, but shall not become effective until after approval by the Supreme Court and publication,"

WHEREAS, amendments to the JCRCP were requested through ADKT 0607 on January 24, 2023; and

WHEREAS, the Supreme Court approved amendments to the JCRCP on May 12, 2023 through ADKT 0607, with an order that the amendments would take effect on August 10, 2023; and

WHEREAS, through ADKT 0607, the Nevada Judges of Limited Jurisdiction requested that the implementation of the amendments be postponed until additional amendments could be submitted for approval; and

WHEREAS, the Supreme Court postponed implementation of the amendments for 90 days, until October 11, 2023, through ADKT 0607;

THEREFORE, the Nevada Judges of Limited Jurisdiction do hereby formally petition the Nevada Supreme Court for the amendments to the Justice Court Rules of Civil Procedure as shown in the Exhibit to this petition attached hereto; and

THEREFORE, the Nevada Judges of Limited Jurisdiction do hereby formally petition the Nevada Supreme Court to stay implementation of the amendments to the JCRCP until such time as the additional amendments can be reviewed and approved.

Dated this 9 day of October, 2023.

JUDGE VICTOR LEE MILLER
President, Nevada Judges of Limited Jurisdiction

EXHIBIT 1
(Redlined Proposed Amendments)

Note:

~~Red Strikethrough~~ indicates prior deletions accepted by the Supreme Court on May 12, 2023.

Blue Bold Italics indicates additions accepted by the Supreme Court on May 12,2023.

~~Purple Double Strikethrough~~ indicates additional deletions requested in these amendments.

Green Bold Underlined Italics indicates additional insertions requested in these amendments.

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. ~~, with the exceptions stated in Rule 81.~~ They ~~shall~~ *must* be construed and administered to secure the just, speedy, and inexpensive determination of every action. Whenever it is made to appear 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~~ *must* 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 conflict with ~~statutory guidance~~ a statute, the statute must control.

(e) Each justice court ~~in a township with more than one justice~~ may adopt the Rural Justice Courts Rules or may promulgate local rules of practice in any manner not inconsistent with these rules.

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

Rule 2. Forms of Actions

There ~~shall be~~ ~~three~~ *are* 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 through ~~80~~ *77* govern civil actions. *Rules 81 through 87 govern traffic civil infractions. Rules 88 through 100 govern small claims actions. Rules 101 through 111 govern summary eviction actions. Rules 77 through 80 govern all actions filed in justice courts.* ~~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 *CIVIL* ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS AND ORDERS

Rule 3. Commencement of *Civil* Action

A civil action is commenced by filing a complaint with the court. Upon filing such a complaint, the filing party ~~shall~~ *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. This cover sheet ~~shall~~ *must* be signed by the initiating party, or his or her representative, and the filing may be denied if unaccompanied by such a cover sheet.

~~RULE 4. PROCESS~~

~~(a) **Summons: Issuance.** Upon the filing of the complaint, the clerk shall forthwith issue a summons and deliver it to the plaintiff or to the plaintiff's attorney, who shall be responsible for service of the summons and a copy of the complaint. Upon request of the plaintiff, separate or additional summons shall issue against any defendants.~~

~~(b) **Same: Form.** The summons shall be signed by the justice or clerk, be under the seal of the court, contain the name of the court and township and county and the names of the parties, be directed to the defendant, state the name and address of the plaintiff's attorney, if any, otherwise the plaintiff's address, and the time within which the defendant must appear and defend, and shall notify the defendant that failure to do so will result in a judgment by default against the defendant for the relief demanded in the complaint. When service of the summons is made by publication, the summons shall, in addition to any special statutory requirements, also contain a brief statement of the object of the action substantially as follows: "This action is brought to recover a judgment for the sum of (indicate dollar amount), due and owing," or as the case may be.~~

~~(c) **By Whom Served.** Process shall be served by the constable, or by a deputy, or by the sheriff of the county where the defendant is found, or by a deputy, or by any person who is not a party and who is over 18 years of age, except that a subpoena may be served as provided in Rule 45; where the service of process is made outside of the United States, after an order of publication, it may be served either by any person who is not a party and who is over 18 years of age or by any resident of the country, territory, colony or province, who is not a party and who is over 18 years of age.~~

~~(d) **Summons: Personal Service.** The summons and complaint shall be served together. The plaintiff shall furnish the person making service with such copies as are necessary. Service shall be made by delivering a copy of the summons attached to a copy of the complaint as follows:~~

~~(1) **Service Upon Nevada Corporation.** If the suit is against a corporation formed under the laws of this state; to the president or other head of the corporation, secretary, cashier, managing agent, or resident agent thereof; provided, when for any reason service cannot be had in the manner hereinabove provided, then service may be made upon such corporation by delivering to the secretary of state, or the deputy secretary of state, a copy of said summons attached to a copy of the complaint, and by posting a copy of said process in the office of the clerk or justice of the~~

court in which such action is brought or pending; defendant shall have 20 days after such service and posting in which to appear and answer; provided, however, that before such service shall be authorized, plaintiff shall make or cause to be made and filed in such cause an affidavit setting forth the facts showing that personal service on or notice to the officers, managing agent or resident agent of said corporation cannot be had within the state; and provided further, that if it shall appear from such affidavit that there is a last known address of a known officer of said corporation outside the state, plaintiff shall, in addition to and after such service upon the secretary of state and posting, mail or cause to be mailed to such known officer at such address by registered mail, a copy of the summons and a copy of the complaint, and in all such cases defendant shall have 20 days from the date of such mailing within which to answer or plead.

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(2) **Service Upon Foreign Corporation or Nonresident Entity.** If the suit is against a foreign corporation, or a nonresident partnership, joint stock company or association, doing business and having a managing or business agent, cashier, or secretary within this state; to such agent, cashier, or secretary or to an agent designated for service of process as required by law; or in the event no such agent is designated, to the secretary of state or the deputy secretary of state, as provided by law.

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(3) **Service Upon Minors.** If against a minor, under the age of 14 years, residing within this state, to such minor, personally, and also to the minor's father, mother, or guardian; or if there be none within this state; then to any person having the care or control of such minor, or with whom the minor resides, or in whose service the minor is employed.

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(4) **Service Upon Incompetent Persons.** If against a person residing within this state who has been judicially declared to be of unsound mind, or incapable of conducting his or her own affairs, and for whom a guardian has been appointed, to such person and also to his or her guardian.

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(5) **Service Upon Local Governments.** If against a county, city, or town, to the chairperson of the board of commissioners, president of the council or trustees, mayor of the city, or other head of the legislative department thereof.

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(6) **Service Upon Individuals.** In all other cases to the defendant personally, or by leaving copies thereof at the defendant's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by delivering a copy of the summons and complaint to an agent authorized by appointment or by law to receive service of process.

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(c) **Same: Other Service.**

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(1) **Service by Publication.**

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(i) **General.** In addition to methods of personal service, when the person on whom service is to be made resides out of the state, or has departed from the state, or cannot, after due diligence, be found within the state, or by concealment seeks to avoid the service of summons, and the fact shall appear, by affidavit, to the satisfaction of the court or a justice thereof, and it shall appear, either by affidavit or by a verified complaint on file, that a cause of action exists against the defendant in respect to whom the service is to be made, and that the defendant is a necessary

~~or proper party to the action, such court or justice may grant an order that the service be made by the publication of summons.~~

~~Provided, when said affidavit is based on the fact that the party on whom service is to be made resides out of the state, and the present address of the party is unknown, it shall be a sufficient showing of such fact if the affiant shall state generally in such affidavit that at a previous time such person resided out of this state in a certain place (naming the place and stating the latest date known to affiant when such party so resided there); that such place is the last place in which such party resided to the knowledge of affiant; that such party no longer resides at such place; that affiant does not know the present place of residence of such party or where such party can be found; and that affiant does not know and has never been informed and has no reason to believe that such party now resides in this state; and, in such case, it shall be presumed that such party still resides and remains out of the state, and such affidavit shall be deemed to be a sufficient showing of due diligence to find the defendant. This rule shall apply to all manner of civil actions.~~

~~**(ii) Property.** In any action which relates to, or the subject of which is, real or personal property in this state in which such person defendant or corporation defendant has or claims a lien or interest, actual or contingent, therein, or in which the relief demanded consists wholly or in part of excluding such person or corporation from any interest therein, and the said defendant resides out of the state or has departed from the state, or cannot after due diligence be found within the state, or by concealment seeks to avoid the service of summons, the justice may make an order that the service be made by the publication of summons; said service by publication shall be made in the same manner as now provided in all cases of service by publication.~~

~~**(iii) Publication.** The order shall direct the publication to be made in a newspaper, published in the State of Nevada, to be designated by the court or justice thereof, for a period of 4 weeks, and at least once a week during said time. In addition to in-state publication, where the present residence of the defendant is unknown the order may also direct that publication be made in a newspaper published outside the State of Nevada whenever the court is of the opinion that such publication is necessary to give notice that is reasonably calculated to give a defendant actual notice of the proceedings. In case of publication, where the residence of a nonresident or absent defendant is known, the court or justice shall also direct a copy of the summons and complaint to be deposited in the post office, directed to the person to be served at the person's place of residence. The service of summons shall be deemed complete in cases of publication at the expiration of 4 weeks from the first publication, and in cases when a deposit of a copy of the summons and complaint in the post office is also required, at the expiration of 4 weeks from such deposit.~~
~~[As amended; effective July 1, 2005.]~~

~~**(2) Personal Service Outside the State.** Personal service of summons upon a party outside this state may be made by delivering a copy of the summons, together with a copy of the complaint, to the party served in the manner provided by statute or rule of court for service upon a party of like kind within this state. The methods of service are cumulative, and may be utilized with, after, or independently of, other methods of service.~~

~~**(3) Statutory Service.** Whenever a statute provides for service, service may be made under the circumstances and in the manner prescribed by the statute.~~

~~(f) **Territorial Limits of Effective Service.** All process, including subpoenas, may be served anywhere within the territorial limits of the State and, when a statute or rule so provides, beyond the territorial limits of the State. A voluntary appearance of the defendant shall be equivalent to personal service of process upon the defendant in this State.~~

~~(g) **Return.** The person serving the process shall make proof of service thereof to the court promptly and in any event within the time during which the person served must respond to the process. Proof of service shall be as follows:~~

~~(1) If served by the sheriff, the constable or a deputy of either, the affidavit or certificate of such sheriff, constable or deputy; or,~~

~~(2) If by any other person, the affidavit thereof; or~~

~~(3) In case of publication, the affidavit of the publisher, foreman or principal clerk, or other employee having knowledge thereof, showing the same, and an affidavit of a deposit of a copy of the summons in the post office, if the same shall have been deposited; or,~~

~~(4) The written admission of the defendant.~~

~~In case of service otherwise than by publication, the certificate or affidavit shall state the date, place and manner of service. Failure to make proof of service shall not affect the validity of the service.~~

~~(h) **Amendment.** At anytime in its discretion and upon such terms as it deems just, the court may allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.~~

~~(i) **Summons: Time Limit for Service.** If a service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the action shall be dismissed as to that defendant without prejudice upon the court's own initiative with notice to such party or upon motion, unless the party on whose behalf such service was required files a motion to enlarge the time for service and shows good cause why such service was not made within that period. If the party on whose behalf such service was required fails to file a motion to enlarge the time for service before the 120 day service period expires, the court shall take that failure into consideration in determining good cause for an extension of time. Upon a showing of good cause, the court shall extend the time for service and set a reasonable date by which service should be made.~~

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, 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. A 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, ~~or a~~ 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 the waiver form, Form 2 in the ~~NRCP~~ JCRCP Appendix of Forms or its substantial equivalent, 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 two years;

(ii) resides in a foreign country and has been absent from the United States for at least six 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 four 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 four 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 protection ~~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 OF PLEADINGS AND OTHER PAPERS~~

~~**(a) Service: When Required.** Except as otherwise provided in these rules, every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment, designation of record on appeal, and similar paper shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in Rule 4.~~

~~**(b) Same: How Made.**~~

~~(1) Whenever under these rules service is required or permitted to be made upon a party represented by an attorney, the service shall be made upon the attorney unless the court orders that service be made upon the party.~~

~~(2) Service under this rule is made by:~~

~~(A) Delivering a copy to the attorney or the party by:~~

~~(i) handing it to the attorney or to the party;~~

~~(ii) leaving it at the attorney's or party's office with a clerk or other person in charge, or if there is no one in charge, leaving it in a conspicuous place in the office; or~~

~~(iii) if the office is closed or the person to be served has no office, leaving it at the person's dwelling house or usual place of abode with some person of suitable age and discretion residing there.~~

~~(B) Mailing a copy to the attorney or the party at his or her last known address. Service by mail is complete on mailing; provided, however, a motion, answer or other document constituting the initial appearance of a party must also, if served by mail, be filed within the time~~

~~allowed for service; and provided further, that after such initial appearance, service by mail be made only by mailing from a point within the State of Nevada.~~

~~(C) If the attorney or the party has no known address, leaving a copy with the clerk of the court.~~

~~(D) Delivering a copy by electronic means if the attorney or the party served has consented to service by electronic means. Service by electronic means is complete on transmission provided, however, a motion, answer or other document constituting the initial appearance of a party must also, if served by electronic means, be filed within the time allowed for service. The served attorney's or party's consent to service by electronic means shall be expressly stated and filed in writing with the clerk of the court and served on the other parties to the action. The written consent shall identify:~~

~~(i) the persons upon whom service must be made;~~

~~(ii) the appropriate address or location for such service, such as the electronic mail address or facsimile number;~~

~~(iii) the format to be used for attachments; and~~

~~(iv) any other limits on the scope or duration of the consent.~~

~~An attorney's or party's consent shall remain effective until expressly revoked or until the representation of a party changes through entry, withdrawal, or substitution of counsel. An attorney or party who has consented to service by electronic means shall, within 10 days after any change of electronic mail address or facsimile number, serve and file notice of the new electronic mail address or facsimile number.~~

~~(3) Service by electronic means under Rule 5(b)(2)(D) is not effective if the party making service learns that the attempted service did not reach the person to be served.~~

~~(4) Proof of service may be made by certificate of an attorney or of the attorney's employee, or by written admission, or by affidavit, or other proof satisfactory to the court. Failure to make proof of service shall not affect the validity of service.~~

~~**(e) Same: Numerous Defendants.** In any action in which there are unusually large numbers of defendants, the court, upon motion or of its own initiative, may order that service of the pleadings of the defendants and replies thereto need not be made as between the defendants and that any cross-claim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.~~

~~**(d) Filing.** All papers after the complaint required to be served upon a party shall be filed with the court either before service or within a reasonable time thereafter, except as otherwise provided in Rule 5(b), but, unless filing is ordered by the court on motion of a party or upon its own motion, depositions upon oral examination and interrogatories, requests for production, requests for admission, and the answers and responses thereto, shall not be filed unless and until they are used in the proceedings. Originals of responses to requests for admissions or production and answers to interrogatories shall be served upon the party who made the request or propounded the interrogatories and that party shall make such originals available at the time of any pretrial hearing or at trial for use by any party.~~

~~**(e) Filing With the Court Defined.** The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, if there be one, except that the justice may permit the papers to be filed with him or her. In cases where there is no clerk, the papers shall be filed with the justice. A court may by local rule permit papers to be filed, signed or verified by electronic means that are consistent with technical standards, if any, that the Judicial Conference of the United States establishes. A paper signed by electronic means in compliance with the local rule constitutes a written paper presented for the purpose of applying these rules. The clerk or justice shall not refuse to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by these rules or any local rules or practices.~~

~~**(f) Drop Box Filing.**~~

~~**(1) Authorization.** The court, or clerk of the court if there be one, may maintain one or more drop boxes in which papers and pleadings may be deposited for filing with the court. If such a system is maintained, the court or clerk must:~~

~~(A) Place the drop box at a location that is easily accessible by the public;~~

~~(B) Ensure that the drop box is locked or otherwise constructed to prevent theft or tampering of documents; and~~

~~(C) Provide, in a location immediately adjacent to the drop box, a machine or other device that is capable of stamping the date and time of receipt on documents that are being deposited in the drop box.~~

~~**(2) Papers Eligible for Filing.** All papers and pleadings, including, but not limited to, motions, oppositions, replies, affidavits, points and authorities, and courtesy copies, may be deposited in the drop box. However, filings which require the payment of filing fees must be made directly with the clerk's office, or justice where there is no clerk, unless the fees accompanying the filing are paid by check.~~

~~**(3) Procedure.** Papers and pleadings may be deposited in the drop box during all hours the courthouse is open. Before such documents are deposited, the documents must be date and time stamped as described in subdivision (f)(1). Documents placed in the drop box shall be deemed filed as of the date and time stamped on the paper or pleading. However, if a document is placed~~

~~in the drop box without being date and time stamped, that document will not be deemed filed until it is date and time stamped by the clerk's office. In addition, if a document is placed in the drop box, and the clerk's office determines that the attempted filing is defective based on the absence of filing fees or based on any other legitimate reason, that document will not be deemed filed until the defect has been cured.~~

Rule 5. Serving 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 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 crossclaim, 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. A 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. TIME~~

~~**(a) Computation.** In computing any period of time prescribed or allowed by these rules, by the local rules of any justice court, by order of court or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a nonjudicial day, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a nonjudicial day, or, when the act to be done is the filing of a paper in court, a day on which weather or other conditions have made the court inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays and nonjudicial days shall be excluded in the computation.~~

~~**(b) Enlargement.** When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the parties, by written stipulation of counsel filed in the action, may enlarge the period, or the court for cause shown may~~

~~at any time in its discretion (1) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order, or (2) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action under Rules 50(b), 50(c)(2), 52(b), 59(b), (d) and (e) and 60(b), except to the extent and under the conditions stated in them.~~

~~**(c) Reserved.**~~

~~**(d) For Motions — Affidavits.** A written motion, other than one which may be heard ex parte, and notice of the hearing thereof shall be served not later than 5 days before the time specified for the hearing, unless a different period is fixed by these rules or by rule or order of the court. Such an order may, for cause shown, be made on ex parte application. When a motion or opposition is supported by affidavit, the affidavit shall be served with the motion or opposition.~~

~~**(e) Additional Time After Service by Mail or Electronic Means.** Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper, other than process, upon the party and the notice or paper is served upon the party by mail or by electronic means, 3 days shall be added to the prescribed period.~~

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~~ declared to be 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~~ filed and served with any opposition at the time set forth by these Rules or applicable local rules.

(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 calendar days are added after the period would otherwise expire under Rule 6(a).

III. PLEADINGS AND MOTIONS

~~**Rule 7. Pleadings Allowed; Form of Motions**~~

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~~(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 7. Pleadings Allowed; Form of Motions and Other Papers

(a) Pleadings. Only these pleadings are allowed:
(1) a complaint;
(2) an answer to a complaint;
(3) an answer to a counterclaim designated as a counterclaim;
(4) an answer to a crossclaim;
(5) a third-party complaint;
(6) an answer to a third-party complaint; and
(7) if the court orders one, a reply to an answer.
(b) Motions and Other Papers.
(1) In General. A request for a court order must be made by motion. The motion must:
(A) be in writing unless made during a hearing or trial;
(B) state with particularity the grounds for seeking the order; and
(C) state the relief sought.
(2) Form. The rules governing captions, signing, and other matters of form in pleadings apply to motions and other papers.

~~**Rule 8. General Rules of Pleading**~~

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

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(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.

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(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.

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(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.

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

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

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(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.

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

Rule 8. General Rules of Pleading

(a) Claim for Relief. A pleading that states a claim for relief must contain:

(1) a short and plain statement of the grounds for the court's jurisdiction, unless the court already has jurisdiction and the claim needs no new jurisdictional support;

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

(3) a demand for the relief sought, which may include relief in the alternative or different types of relief; and

(4) If the pleader seeks monetary damages, the demand for relief must plead damages in compliance with NRS 4.370.

(b) Defenses; Admissions and Denials.

(1) In General. In responding to a pleading, a party must:

(A) state in short and plain terms its defenses to each claim asserted against it; and

(B) admit or deny the allegations asserted against it by an opposing party.

(2) Denials—Responding to the Substance. A denial must fairly respond to the substance of the allegation.

(3) General and Specific Denials. A party that intends in good faith to deny all the allegations of a pleading—including the jurisdictional grounds—may do so by a general denial. A party that does not intend to deny all the allegations must either specifically deny designated allegations or generally deny all except those specifically admitted.

(4) Denying Part of an Allegation. A party that intends in good faith to deny only part of an allegation must admit the part that is true and deny the rest.

(5) Lacking Knowledge or Information. A party that lacks knowledge or information sufficient to form a belief about the truth of an allegation must so state, and the statement has the effect of a denial.

(6) Effect of Failing to Deny. An allegation—other than one relating to the amount of damages—is admitted if a responsive pleading is required and the allegation is not denied. If a responsive pleading is not required, an allegation is considered denied or avoided.

(c) Affirmative Defenses.

(1) In General. In responding to a pleading, a party must affirmatively state any avoidance or affirmative defense, including:

(A) accord and satisfaction;

(B) arbitration and award;

(C) assumption of risk;

(D) contributory negligence;

(E) discharge in bankruptcy;

(F) duress;

(G) estoppel;

(H) failure of consideration;

(I) fraud;

(J) illegality;

(K) injury by fellow servant;

(L) laches;

(M) license;

(N) payment;

(O) release;
(P) res judicata;
(Q) statute of frauds;
(R) statute of limitations; and
(S) waiver.

(2) Mistaken Designation. If a party mistakenly designates a defense as a counterclaim, or a counterclaim as a defense, the court must, if justice requires, treat the pleading as though it were correctly designated, and may impose terms for doing so.

(d) Pleading to Be Concise and Direct; Alternative Statements; Inconsistency.

(1) In General. Each allegation must be simple, concise, and direct. No technical form is required.

(2) Alternative Statements of a Claim or Defense. A party may set out two or more statements of a claim or defense alternatively or hypothetically, either in a single count or defense or in separate ones. If a party makes alternative statements, the pleading is sufficient if any one of them is sufficient.

(3) Inconsistent Claims or Defenses. A party may state as many separate claims or defenses as it has, regardless of consistency.

(e) Construing Pleadings. Pleadings must be construed so as to do 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 9. Pleading Special Matters

(a) Capacity or Authority to Sue; Legal Existence.

(1) In General. Except when required to show that the court has jurisdiction, a pleading need not allege:

(A) a party's capacity to sue or be sued;

(B) a party's authority to sue or be sued in a representative capacity; or

(C) the legal existence of an organized association of persons that is made a party.

(2) Raising Those Issues. To raise any of those issues, a party must do so by a specific denial, which must state any supporting facts that are peculiarly within the party's knowledge.

(b) Fraud or Mistake; Conditions of Mind. In alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake. Malice, intent, knowledge, and other conditions of a person's mind may be alleged generally.

(c) Conditions Precedent. In pleading conditions precedent, it suffices to allege generally that all conditions precedent have occurred or been performed. But when denying that a condition precedent has occurred or been performed, a party must do so with particularity.

(d) Official Document or Act. In pleading an official document or official act, it suffices to allege that the document was legally issued or the act legally done.

(e) Judgment. In pleading a judgment or decision of a domestic or foreign court, a judicial or quasi-judicial tribunal, or a board or officer, it suffices to plead the judgment or decision without showing jurisdiction to render it.

(f) Time and Place. An allegation of time or place is material when testing the sufficiency of a pleading.

(g) Special Damages. If an item of special damage is claimed, it 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 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 a 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 which is an exhibit to a pleading is a part thereof for all purposes.~~

Rule 10. Form of Pleadings

(a) Caption; Names of Parties. Every pleading must have a caption with the court's name, the county, a title, a case number, and a Rule 7(a) designation. The caption of the complaint must name all the parties: the caption of other pleadings, after naming the first party on each side, may refer generally to other parties.

(b) Paragraphs; Separate Statements. A party must state its claims or defenses in numbered paragraphs, each limited as far as practicable to a single set of circumstances. A later pleading may refer by number to a paragraph in an earlier pleading. If doing so would promote clarity, each claim founded on a separate transaction or occurrence—and each defense other than a denial—must be stated in a separate count or defense.

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

(d) Using a Fictitious Name to Identify a Defendant. If the name of a defendant is unknown to the pleader, the defendant may be designated by any name. When the defendant's true name is discovered, the pleader should promptly substitute the actual defendant for a fictitious party.

~~**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, shall ***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 shall ***must*** be stricken 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 or to cause unnecessary delay or needless 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.~~

~~**(1) (c) Sanctions.** If, after notice and a reasonable opportunity to respond, the court determines that subdivision (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 subdivision (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 subdivision (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's fees incurred in presenting or opposing the motion. Absent exceptional circumstances, a law firm shall ***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 subdivision (b) and directing an attorney, law firm, or party to show cause why it has not violated subdivision (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 subparagraphs (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's fees and other expenses incurred as a direct result of the violation.~~

~~(A) **Limitations on Monetary Sanctions.** The court must not impose a monetary sanction:~~

~~(A) Against Monetary sanctions may not be awarded against a represented party for a violation of subdivision (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 which 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) Applicability to Discovery.** Subdivisions (a) through (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 through 37. Sanctions for refusal to make discovery are governed by Rules 26(g) and 37.~~

Rule 11. Signing Pleadings, Motions, and Other Papers; Representations to the Court; Sanctions

(a) Signature. Every pleading, written motion, and other paper must be signed by at least one attorney of record in the attorney's name—or by a party personally if the party is unrepresented. The paper must state the signer's address, email address, and telephone number. Unless a rule or statute specifically states otherwise, a pleading need not be verified or accompanied by an affidavit. The court must strike an unsigned paper unless the omission is promptly corrected after being called to the attorney's or party's attention.

(b) Representations to the Court. By presenting to the court a pleading, written motion, or other paper—whether by signing, filing, submitting, or later advocating it—an attorney or unrepresented party certifies 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 the cost of litigation;

(2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;

(3) the factual contentions have evidentiary support or, if specifically so identified, will likely 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 belief or a lack of information.

(c) Sanctions.

(1) In General. If, after notice and a reasonable opportunity to respond, the court determines that Rule 11(b) has been violated, the court may impose an appropriate sanction on any attorney, law firm, or party that violated the rule or is responsible for the violation. Absent exceptional circumstances, a law firm must be held jointly responsible for a violation committed by its partner, associate, or employee.

(2) Motion for Sanctions. A motion for sanctions must be made separately from any other motion and must describe the specific conduct that allegedly violates Rule 11(b). The motion must be served under Rule 5, but it must not be filed or be presented to the court if the challenged paper, claim, defense, contention, or denial is withdrawn or appropriately corrected within 21 days after service or within another time the court sets. If warranted, the court may award to the prevailing party the reasonable expenses, including attorney fees, incurred for presenting or opposing the motion.

(3) On the Court's Initiative. On its own, the court may order an attorney, law firm, or party to show cause why conduct specifically described in the order has not violated Rule 11(b).

(4) Nature of a Sanction. A sanction imposed under this rule must be limited to what suffices to deter repetition of the conduct or comparable conduct by others similarly situated. The sanction may include nonmonetary directives; 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 part or all of the reasonable attorney fees and other expenses directly resulting from the violation.

(5) Limitations on Monetary Sanctions. The court must not impose a monetary sanction:

(A) against a represented party for violating Rule 11(b)(2); or

(B) on its own, unless it issued the show-cause order under Rule 11(c)(3) before voluntary dismissal or settlement of the claims made by or against the party that is, or whose attorneys are, to be sanctioned.

(6) Requirements for an Order. An order imposing a sanction must describe the sanctioned conduct and explain the basis for the sanction.

(d) Inapplicability to Discovery. This rule does not apply to disclosures and discovery requests, responses, objections, and motions under Rules 16.1, 26 through 37, and 45(a)(4). Sanctions for improper discovery or refusal to make or allow discovery are governed by Rules 26(g) and 37.

~~**Rule 12. Defenses and Objections — When and How Presented — By Pleading or Motion — Motion for Judgment on Pleadings**~~

~~(a) When Presented.~~

~~(1) A defendant shall serve an answer within 20 days after being served with the summons and complaint, unless otherwise provided by statute when service of process is made pursuant to Rule 4(e)(3).~~

~~(2) A party served with a pleading stating a cross-claim against that party shall serve an answer thereto within 20 days after being served. The plaintiff shall serve a reply to a counterclaim in the answer within 20 days after service of the answer or, if a reply is ordered by the court, within 20 days after service of the order, unless the order otherwise directs.~~

~~(3) The State of Nevada or any political subdivision thereof, and any officer, employee, board or commission member of the State of Nevada or political subdivision, and any state legislator shall file an answer or other responsive pleading within 45 days after their respective dates of service.~~

~~(4) The service of a motion permitted under this rule alters these periods of time as follows, unless a different time is fixed by order of the court:~~

~~(A) if the court denies the motion or postpones its disposition until the trial on the merits, a responsive pleading shall be served within 10 days after notice of the court's action;~~

~~(B) if the court grants a motion for a more definite statement, a responsive pleading shall be served within 10 days after service of the more definite statement.~~

~~**(b) How Presented.** Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: (1) lack of jurisdiction over the subject matter, (2) lack of jurisdiction over the person, (3) insufficiency of process, (4) insufficiency of service of process, (5) failure to state a claim upon which relief can be granted, (6) failure to join a party under Rule 19. A motion making any of these defenses shall be made before pleading if a further pleading is permitted. No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or motion. If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, the adverse party may assert at the trial any defense in law or fact to that claim for relief. If, on a motion asserting the defense numbered (5) to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.~~

~~**(c) Motion for Judgment on the Pleadings.** After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings. If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.~~

~~**(d) Preliminary Hearings.** The defenses specifically enumerated (1) – (6) in subdivision (b) of this rule, whether made in a pleading or by motion, and the motion for judgment mentioned in subdivision (c) of this rule shall be heard and determined before trial on application of any party, unless the court orders that the hearing and determination thereof be deferred until the trial.~~

~~**(e) Motion for More Definite Statement.** If a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, the party may move for a more definite statement before interposing a responsive pleading. The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the court is not obeyed within 10 days after notice of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just.~~

~~**(f) Motion to Strike.** Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion made by a party within 20 days after the service of the pleading upon the party or upon the court's own initiative at any time, the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.~~

~~**(g) Consolidation of Defenses in Motion.** A party who makes a motion under this rule may join with it any other motions herein provided for and then available to the party. If a party makes a motion under this rule but omits therefrom any defense or objection then available to the party~~

~~which this rule permits to be raised by motion, the party shall not thereafter make a motion based on the defense or objection so omitted, except a motion as provided in subdivision (h)(2) hereof on any of the grounds there stated.~~

~~**(h) Waiver or Preservation of Certain Defenses.**~~

~~(1) A defense of lack of jurisdiction over the person, insufficiency of process, or insufficiency of service of process is waived (A) if omitted from a motion in the circumstances described in subdivision (g), or (B) if it is neither made by motion under this rule nor included in a responsive pleading or an amendment thereof permitted by Rule 15(a) to be made as a matter of course.~~

~~(2) A defense of failure to state a claim upon which relief can be granted, a defense of failure to join a party indispensable under Rule 19, and an objection of failure to state a legal defense to a claim may be made in any pleading permitted or ordered under Rule 7(a), or by motion for judgment on the pleadings, or at the trial on the merits.~~

~~(3) Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action.~~

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 crossclaim within 21 days after being served with the pleading that states the counterclaim or crossclaim.

(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 crossclaim 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 which 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 of 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 13.~~

~~(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 subdivision (j).~~

~~(d) **Counterclaim Against the State.** These rules shall *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 which 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 set up a counterclaim through oversight, inadvertence, or excusable neglect, or when justice requires, the pleader may by leave of court set up 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 which may not be adjudicated in a justice court, the justice 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 justice may order the entire matter transferred for adjudication in district court. Where justice requires that the matters be heard together, the justice *must* order the entire matter transferred for adjudication in district court.~~

Rule 13. Counterclaim and Crossclaim

(a) Compulsory Counterclaim.

(1) In General. A pleading must state as a counterclaim any claim that—at the time of its service—the pleader has against an opposing party if the claim:

(A) arises out of the transaction or occurrence that is the subject matter of the opposing party's claim; and

(B) does not require adding another party over whom the court cannot acquire jurisdiction.

(2) Exceptions. The pleader need not state the claim if:

(A) when the action was commenced, the claim was the subject of another pending action; or

(B) the opposing party sued on its claim by attachment or other process that did not establish personal jurisdiction over the pleader on that claim, and the pleader does not assert any counterclaim under this rule.

(b) Permissive Counterclaim. A pleading may state as a counterclaim against an opposing party any claim that is not compulsory.

(c) Relief Sought in a Counterclaim. A counterclaim need not diminish or defeat the recovery sought by the opposing party. It may request relief that exceeds in amount or differs in kind from the relief sought by the opposing party.

(d) Counterclaim Against the State. These rules do not expand the right to assert a counterclaim—or to claim a credit—against the State, its political subdivisions, their agencies and entities, or any current or former officer or employee thereof.

(e) Counterclaim Maturing or Acquired After Pleading. The court may permit a party to file a supplemental pleading asserting a counterclaim that matured or was acquired by the party after serving an earlier pleading.

(f) Abrogated.

(g) Crossclaim Against a Coparty. A pleading may state as a crossclaim any claim by one party against a coparty if the claim arises out of the transaction or occurrence that is the subject matter of the original action or of a counterclaim, or if the claim relates to any property that is the subject matter of the original action. The crossclaim may include a claim that the coparty is or may be liable to the crossclaimant for all or part of a claim asserted in the action against the crossclaimant.

(h) Joining Additional Parties. Rules 19 and 20 govern the addition of a person as a party to a counterclaim or crossclaim.

(i) Separate Trials; Separate Judgments. If the court orders separate trials under Rule 42(b), it may enter judgment on a counterclaim or crossclaim under Rule 54(b) when it has jurisdiction to do so, even if the opposing party's claims have been dismissed or otherwise resolved.

~~**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 which 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 14. Third-Party Practice

(a) When a Defending Party May Bring in a Third Party.

(1) Timing of the Summons and Complaint. A defending party may, as third-party plaintiff, file a third-party complaint against a nonparty, the third-party defendant, who is or may be liable to it for all or part of the claim against it. But the third-party plaintiff must, by motion, obtain the court's leave to file the third-party complaint if it files the third-party complaint more than 14 days after serving its original answer. A summons, the complaint, and the third-party complaint must be served on the third-party defendant, or service must be waived.

(2) Third-Party Defendant's Claims and Defenses. After being served or waiving service, the third-party defendant:

(A) must assert any defense against the third-party plaintiff's claim under Rule 12;

(B) must assert any counterclaim against the third-party plaintiff under Rule 13(a), and may assert any counterclaim against the third-party plaintiff under Rule 13(b) or any crossclaim against a defendant or another third-party defendant under Rule 13(g);

(C) may assert against the plaintiff any defense that the third-party plaintiff has to the plaintiff's claim; and

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

(3) Plaintiff's Claims Against a Third-Party Defendant. The plaintiff may assert against the third-party defendant any claim arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff. The third-party defendant must then assert any defense under Rule 12 and any counterclaim under Rule 13(a), and may assert any counterclaim under Rule 13(b) or any crossclaim under Rule 13(g).

(4) Defendant's Claims Against a Third-Party Defendant. A defendant may assert against the third-party defendant any crossclaim under Rule 13(g).

(5) Motion to Strike, Sever, or Try Separately. Any party may move to strike the third-party claim, to sever it, or to try it separately.

(6) Third-Party Defendant's Claim Against a Nonparty. A third-party defendant may proceed under this rule against a nonparty who is or may be liable to the third-party defendant for all or part of any claim against it.

(b) When a Plaintiff May Bring in a Third Party. When a claim is asserted against a plaintiff, the plaintiff may bring in a third party if this rule would allow 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; and 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 do so freely when the presentation of the merits of the action will be subserved thereby 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.** 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.~~

~~(d) **Supplemental Pleadings.** Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit the party to serve a supplemental pleading setting forth transactions or occurrences or events which 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 15. Amended and Supplemental Pleadings

(a) Amendments Before Trial.

(1) Amending as a Matter of Course. A party may amend its pleading once as a matter of course within:

(A) 21 days after serving it; or

(B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

(2) Other Amendments. In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires.

(3) Time to Respond. Unless the court orders otherwise, any required response to an amended pleading must be made within the time remaining to respond to the original pleading or within 14 days after service of the amended pleading, whichever is later.

(b) Amendments During and After Trial.

(1) Based on an Objection at Trial. If, at trial, a party objects that evidence is not within the issues raised in the pleadings, the court may permit the pleadings to be amended. The court should freely permit an amendment when doing so will aid in presenting the merits and the objecting party fails to satisfy the court that the evidence would prejudice that party's action or defense on the merits. The court may grant a continuance to enable the objecting party to meet the evidence.

(2) For Issues Tried by Consent. When an issue not raised by the pleadings is tried by the parties' express or implied consent, it must be treated in all respects as if raised in the pleadings. A party may move—at any time, even after judgment—to amend the pleadings to conform them to the evidence and to raise an unpleaded issue. But failure to amend does not affect the result of the trial of that issue.

(c) Relation Back of Amendments. An amendment to a pleading relates back to the date of the original pleading when:

(1) the amendment asserts a claim or defense that arose out of the conduct, transaction, or occurrence set out—or attempted to be set out—in the original pleading; or

(2) the amendment changes a party or the naming of a party against whom a claim is asserted, 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:

(A) received such notice of the action that it will not be prejudiced in defending on the merits; and

(B) 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. On motion and reasonable notice, the court may, on just terms, permit a party to serve a supplemental pleading setting out any transaction, occurrence, or event that happened after the date of the pleading to be supplemented. The court may permit supplementation even though the original pleading is defective in stating a claim or defense. The court may order that the opposing party plead to the supplemental pleading within a specified time.

Rule 16. Pretrial ~~Procedures; Formulating Issues~~ *Conferences*

(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 which 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;~~

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

~~(b) The court shall must make an order which 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 which limits the issues for trial to those not disposed of by admissions or agreements of counsel; and 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.~~

(b) Attendance and Subjects to Be Discussed at Pretrial Conferences.

(1) A represented party must authorize at least one of its attorneys to make stipulations and admissions about all matters that can reasonably be anticipated for discussion at a pretrial conference. If appropriate, the court may require that a party or its representative be present or reasonably available by other means to consider possible settlement.

(2) Matters for Consideration. At any pretrial conference, the court may consider and take appropriate action on the following matters:

(A) formulating and simplifying the issues, and eliminating frivolous claims or defenses;

(B) amending the pleadings if necessary or desirable;

(C) obtaining admissions and stipulations about facts and documents to avoid unnecessary proof, and ruling in advance on the admissibility of evidence;

(D) avoiding unnecessary proof and cumulative evidence, and limiting the use of testimony under NRS 47.060 and NRS 50.275;

(E) identifying witnesses and documents, scheduling the filing and exchange of any pretrial briefs, and setting dates for further conferences and for trial;

(F) settling the case and using special procedures to assist in resolving the dispute when authorized by statute or local rule;

(G) disposing of pending motions;

(H) adopting special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems;

(I) ordering a separate trial under Rule 42(b) of a claim, counterclaim, crossclaim, third-party claim, or particular issue;

(J) establishing a reasonable limit on the time allowed to present evidence; and

(K) facilitating in other ways the just, speedy, and inexpensive disposition of the action.

(3) Pretrial Orders. After any conference under this rule, the court should issue an order reciting the action taken. This order controls the course of the action unless the court modifies it.

Rule 16.1. Mandatory Pretrial Disclosure ~~And Discovery~~ Requirements For Civil Actions

(a) ~~Exchange of Documents; Witness Lists~~ *Initial Disclosures.* Within 30 days of the filing of defendant's answer ~~(or the last defendant to answer)~~, *a party must, without awaiting a discovery request, provide to the other parties:* ~~the parties shall exchange~~ ***~~must disclose and serve on the opposing party~~:***

~~(1) All documents then reasonably available which 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;~~

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

(1) the name and, if known, the address and telephone number of each individual likely to have information discoverable under Rule 26(b), including for impeachment or rebuttal, identifying the subjects of the information;

(2) a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, including for impeachment or rebuttal, and, unless privileged or protected from disclosure, any record, report, or witness statement, in any form, concerning the incident that gives rise to the lawsuit;

(3) when personal injury is in issue, the identity of each relevant medical provider so that the opposing party may prepare an appropriate medical authorization for signature to obtain medical records from each provider;

(4) a computation of each category of damages claimed by the disclosing party—who must make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered; and

(5) for inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment and any

disclaimer or limitation of coverage or reservation of rights under any such insurance agreement.

(b) Disclosure of Expert Testimony.

(1) In General. In addition to the disclosures required by Rule 16.1(a), a party must disclose to the other parties the identity of any witness it may use at trial to present evidence under NRS 50.275, 50.285, and 50.305.

(2) Witnesses Who Must Provide a Written Report. Unless otherwise stipulated or ordered by the court, this disclosure must be accompanied by a written report—prepared and signed by the witness—if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony. The report must contain:

(i) a complete statement of all opinions the witness will express, and the basis and reasons for them;

(ii) the facts or data considered by the witness in forming them;

(iii) any exhibits that will be used to summarize or support them;

(iv) the witness's qualifications, including a list of all publications authored in the previous ten years;

(v) a list of all other cases in which, during the previous four years, the witness testified as an expert at trial or by deposition; and

(vi) a statement of the compensation to be paid for the study and testimony in the case.

(3) Witnesses Who Do Not Provide a Written Report. Unless otherwise stipulated or ordered by the court, if the witness is not required to provide a written report, this disclosure must state:

(i) the subject matter on which the witness is expected to present evidence under NRS 50.275, 50.285, and 50.305;

(ii) a summary of the facts and opinions to which the witness is expected to testify;

(iii) the qualifications of that witness to present evidence under NRS 50.275, 50.285, and 50.305, which may be satisfied by the production of a resume or curriculum vitae; and

(iv) the compensation of the witness for providing testimony at deposition and trial, which is satisfied by production of a fee schedule.

(4) Treating Physicians.

(i) Status. A treating physician who is retained or specially employed to provide expert testimony in the case, or whose duties as the party's employee regularly involve giving expert testimony on behalf of the party, must provide a written report under Rule 16.1(b)(2). Otherwise, a treating physician who is properly disclosed under Rule 16.1(a) may be deposed or called to testify without providing a written report. A treating physician is not required to provide a written report under Rule 16.1(b)(2) solely because the physician's testimony may discuss ancillary treatment, or the diagnosis, prognosis, or causation of the patient's injuries, that is not contained within the physician's medical chart, as long as the content of such testimony is properly disclosed under Rule 16.1(a).

(ii) Change in Status. A treating physician will be deemed a retained expert witness subject to the written report requirement of Rule 16.1(b)(2) if the party is asking the treating physician to provide opinions outside the course and scope of the treatment provided to the patient.

(iii) Disclosure. The disclosure regarding a non-retained treating physician must include the information identified in Rule 16.1(b)(3), to the extent practicable. In that regard, appropriate disclosure may include that the physician will testify in accordance with his or her medical chart, even if some records contained therein were prepared by another healthcare provider.

(5) Timing to Disclose Expert Testimony: A party must make these disclosures 120 days after the filing of defendant's answer.

~~**(b) Early Case Conference** ***Disclosure of Documents and Knowledgeable Persons***~~

(c) Initial Disclosures Report. Within ~~10~~ *14* days of the ~~exchange~~ ***required disclosures under Rule 16.1(a), each party*** ~~, the parties~~ ~~shall~~ *must* file with the court ***a*** ~~an early case conference~~ report containing a list ~~of the documents exchanged~~ ~~***and list of persons disclosed***~~ *of the disclosures made* ***and served upon the opposing party.*** ~~and attaching the respective lists of persons exchanged~~. ***This report may be prepared and filed as a joint report.***

~~***(c)***~~ *(d) Later Joined Parties:* Any party first served or otherwise joined after the filing of the ~~early case conference~~ ~~***disclosure of documents and knowledgeable persons***~~ ~~report~~ *Initial Disclosures Report* must make ~~these~~ *the Rule 16.1(a)* disclosures within 30 days after being served or joined unless a different time is set by stipulation or court order *and must file their Initial Disclosures Report within 14 days of making the required disclosures.*

~~(c)~~ *(e)* **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~~ *their Initial Disclosures*. Failure of a party to promptly ~~disclose supplemental documents or lists of persons~~ *supplement the required disclosures* 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~~

~~**(a) Real Party in Interest.** Every action shall be prosecuted in the name of the real party in interest. An executor, administrator, guardian, bailee, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute may sue in that person's own name without joining the party for whose benefit the action is brought; and when a statute so provides, an action for the use or benefit of another shall be brought in the name of the State. No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of the action by, or joinder or substitution of, the real party in interest; and such ratification, joinder, or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest.~~

~~(b) **Capacity to Sue or Be Sued.** The capacity of an individual, including one acting in a representative capacity, to sue or be sued shall be determined by the law of this State. The capacity of a corporation to sue or be sued shall be determined by the law under which it was organized, unless a statute of this State provides to the contrary.~~

~~(c) **Infants or Incompetent Persons.** Whenever an infant or incompetent person has a representative, such as a general guardian, committee, conservator, or other like fiduciary, the representative may sue or defend on behalf of the infant or incompetent person. An infant or incompetent person who does not have a duly appointed representative may sue by a next friend or by a guardian ad litem. The court shall appoint a guardian ad litem for an infant or incompetent person not otherwise represented in an action or shall make such other order as it deems proper for the protection of the infant or incompetent person.~~

Rule 17. 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 to relief as an original claim, counterclaim, cross-claim, or third-party claim, may join, either as independent or as alternate claims, as many claims, legal or equitable or both as the party has against an opposing party if an original action might be brought upon it in a justice court.~~

Rule 18. Joinder of Claims

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

~~RULE 19. JOINDER OF PERSONS NEEDED FOR JUST ADJUDICATION~~

~~(a) **Persons to Be Joined if Feasible.** A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party in the action if (1) in the person's absence complete relief cannot be accorded among those already parties, or (2) the person claims an interest relating to the subject of the action and is so situated that the disposition of the action in the person's absence may (i) as a practical matter impair or impede the person's ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of the claimed interest. If the person has not been so joined, the court shall order that the person be made a party. If the person should join as a plaintiff but refuses to do so, the person may be made a defendant, or, in a proper case, an involuntary plaintiff.~~

~~(b) **Determination by Court Whenever Joinder Not Feasible.** If a person as described in subdivision (a)(1)—(2) hereof cannot be made a party, the court shall determine whether in equity and good conscience the action should proceed among the parties before it, or should be dismissed, the absent person being thus regarded as indispensable. The factors to be considered by the court include: first, to what extent a judgment rendered in the person's absence might be prejudicial to the person or those already parties; second, the extent to which, by protective provisions in the judgment, by the shaping of relief, or other measures, the prejudice can be lessened or avoided; third, whether a judgment rendered in the person's absence will be adequate; fourth, whether the plaintiff will have an adequate remedy if the action is dismissed for nonjoinder.~~

~~(c) **Pleading Reasons for Nonjoinder.** A pleading asserting a claim for relief shall state the names, if known to the pleader, of any persons as described in subdivision (a)(1)—(2) hereof who are not joined, and the reasons why they are not joined.~~

~~(d) Exception of Class Actions. This rule is subject to the provisions~~

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) Permissive Joinder. All persons may join in one action as plaintiffs if they assert any right to relief jointly, severally, or in the alternative in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or of fact common to all these persons will arise in the action. All persons may be joined in one action as defendants if there is asserted against them jointly, severally, or in the alternative, any right to~~

~~relief in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all defendants will arise in the action. A plaintiff or defendant need not be interested in obtaining or defending against all the relief demanded. Judgment may be given for one or more of the plaintiffs according to their respective rights to relief, and against one or more defendants according to their respective liabilities.~~

~~**(b) Separate Trials.** The court may make such orders as will prevent a party from being embarrassed, delayed, or put to expense by the inclusion of a party against whom the party asserts no claim and who asserts no claim against the party, and may order separate trials or make other orders to prevent delay or prejudice.~~

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 at set forth in NRS 4.370.

(2) ***Defendants.*** *Persons may be joined in one action as defendants if any question of law or fact common to all defendants will arise in the action; and* ~~:~~

(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.*

~~*(C) In addition to the requirements of 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 ~~dismissal of~~ *dismissing* an action. ~~Parties may be dropped or added by order of the court on motion of any party or of its own initiative at any stage of the action and on such terms as are just.~~ *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~~

~~Persons having claims against the plaintiff may be joined as defendants and required to interplead when their claims are such that the plaintiff is or may be exposed to double or multiple liability. It is not ground for objection to the joinder that the claims of the several claimants or the titles on which their claims depend do not have a common origin or are not identical but are adverse to and independent of one another, or that the plaintiff avers that the plaintiff is not liable in whole or in part to any or all of the claimants. A defendant exposed to similar liability may obtain such interpleader by way of cross-claim or counterclaim. The provisions of this rule supplement and do not in any way limit the joinder of parties permitted in Rule 20.~~

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 crossclaim 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.*

~~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) Class Actions Maintainable. An action may be maintained as a class action if the prerequisites of subdivision (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 which would establish incompatible standards of conduct for the party opposing the class, or~~

~~(B) adjudications with respect to individual members of the class which 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; or~~

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

~~**(c) 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 shall determine by order whether it is to be so maintained. An order under this subdivision may be conditional, and may be altered or amended before the decision on the merits.~~

~~(2) In any class action maintained under subdivision (b)(3), the court shall 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 shall 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.~~

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

~~(4) When appropriate (A) an action may be brought or maintained as a class action with respect to particular issues, or (B) a class may be divided into subclasses and each subclass treated as a class, and the provisions of this rule shall then be construed and applied accordingly.~~

~~**(d) Orders in Conduct of Actions.** In the conduct of actions to which this rule applies, the court may make appropriate orders: (1) determining the course of proceedings or prescribing measures to prevent undue repetition or complication in the presentation of evidence or argument;~~

~~(2) requiring, for the protection of the members of the class or otherwise for the fair conduct of the action, that notice be given in such manner as the court may direct to some or all of the members of any step in the action, or of the proposed extent of the judgment, or of the opportunity of members to signify whether they consider the representation fair and adequate, to intervene and present claims or defenses, or otherwise to come into the action; (3) imposing conditions on the representative parties or on interveners; (4) requiring that the pleadings be amended to eliminate therefrom allegations as to representation of absent persons, and that the action proceed accordingly; (5) dealing with similar procedural matters. The orders may be combined with an order under Rule 16, and may be altered or amended as may be desirable from time to time.~~

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

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 district court jurisdiction over a class action.~~ *Reserved.*

(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;

(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 ~~the conduct~~ *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 must correspond with the procedure in Rule 23(f).

~~RULE 24. INTERVENTION~~

~~**(a) Intervention of Right.** Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.~~

~~**(b) Permissive Intervention.** Upon timely application anyone may be permitted to intervene in an action: (1) when a statute confers a conditional right to intervene; or (2) when an applicant's claim or defense and the main action have a question of law or fact in common. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.~~

~~**(c) Procedure.** A person desiring to intervene shall serve a motion to intervene upon the parties as provided in Rule 5. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought. The same procedure shall be followed when a statute gives a right to intervene.~~

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) If a party dies and the claim is not thereby extinguished, the court may order substitution of the proper parties. The motion for substitution may be made by any party or by the successors or representatives of the deceased party and, together with the notice of hearing, shall be served on the parties as provided in Rule 5 and upon persons not parties in the manner provided in Rule 4 for the service of a summons. Unless the motion for substitution is made not later than 90 days after the death is suggested upon the record by service of a statement of the fact of the death as provided herein for the service of the motion, the action shall be dismissed as to the deceased party.~~

~~(2) In the event of the death of one or more of the plaintiffs or of one or more of the defendants in an action in which the right sought to be enforced survives only to the surviving plaintiffs or only against the surviving defendants, the action does not abate. The death shall be suggested upon the record and the action shall proceed in favor of or against the surviving parties.~~

~~**(b) Incompetency.** If a party becomes incompetent, the court upon motion served as provided in subdivision (a) of this rule may allow the action to be continued by or against the party's representative.~~

~~(c) **Transfer of Interest.** In case of any transfer of interest, the action may be continued by or against the original party, unless the court upon motion directs the person to whom the interest is transferred to be substituted in the action or joined with the original party. Service of the motion shall be made as provided in subdivision (a) of this rule.~~

~~(d) **Public Officers; Death or Separation From Office.**~~

~~(1) When a public officer is a party to an action in an official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the action does not abate and the officer's successor is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantial rights of the parties shall be disregarded. An order of substitution may be entered at any time, but the omission to enter such an order shall not affect the substitution.~~

~~(2) A public officer who sues or is sued in an official capacity may be described as a party by the officer's official title rather than by name; but the court may require the officer's name to be added.~~

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. DISCLOSURES 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~~ through 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 ~~shall~~ ***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 one hour in length.

(2) Propound up to a total of 10 written interrogatories, including all ~~discreet~~ *discrete* subparts.

(3) *Propound up to a total of 10* ~~R~~requests *for* ~~the~~ production of ~~up to 10 of~~ documents.

(4) Request up to 10 written admissions.

(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~~ *Initial Disclosures Report* or pretrial memorandum.

~~RULE 26. GENERAL PROVISIONS GOVERNING DISCOVERY~~

~~**(a) Discovery Methods.** Any party who has complied with Rule 25A may obtain discovery by one or more of the following additional methods: depositions upon oral examination or written~~

questions; written interrogatories; production of documents or things or permission to enter upon land or other property under Rule 34 or Rule 45(a)(1)(C), for inspection and other purposes; physical and mental examinations; and requests for admission.

(b) Discovery Scope and Limits. Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(1) In General. Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. All discovery is subject to the limitations imposed by Rule 26(b)(2)(i), (ii), and (iii).

(2) Limitations. By order, the court may alter the limits in these rules or set limits on the number of depositions and interrogatories, the length of depositions under Rule 30 or the number of requests under Rule 36. The frequency or extent of use of the discovery methods otherwise permitted under these rules and by any local rule shall be limited by the court if it determines that: (i) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; (ii) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or (iii) the discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, limitations on the parties' resources, and the importance of the issues at stake in the litigation. The court may act upon its own initiative after reasonable notice or pursuant to a motion under subdivision (c) of this rule.

(3) Trial Preparation: Materials. Subject to the provisions of subdivision (b)(4) of this rule, a party may obtain discovery of documents and tangible things otherwise discoverable under subdivision (b)(1) of this rule and prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including the other party's attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of the party's case and that the party is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the court shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation.

A party may obtain without the required showing a statement concerning the action or its subject matter previously made by that party. Upon request, a person not a party may obtain without the required showing a statement concerning the action or its subject matter previously made by that person. If the request is refused, the person may move for a court order. The provisions of Rule 37(a)(4) apply to the award of expenses incurred in relation to the motion. For purposes of this paragraph, a statement previously made is (A) a written statement signed or otherwise adopted or approved by the person making it, or (B) a stenographic, mechanical,

~~electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.~~

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

~~(A) A party may depose any person who has been identified as an expert whose opinions may be presented at trial.~~

~~(B) A party may, through interrogatories or by 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 preparation for trial and who is not expected to be called as a witness at trial, only as provided in Rule 35(b) or upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.~~

~~(C) Unless manifest injustice would result, (i) the court shall require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under this subdivision; and (ii) with respect to discovery obtained under subdivision (b)(4)(B) of this rule, the court shall require the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert.~~

~~**(5) Claims of Privilege or Protection of Trial Preparation Materials.** When a party withholds information otherwise discoverable under these rules by claiming that it is privileged or subject to protection as trial preparation material, the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.~~

~~**(c) Protective Orders.** Upon motion by a party or by the person from whom discovery is sought, accompanied by a certification that the movant has in good faith conferred or attempted to confer with the other affected parties in an effort to resolve the dispute without court action, and for good cause shown, the court in which the action is pending may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:~~

~~(1) that the discovery not be had;~~

~~(2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place;~~

~~(3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;~~

~~(4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;~~

(5) that discovery be conducted with no one present except persons designated by the court;

(6) that a deposition after being sealed be opened only by order of the court;

(7) that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a designated way;

(8) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.

If the motion for a protective order is denied in whole or in part, the court may, on such terms and conditions as are just, order that any party or other person provide or permit discovery. The provisions of Rule 37(a)(4) apply to the award of expenses incurred in relation to the motion.

(d) Sequence and Timing of Discovery. After compliance with subdivision (a) of this rule, unless the court upon motion, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence and the fact that a party is conducting discovery, whether by deposition or otherwise, does not operate to delay any other party's discovery.

(e) Supplementation of Disclosures and Responses. 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 supplement or correct the disclosure or response to include information thereafter acquired, if ordered by the court or in the following circumstances:

(1) A party is under a duty to supplement at appropriate intervals its disclosures under Rule 16.1(a) 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) A party is under a duty seasonably to amend a prior response to an interrogatory, request for production or request for admission, if the party learns that the response is in some material respect 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.

(f) Form of Responses. Answers and objections to interrogatories or requests for production shall 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) Every disclosure made pursuant to Rule 16.1(a) shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated. An unrepresented party shall sign the disclosure and state the party's address. The signature of the attorney or party constitutes a certification that to the best of the signer's knowledge, information, and belief, formed after a reasonable inquiry, the disclosure is complete and correct as of the time it is made.~~

~~(2) Every discovery request, response or objection made by a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated. An unrepresented party shall sign the request, response, or objection and state the party's address. The signature of the attorney or party constitutes a certification that to the best of the signer's knowledge, information, and belief, formed after a reasonable inquiry, the request, response, or objection is:~~

~~(A) consistent with these rules and warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law;~~

~~(B) not interposed for any improper purpose, such as to harass, obscure, equivocate or to cause unnecessary delay or needless increase in the cost of litigation; and~~

~~(C) not unreasonable or unduly burdensome or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation.~~

~~If a request, response, or objection is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the party making the request, response or objection and a party shall not be obligated to take any action with respect to it until it is signed.~~

~~(3) If without substantial justification a certification is made in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who made the certification, the party on whose behalf the disclosure, request, response, or objection was made, or both, an appropriate sanction, which may include an order to pay the amount of the reasonable expenses incurred because of the violation, including a reasonable attorney's fee.~~

~~**(h) Demand for Prior Discovery.** Whenever a party makes a written demand for discovery which took place prior to the time the party became a party to the action, each party who has previously made discovery disclosures, responded to a request for admission or production or answered interrogatories shall make available to the demanding party the document(s) in which the discovery disclosures and responses in question are contained for inspection and copying or furnish to the demanding party a list identifying each such document by title and upon further demand shall furnish to the demanding party, at the expense of the demanding party, a copy of any listed discovery disclosure or response specified in the demand or, in the case of document disclosure or request for production, shall make available for inspection by the demanding party all documents and things previously produced. Further, each party who has taken a deposition shall make a copy of the transcript thereof available to the demanding party at the latter's expense.~~

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~~ the Initial Disclosures Report, 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, electronic ~~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 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 must 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. ~~DEPOSITIONS BEFORE ACTION OR PENDING APPEAL~~ *Reserved*

~~(a) Before Action.~~

~~(1) Petition. A person who desires to perpetuate testimony regarding any matter that may be cognizable in any justice court of the State may file a verified petition in a justice court. The petition shall be entitled in the name of the petitioner and shall show:~~

(1) that the petitioner expects to be a party to an action cognizable in a justice court of the State but is presently unable to bring it or cause it to be brought,

(2) the subject matter of the expected action and the petitioner's interest therein,

(3) the facts which the petitioner desires to establish by the proposed testimony and the reasons for desiring to perpetuate it,

(4) the names or a description of the persons the petitioner expects will be adverse parties and their addresses so far as known, and

(5) the names and addresses of the persons to be examined and the substance of the testimony which the petitioner expects to elicit from each, and shall ask for an order authorizing the petitioner to take the depositions of the persons to be examined named in the petition, for the purpose of perpetuating their testimony.

(2) Notice and Service. The petitioner shall thereafter serve a notice upon each person named in the petition as an expected adverse party, together with a copy of the petition, stating that the petitioner will apply to the court, at a time and place named therein, for the order described in the petition. At least 20 days before the date of hearing the notice shall be served in the manner provided in Rule 4(d) for service of summons; but if such service cannot with due diligence be made upon any expected adverse party named in the petition, the court may make such order as is just for service by publication or otherwise, and shall appoint, for persons not served in the manner provided in Rule 4(d), an attorney who shall represent them, and, in case they are not otherwise represented, shall cross examine the deponent. If any expected adverse party is a minor or incompetent the provisions of Rule 17(c) apply.

(3) Order and Examination. If the court is satisfied that the perpetuation of the testimony may prevent a failure or delay of justice, it shall make an order designating or describing the persons whose depositions may be taken and specifying the subject matter of the examination and whether the depositions shall be taken upon oral examination or written interrogatories. An order appointing an attorney under subdivision (a)(2) to represent the absent expected adverse party and to cross-examine the proposed witness shall set the attorney's compensation including expenses. The compensation so set shall be paid by the petitioner prior to the appearance of the appointed attorney at the examination. The depositions may then be taken in accordance with these rules; and the court may make orders of the character provided for by Rules 34 and 35. For the purpose of applying these rules to depositions for perpetuating testimony, each reference therein to the court in which the action is pending shall be deemed to refer to the court in which the petition for such deposition was filed.

(4) Use of Deposition. If a deposition to perpetuate testimony is taken under these rules or if, although not so taken, it would be admissible in evidence in the courts of this state, it may be used in any action involving the same subject matter subsequently brought in a justice court, in accordance with the provisions of Rule 32(a).

~~**(b) Pending Appeal.** If an appeal has been taken from a judgment of a justice court or before the taking of an appeal if the time therefor has not expired, the court in which the judgment was rendered may allow the taking of the depositions of witnesses to perpetuate their testimony for use in the event of further proceedings in the justice court. In such case the party who desires to perpetuate the testimony may make a motion in the justice court for leave to take the depositions, upon the same notice and service thereof as if the action was pending in the justice court. The motion shall show (1) the names and addresses of persons to be examined and the substance of the testimony which the party expects to elicit from each; (2) the reasons for perpetuating their testimony. If the court finds that the perpetuation of the testimony is proper to avoid a failure or delay of justice, it may make an order allowing the depositions to be taken and may make orders of the character provided for by Rules 34 and 35, and thereupon the depositions may be taken and used in the same manner and under the same conditions as are prescribed in these rules for depositions taken in actions pending in the justice court.~~

~~**(c) 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 shall ***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 shall ***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.~~

~~*(b)* (c) Disqualification for Interest. No *A* deposition shall *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 28. Persons Before Whom Depositions May Be Taken

(a) Within the United States.

(1) In General. Within the United States or a territory or insular possession subject to United States jurisdiction, a deposition must be taken before:

(A) an officer authorized to administer oaths either by federal law or by the law in the place of examination; or

(B) a person appointed by the court where the action is pending to administer oaths and take testimony.

(2) Definition of "Officer." The term "officer" in Rules 30, 31, and 32 includes a person appointed by the court under this rule or designated by the parties under Rule 29(a).

(b) In a Foreign Country.

(1) In General. A deposition may be taken in a foreign country:

(A) under an applicable treaty or convention;

(B) under a letter of request, whether or not captioned a "letter rogatory";

(C) on notice, before a person authorized to administer oaths either by federal law or by the law in the place of examination; or

(D) before a person commissioned by the court to administer any necessary oath and take testimony.

(2) Issuing a Letter of Request or a Commission. A letter of request, a commission, or both may be issued:

(A) on appropriate terms after an application and notice of it; and

(B) without a showing that taking the deposition in another manner is impracticable or inconvenient.

(3) Form of a Request, Notice, or Commission. When a letter of request or any other device is used according to a treaty or convention, it must be captioned in the form prescribed by that treaty or convention. A letter of request may be addressed "To the Appropriate Authority in [name of country]." A deposition notice or a commission must designate by name or descriptive title the person before whom the deposition is to be taken.

(4) Letter of Request—Admitting Evidence. Evidence obtained in response to a letter of request need not be excluded merely because 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 Nevada.

(c) Disqualification. A deposition must not be taken before a person who is any party's relative, employee, or attorney; who is related to or employed by any party's attorney; or who is financially interested in the action.

Rule 29. Stipulations Regarding Discovery Procedure

Unless ~~otherwise directed by~~ the court *orders otherwise*, the parties may ~~by written stipulation (1) provide that depositions~~ *stipulate that:*

(a) a deposition may be taken before any person, at any time or place, upon any notice, and in ~~any~~ *the* manner *specified – in which event it* ~~and when so taken~~ may be used *in the same as any* ~~like~~ other depositions~~,~~ and

~~(2)~~ *(b)* ~~modify the~~ *other* procedures governing or ~~limitations placed upon~~ *limiting* discovery *be modified – but a* ~~, except that stipulations~~ *stipulation* extending the time *for any form of discovery must have court approval if it* ~~provided in Rules 33, 34, and 36 for responses to discovery may, if they~~ would interfere with *the* ~~any~~ time set ~~for completion of~~ *for completing* discovery, for hearing ~~of~~ a motion, or for trial~~, be made only with the approval of the court~~.

~~RULE 30. DEPOSITIONS UPON ORAL EXAMINATION~~

~~**(a) When Depositions May Be Taken; When Leave Required.**~~

~~(1) A party may take the testimony of any person, including a party, by deposition upon oral examination without leave of court except as provided in subdivision (a)(2) of this rule. The attendance of witnesses may be compelled by subpoena as provided in Rule 45.~~

~~(2) A party must obtain leave of court, which shall be granted to the extent consistent with the principles stated in Rule 26(b)(2), if the person to be examined is confined in prison or if, without the written stipulation of the parties:~~

~~(A) the person to be examined already has been deposed in the case; or~~

~~(B) a party seeks to take a deposition before the time specified in Rule 26(a), unless the notice contains a certification, with supporting facts, that the person to be examined is expected to leave the state and be unavailable for examination in this state unless deposed before that time.~~

~~**(b) Notice of Examination: General Requirements; Special Notice; Method of Production of Documents and Things; Deposition of Organization; Deposition by Telephone.**~~

~~(1) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice, not less than 15 days, in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice.~~

~~(2) The party taking the deposition shall state in the notice the method by which the testimony shall be recorded. Unless the court orders otherwise, it may be recorded by sound, sound and visual, or stenographic means, and the party taking the deposition shall bear the cost of~~

~~the recording. Any party may arrange for a transcription to be made from the recording of a deposition taken by nonstenographic means.~~

~~(3) With 5 days' notice to the deponent and other parties, any party may designate another method to record the deponent's testimony in addition to the method specified by the person taking the deposition. The additional record or transcript shall be made at that party's expense unless the court otherwise orders.~~

~~(4) Unless otherwise agreed by the parties, a deposition shall be conducted before an officer appointed or designated under Rule 28 and shall begin with a statement on the record by the officer that includes (A) the officer's name and business address; (B) the date, time and place of the deposition; (C) the name of the deponent; (D) the administration of the oath or affirmation to the deponent; and (E) an identification of all persons present. If the deposition is recorded other than stenographically, the officer shall repeat items (A) through (C) at the beginning of each unit of recorded tape or other recording medium. The appearance or demeanor of deponents or attorneys shall not be distorted through camera or sound-recording techniques. At the end of the deposition, the officer shall state on the record that the deposition is complete and shall set forth any stipulations made by counsel concerning the custody of the transcript or recording and the exhibits, or concerning other pertinent matters.~~

~~(5) The notice to a party deponent may be accompanied by a request made in compliance with Rule 34 for the production of documents and tangible things at the taking of the deposition. The procedure of Rule 34 shall apply to the request.~~

~~(6) A party may in the party's notice and in a subpoena name as the deponent a public or private corporation or a partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. A subpoena shall advise a nonparty organization of its duty to make such a designation. The persons so designated shall testify as to matters known or reasonably available to the organization. This subdivision (b)(6) does not preclude taking a deposition by any other procedure authorized in these rules.~~

~~(7) The parties may stipulate, or the court may upon noticed motion order that a deposition be taken by telephone or other remote electronic means. For the purpose of these rules, a deposition taken by telephone is taken at the place where the deponent is to answer the questions propounded. Unless otherwise stipulated by the parties: (A) the party taking the deposition shall arrange for the presence of the officer before whom the deposition will take place; (B) the officer shall be physically present at the place of the deposition; and (C) the party taking the deposition shall make the necessary telephone connections at the time scheduled for the deposition. Nothing in this paragraph shall prevent a party from being physically present at the place of the deposition, at the party's own expense.~~

~~**(c) Examination and Cross-Examination; Record of Examination; Oath; Objections.** Examination and cross-examination of witnesses may proceed as permitted at the trial under the~~

~~provisions of Rule 43(b). The officer before whom the deposition is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under the officer's direction and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically or recorded by any other means ordered in accordance with subdivision (b)(2) of this rule. All objections made at the time of the examination to the qualifications of the officer taking the deposition, to the manner of taking it, to the evidence presented, to the conduct of any party, or to any other aspect of the proceedings, shall be noted by the officer upon the record of the deposition; but the examination shall proceed, with the testimony being taken subject to the objections. In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition and the party taking the deposition shall transmit them to the officer, who shall propound them to the witness and record the answers verbatim.~~

~~**(d) Motion to Terminate or Limit Examination.**~~

~~(1) Any objection during a deposition shall be stated concisely and in a nonargumentative and nonsuggestive manner. A party may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation directed by the court, or to present a motion under paragraph (3).~~

~~(2) If the court finds that any impediment, delay, or other conduct has frustrated the fair examination of the deponent, it may impose upon the persons responsible an appropriate sanction, including the reasonable costs and attorney's fees incurred by any parties as a result thereof.~~

~~(3) At any time during the taking of the deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or the court in the township where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in Rule 26(c). If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. The provisions of Rule 37(a)(4) apply to the award of expenses incurred in relation to the motion.~~

~~**(e) Review by Witness; Changes; Signing.** If requested by the deponent or a party before completion of the deposition, the deponent shall have 30 days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by subdivision (f)(1) whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed.~~

~~**(f) Certification by Officer; Exhibits; Copies.**~~

~~(1) The officer shall certify on the deposition that the witness was duly sworn by the officer and that the deposition is a true record of the testimony given by the witness. This certificate shall be in writing and accompany the record of the deposition. Unless otherwise ordered by the court, the officer shall securely seal the deposition in an envelope indorsed with the title of the action and marked "Deposition of {here insert name of witness}" and shall send it to the party who arranged for the transcript or recording, who shall store it under conditions that will protect it against loss, destruction, tampering, or deterioration. Documents and things produced for inspection during the examination of the witness, shall, upon the request of a party, be marked for identification and annexed to and returned with the deposition, and may be inspected and copied by any party, except that if the person producing the materials desires to retain them the person may (A) offer copies to be marked for identification and annexed to the deposition and to serve thereafter as originals if the person affords to all parties fair opportunity to verify the copies by comparison with the originals, or (B) offer the originals to be marked for identification, after giving to each party an opportunity to inspect and copy them, in which event the materials may then be used in the same manner as if annexed to the deposition. Any party may move for an order that the original be annexed to and returned with the deposition to the court, pending final disposition of the case.~~

~~(2) Unless otherwise ordered by the court or agreed by the parties, the officer shall retain stenographic notes of any deposition taken stenographically or a copy of the recording of any deposition taken by another method. Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.~~

~~**(g) Failure to Attend or to Serve Subpoena; Expenses.**~~

~~(1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court shall order the party giving the notice to pay to such other party the reasonable expenses incurred by that party and that party's attorney in attending, including reasonable attorney's fees, unless good cause be shown.~~

~~(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon the witness and the witness because of such failure does not attend, and if another party attends in person or by attorney because that party expects the deposition of that witness to be taken, the court shall order the party giving the notice to pay such other party the reasonable expenses incurred by that party and that party's attorney in attending, including reasonable attorney's fees, unless good cause be shown.~~

~~**(h) Expert Witness Fees.**~~

~~(1) A party desiring to depose any expert who is to be asked to express an opinion, shall 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. If any other attending party desires to question the witness, that party shall be responsible for the expert's fee for the actual time~~

~~consumed in that party's examination. If requested by the expert before the date of the deposition, the party taking the deposition of an expert shall tender the expert's fee based on the anticipated length of that party's examination of the witness. If the deposition of the expert takes longer than anticipated, any party responsible for any additional fee shall pay the balance of that expert's fee within 30 days of receipt of a statement from the expert. Any party identifying an expert whom that party expects to call at trial is responsible for any fee charged by the expert for preparing for and reviewing the deposition.~~

~~(2) If a party desiring to take the deposition of an expert witness pursuant to this subdivision deems that the hourly or daily fee of that expert for providing deposition testimony is unreasonable, that party may move for an order setting the compensation of that expert. This motion shall 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 shall be given to the expert. The court shall set the fee of the expert for providing deposition testimony if it determines that the fee demanded by that expert is unreasonable. The court may impose a sanction pursuant to Rule 37 against any party who does not prevail, and in favor of any party who does prevail, on a motion to set expert witness fee, providing the prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issues presented by the motion.~~

Rule 30. Depositions by Oral Examination

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

(1) ***Without Leave.*** *A party may, by oral questions, depose any person, including a party, without leave of court only 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 4 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 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 UPON WRITTEN QUESTIONS~~

~~(a) Serving Questions; Notice.~~

~~(1) A party may take the testimony of any person, including a party, by deposition upon written questions without leave of court except as provided in paragraph (2). The attendance of witnesses may be compelled by the use of subpoena as provided in Rule 45.~~

~~(2) A party must obtain leave of court, which shall be granted to the extent consistent with the principles stated in Rule 26(b)(2), if the person to be examined is confined in prison or if, without the written stipulation of the parties:~~

~~(A) the person to be examined has already been deposed in the case; or~~

~~(B) a party seeks to take a deposition before the time specified in Rule 26(a).~~

~~(3) A party desiring to take a deposition upon written questions shall serve them upon every other party with a notice stating (1) the name and address of the person who is to answer them, if known, and if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs, and (2) the name or descriptive title and address of the officer before whom the deposition is to be taken. A deposition upon written questions may be taken of a public or private corporation or a partnership or association or governmental agency in accordance with the provisions of Rule 30(b)(6).~~

~~(4) Within 14 days after the notice and written questions are served, a party may serve cross questions upon all other parties. Within 7 days after being served with cross questions, a party may serve redirect questions upon all other parties. Within 7 days after being served with~~

~~redirect questions, a party may serve recross questions upon all other parties. The court may for cause shown enlarge or shorten the time.~~

~~**(b) Officer to Take Responses and Prepare Record.** A copy of the notice and copies of all questions served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by Rule 30(c), (e) and (f), to take the testimony of the witness in response to the questions and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the questions received by the officer.~~

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 4 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. USE OF DEPOSITIONS IN COURT PROCEEDINGS~~

~~(a) Use of Depositions. At the trial or upon the hearing of a motion or an interlocutory proceeding, any part or all of a deposition, so far as admissible under the rules of evidence applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:~~

~~(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness, or for any other purpose permitted by the Nevada Rules of Evidence, NRS Chapters 47–56.~~

~~(2) The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent, or a person designated under Rule 30(b)(6) or 31(a) to testify on behalf of a public or private corporation, partnership or association or governmental agency which is a party may be used by an adverse party for any purpose.~~

~~(3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds:~~

~~(A) that the witness is dead; or~~

~~(B) that the witness is at a greater distance than 100 miles from the place of trial or hearing, or is out of the State, unless it appears that the absence of the witness was procured by the party offering the deposition; or~~

~~(C) that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or~~

~~(D) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or~~

~~(E) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used.~~

(4) If only part of a deposition is offered in evidence by a party, an adverse party may require the offeror to introduce any other part which ought in fairness to be considered with the part introduced, and any party may introduce any other parts.

Substitution of parties pursuant to Rule 25 does not affect the right to use depositions previously taken; and, when an action has been brought in any court of the United States or in any State and another action involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken in the former action may be used in the latter as if originally taken therefor. A deposition previously taken may also be used as permitted by the Nevada Rules of Evidence, NRS Chapters 47–56.

(b) Objections to Admissibility. Subject to the provisions of Rule 28(b) and subdivision (d)(3) of this rule, objection may be made at the trial or hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(c) Form of Presentation. Except as otherwise directed by the court, a party offering deposition testimony pursuant to this rule may offer it in stenographic or nonstenographic form, but, if in nonstenographic form, the party shall also provide the court with a transcript of the portions so offered. On request of any party in a case tried before a jury, deposition testimony offered other than for impeachment purposes shall be presented in nonstenographic form, if available, unless the court for good cause orders otherwise.

(d) Effect of Errors and Irregularities in Depositions.

(1) As to Notice. All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

(2) As to Disqualification of Officer. Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(3) As to Taking of Deposition.

(A) Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(B) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the taking of the deposition.

~~(C) Objections to the form of written questions submitted under Rule 31 are waived unless served in writing upon the party propounding them within the time allowed for serving the succeeding cross or other questions and within 5 days after service of the last questions authorized.~~

~~**(4) As to Completion and Return of Deposition.** Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted, filed, or otherwise dealt with by the officer under Rules 30 and 31 are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained.~~

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) through (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) **Availability.** Without leave of court or written stipulation, any party may serve upon any other party written interrogatories, not exceeding 40 in number including all discrete subparts, to be answered by the party served or, if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party. Leave to serve additional interrogatories shall be granted to the extent consistent with the principles of Rule 26(b)(2). Without leave of court or written stipulation, interrogatories may not be served before the time specified in Rule 26(a).~~

~~(b) **Answers and Objections.**~~

~~(1) Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the objecting party shall state the reasons for objection and shall answer to the extent the interrogatory is not objectionable. The answers shall first set forth each interrogatory asked, followed by the answer or response of the party.~~

~~(2) The answers are to be signed by the person making them, and the objections signed by the attorney making them.~~

~~(3) The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within 30 days after the service of the interrogatories. A shorter or longer time may be directed by the court or in the absence of such an order, agreed to in writing by the parties subject to Rule 29.~~

~~(4) All grounds for an objection to an interrogatory shall be stated with specificity. Any ground not stated in a timely objection is waived unless the party's failure to object is excused by the court for good cause shown.~~

~~(5) The party submitting the interrogatories may move for an order under Rule 37(a) with respect to any objection to or other failure to answer an interrogatory.~~

~~(c) **Scope; Use at Trial.** Interrogatories may relate to any matters which can be inquired into under Rule 26(b), and the answers may be used to the extent permitted by the rules of evidence. An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the court may order that such an interrogatory need not be answered until after designated discovery has been completed or until a pretrial conference or other later time.~~

~~(d) Option to Produce Business Records. Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon whom the interrogatory has been served or from an examination, audit or inspection of such business records, including a compilation, abstract or summary thereof, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries. A specification shall be in sufficient detail to permit the interrogating party to locate and to identify, as readily as can the party served, the records from which the answer may be ascertained.~~

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 10 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. PRODUCTION OF DOCUMENTS AND THINGS AND ENTRY UPON LAND FOR INSPECTION AND OTHER PURPOSES~~

~~**(a) Scope.** Any party may serve on any other party a request (1) to produce and permit the party making the request, or someone acting on the requestor's behalf, to inspect and copy, any designated documents (including writings, drawings, graphs, charts, photographs, phonorecords, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form), or to inspect and copy, test, or sample any tangible things which constitute or contain matters within the scope of Rule 26(b) and which are in the possession, custody or control of the party upon whom the request is served; or (2) to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon, within the scope of Rule 26(b).~~

~~**(b) Procedure.** The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts. Without leave of court or written stipulation, a request may not be served before the time specified in Rule 26(a).~~

~~The party upon whom the request is served shall serve a written response within 30 days after the service of the request. A shorter or longer time may be directed by the court or, in absence of such an order, agreed to in writing by the parties subject to Rule 29. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. The response shall first set forth each request for production made, followed by the answer or objections thereto. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.~~

~~A party who produces documents for inspection shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.~~

~~**(c) Persons Not Parties.** A person not a party to the action may be compelled to produce documents and things or to submit to an inspection as provided in Rule 45.~~

~~**(d) Expenses of Copying.** The party requesting that documents be copied must pay the reasonable cost therefor and the court may, upon such terms as are just, direct the respondent to copy the documents.~~

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 10 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; and

(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 EXAMINATION OF PERSONS**~~

~~**(a) Order for Examination.** When the mental or physical condition (including the blood group) of a party, or of a person in the custody or under the legal control of a party, is in controversy, the court in which the action is pending may order the party to submit to a physical or mental examination by a suitably licensed or certified examiner or to produce for examination the person in the party's custody or legal control. The order may be made only on motion for good cause shown and upon notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.~~

~~**(b) Report of Examiner.**~~

~~(1) If requested by the party against whom an order is made under Rule 35(a) or the person examined, the party causing the examination to be made shall deliver to the requesting party a copy of the detailed written report of the examiner setting out the examiner's findings, including results of all tests made, diagnoses and conclusions, together with like reports of all earlier examinations of the same condition. After delivery the party causing the examination shall be entitled upon request to receive from the party against whom the order is made a like report of any examination, previously or thereafter made, of the same condition, unless, in the case of a report of examination of a person not a party, the party shows that the party is unable to obtain it. The court on motion may make an order against a party requiring delivery of a report on such terms as are just, and if an examiner fails or refuses to make a report the court may exclude the examiner's testimony if offered at the trial.~~

~~(2) By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the party examined waives any privilege the party may have in that action or any other involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine the party in respect of the same mental or physical condition.~~

~~(3) This subdivision applies to examinations made by agreement of the parties, unless the agreement expressly provides otherwise. This subdivision does not preclude discovery of a report of an examiner or the taking of a deposition of the examiner in accordance with the provisions of any other rule.~~

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) Request for Admission.** A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of Rule 26(b) set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. Without leave of court or written stipulation, requests for admission may not be served before the time specified in Rule 26(a).~~

~~Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within 30 days after service of the request, or within such shorter or longer time as the court may allow, or the parties may agree to in writing, subject to Rule 29, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by the party's attorney. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify an answer or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states that the party has made reasonable inquiry and that the information known or readily obtainable by the party is insufficient to enable the party to admit or deny. A party who considers~~

~~that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; the party may, subject to the provisions of Rule 37(c), deny the matter or set forth reasons why the party cannot admit or deny it. The answer shall first set forth each request for admission made, followed by the answer or response of the party.~~

~~The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the court determines that an objection is justified, it shall order that an answer be served. If the court determines that an answer does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended answer be served. The court may, in lieu of these orders, determine that final disposition of the request be made at a pretrial conference or at a designated time prior to trial. The provisions of Rule 37(a)(4) apply to the award of expenses incurred in relation to the motion.~~

~~**(b) Effect of Admission.** Any matter admitted under this rule is conclusively established unless the court on motion permits withdrawal or amendment of the admission. Subject to the provisions of Rule 16 governing amendment of a pretrial order, the court may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice that party in maintaining the action or defense on the merits. Any admission made by a party under this rule is for the purpose of the pending action only and is not an admission for any other purpose nor may it be used against the party in any other proceeding.~~

~~**(c) Number of Requests for Admissions.** No party shall serve upon any other single party to an action more than 40 requests for admissions that do not relate to the genuineness of documents, in which subparts of requests shall count as separate requests, without first obtaining a written stipulation, subject to Rule 29, of such party to additional requests or obtaining an order of the court upon a showing of good cause granting leave to serve a specific number of additional requests.~~

~~The number of requests for admission of the genuineness of documents is not limited except as justice requires to protect the responding party from annoyance, oppression, or undue burden and expense.~~

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 10 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 DISCLOSURE OR COOPERATE IN DISCOVERY; SANCTIONS~~

~~-~~

~~(a) Motion for Order Compelling Disclosure or Discovery. A party, upon reasonable notice to other parties and all persons affected thereby, may apply for an order compelling disclosure or discovery as follows:~~

~~-~~

~~(1) Appropriate Court. After complying with Rule 25A in the court where the action is pending, an application for an order to a party may be made to the court in which the action is pending, or, on matters relating to a deposition, to the justice court in the township where the~~

~~deposition is being taken. An application for an order to a deponent who is not a party shall be made to the justice court in the township where the deposition is being, or is to be, taken.~~

~~**(2) Motion.**~~

~~(A) If a party fails to make a disclosure required by Rule 16.1(a), any other party may move to compel disclosure and for appropriate sanctions. The motion must include a certification that the movant has in good faith conferred or attempted to confer with the party not making the disclosure in an effort to secure the disclosure without court action.~~

~~(B) If a deponent fails to answer a question propounded or submitted under Rules 30 or 31, or a corporation or other entity fails to make a designation under Rule 30(b)(6) or 31(a), or a party fails to answer an interrogatory submitted under Rule 33, or if a party, in response to a request for inspection submitted under Rule 34, fails to respond that inspection will be permitted as requested or fails to permit inspection as requested, the discovering party may move for an order compelling an answer, or a designation, or an order compelling inspection in accordance with the request. 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 the discovery in an effort to secure the information or material without court action. When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before applying for an order.~~

~~**(3) Evasive or Incomplete Disclosure, Answer or Response.** For purposes of this subdivision an evasive or incomplete disclosure, answer or response is to be treated as a failure to disclose, answer or respond.~~

~~**(4) Expenses and Sanctions.**~~

~~(A) If the motion is granted or if the disclosure or requested discovery is provided after the motion was filed, the court shall, after affording an opportunity to be heard, require the party or deponent whose conduct necessitated the motion or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses incurred in making the motion, including attorney's fees, unless the court finds that the motion was filed without the movant's first making a good faith effort to obtain the disclosure or discovery without court action, or that the opposing party's nondisclosure, response or objection was substantially justified, or that other circumstances make an award of expenses unjust.~~

~~(B) If the motion is denied, the court may enter any protective order authorized under Rule 26(c) and shall, after affording an opportunity to be heard, require the moving party or the attorney filing the motion or both of them to pay to the party or deponent who opposed the motion the reasonable expenses incurred in opposing the motion, including attorney's fees, unless the court finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust.~~

~~(C) If the motion is granted in part and denied in part, the court may enter any protective order authorized under Rule 26(c) and may, after affording an opportunity to be heard,~~

~~apportion the reasonable expenses incurred in relation to the motion among the parties and persons in a just manner.~~

~~**(b) Failure to Comply With Order.**~~

~~**(1) Sanctions — Deponent.** If a deponent fails to be sworn or to answer a question after being directed to do so by the court the failure may be considered a contempt of court.~~

~~**(2) Sanctions — Party.** If a party or an officer, director, or managing agent of a party or a person designated under Rule 30(b)(6) or 31(a) to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under subdivision (a) of this rule or Rule 35, or if a party fails to obey an order entered under Rule 16, the court in which the action is pending may make such orders in regard to the failure as are just, and among others the following:~~

~~(A) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;~~

~~(B) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence;~~

~~(C) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party;~~

~~(D) In lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of court the failure to obey any orders except an order to submit to a physical or mental examination;~~

~~(E) Where a party has failed to comply with an order under Rule 35(a) requiring that party to produce another for examination, such orders as are listed in subparagraphs (A), (B), and (C) of this subdivision, unless the party failing to comply shows that that party is unable to produce such person for examination.~~

~~In lieu of any of the foregoing orders or in addition thereto, the court shall require the party failing to obey the order or the attorney advising that party or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.~~

~~**(c) Failure to Disclose; False or Misleading Disclosure; Refusal to Admit.**~~

~~(1) A party that without substantial justification fails to disclose information required by Rule 16.1 or 26(e)(1), or to amend a prior response to discovery as required by Rule 26(e)(2), is not, unless such failure is harmless, permitted to use as evidence at a trial, at a hearing, or on a motion any witness or information not so disclosed. In addition to or in lieu of this sanction, the court, on motion and after affording an opportunity to be heard, may impose other appropriate sanctions. In addition to requiring payment of reasonable expenses, including attorney's fees,~~

~~caused by the failure, these sanctions may include any of the actions authorized under Rule 37(b)(2) (A), (B), and (C) and may include informing the jury of the failure to make the disclosure.~~

~~(2) If a party fails to admit the genuineness of any document or the truth of any matter as requested under Rule 36, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, the requesting party may apply to the court for an order requiring the other party to pay the reasonable expenses incurred in making that proof, including reasonable attorney's fees. The court shall make the order unless it finds that (A) the request was held objectionable pursuant to Rule 36(a), or (B) the admission sought was of no substantial importance, or (C) the party failing to admit had reasonable ground to believe that the party might prevail on the matter, or (D) there was other good reason for the failure to admit.~~

~~**(d) Failure of Party to Attend at Own Deposition or Serve Answers to Interrogatories or Respond to Request for Inspection.** If a party or an officer, director, or managing agent of a party or a person designated under Rule 30(b)(6) or 31(a) to testify on behalf of a party fails (1) to appear before the officer who is to take the deposition, after being served with a proper notice, or (2) to serve answers or objections to interrogatories submitted under Rule 33, after proper service of the interrogatories, or (3) to serve a written response to a request for inspection submitted under Rule 34, after proper service of the request, the court in which the action is pending on motion may make such orders in regard to the failure as are just, and among others it may take any action authorized under subparagraphs (A), (B), and (C) of subdivision (b)(2) of this rule. Any motion specifying a failure under clause (2) or (3) of this subdivision shall include a certification that the movant has in good faith conferred or attempted to confer with the party failing to answer or respond in an effort to obtain such answer or response without court action. In lieu of any order or in addition thereto, the court shall require the party failing to act or the attorney advising that party or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.~~

~~The failure to act described in this subdivision may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has applied for a protective order as provided by Rule 26(c).~~

~~**(e) Reserved.**~~

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

(a) Motion for an 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 ~~shall~~ ***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.

~~Any party may demand a trial by jury of any issue triable of right by a jury by filing and serving upon the other parties a demand therefor in writing at the time that the party requests the matter be set for trial or before the entry of the order first setting the case for trial, whichever comes first.~~

(c) ***Specifying Issues.*** ~~**Same: Specification of Issues.**~~ In ~~the~~ *its* demand, a party may specify the issues which the party wishes ~~so tried~~ *to have tried by a jury*; otherwise, ***it is considered*** ~~the party shall be deemed~~ to have demanded ~~trial by~~ ***a*** jury ***trial*** for all the issues so triable. If the party

has demanded *a* ~~trial by~~ jury *trial* for only some of the issues, any other party *may*, within *14* ~~10~~ days after service of the demand or ***within a shorter time ordered by the court,*** ~~such lesser time as the court may order, may~~ serve a demand for ~~trial by~~ *a* jury ***trial on any other or all factual issues triable by jury.*** ~~of any other or all of the issues of fact in the action.~~

(d) Waiver; ***Withdrawal*** ~~**Deposit of Jurors' Fees.**~~ ~~The failure of a party to serve a demand as required by this rule and to file it as required by Rule 5(d) and to deposit the fees required by this rule constitutes a waiver by the party of trial by jury. At the time a demand is filed as required by Rule 5(d), the party demanding the trial by jury shall deposit with the clerk or justice an amount of money equal to the fees to be paid the trial jurors for their services for the first day of the trial. A demand for trial by jury made as herein provided may be withdrawn only with the consent of the parties, or for good cause shown upon such terms and conditions as the court may fix.~~

(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 ~~shall~~ ***must*** be designated as a jury action. The trial of all issues so demanded ~~shall~~ ***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*** ~~of record, by written stipulation filed with the court or by an oral stipulation made in open court and entered in the record, consent to trial by the court sitting without a jury 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.*** ~~a right of trial by jury of some or all of those issues does not exist under the Constitution or statutes of the State~~.

(b) By the Court. Issues not demanded for trial by jury as provided in Rule 38 ~~shall~~ *must* 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 *may, on motion, order a jury trial on any or all issues for which a jury might have been demanded.* ~~in its discretion upon motion may order a trial by a jury of any or all issues.~~

(c) ***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*~~ *must 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 should ~~*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.

~~**(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.~~

RULE 39A. JURY TRIAL PROCEDURES

(a) Calendaring. Unless otherwise stipulated to by the parties, or for good cause shown, jury trials ~~shall~~ ***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. ~~There shall be no formal reporting of the proceedings unless paid for by the party or parties requesting the same.~~ *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~~ reporting.*

(c) Time Limits for Conduct of Trial. Plaintiff(s) and defendant(s) ~~shall~~ ~~***will be***~~ *are* allowed 2 hours each to present their respective cases unless a different time ~~frame~~ *limit* 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 ~~shall~~ ***must*** be attributed to the party cross-examining for calculation of time allowed. For the purposes of this rule, all plaintiffs collectively ~~shall~~ ~~***must be***~~ *are* treated as one plaintiff, and all defendants collectively ~~shall~~ ~~***must be***~~ *are* treated as one defendant.

(d) Pretrial Memorandum. *The parties shall must file a joint Pretrial Memorandum no* ~~No~~ later than 45 days before the scheduled jury trial, *unless otherwise ordered by the court*. ~~the parties shall ***must*** file with the court, a joint pretrial memorandum.~~ Before the deadline for filing the memorandum, the parties ~~shall~~ ***must*** meet, personally or telephonically, to discuss and prepare the memorandum. The memorandum ~~shall~~ ***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~~ *must* include citation to, and a copy of, the statute, rule or case law supporting the proposed instruction. The court ~~shall~~ *should* encourage limited jury instructions.

(6) All objections to proposed jury instructions.

(7) Any other requirements under local rules.

(e) Evidentiary Objections. *The parties ~~shall~~ must file 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 no* ~~No~~ later than 30 days before the scheduled jury trial, *unless otherwise ordered by the court*. ~~the parties shall *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~~ *14 days after the filing of the evidentiary objections or motions, unless a different time is set by the court*. No replies or supplemental pleadings are permitted, *unless otherwise ordered by the court*.

(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 ~~*justice*~~ *judge*'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 shall *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 20 *30* days before the scheduled trial, the parties shall *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 shall *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)~~ *(3)* **Cap on Recovery for Expert Witness Fees.** Recovery for expert witness fees ~~shall be~~ *is* limited to ~~$500~~ *$1,500* per expert.

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

(g) Pretrial Conference. ~~No later than 15 days before the scheduled trial~~ *At a time set by the court*, the parties ~~shall~~ ***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. ~~Parties~~ *Each party* ~~shall~~ *must* create ~~a joint~~ *an* evidentiary booklet that *contains all exhibits* ~~may include, but is not limited to, photographs, facts, diagrams, and other evidence~~ to be presented. ~~*Plaintiffs*~~ *Plaintiff's proposed exhibits must be marked 1, 2, 3, etc. and defense exhibits must be marked A, B, C, etc.* The booklet ~~shall~~ ***must*** be submitted with the joint pretrial memorandum *unless otherwise ordered by the court*. Any evidentiary objections relating to ~~the booklet shall~~ *any proposed exhibit must* be raised pursuant to Rule 39A(e) or ~~shall~~ *will* 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~~ *$5,000*, unless recoverable attorney fees are governed by a written agreement between the parties allowing a greater award.

Rule 40. ~~Assignment~~ *Scheduling* of Cases for Trial

The justice courts *may* ~~***must***~~ ***provide by local rule the procedure for scheduling trials. The court must give priority to actions entitled to priority by statute.*** ~~shall provide for the placing of actions upon the trial calendar (1) without request of the parties but upon notice to the parties or (2) upon request of a party and notice to the other parties or (3) in such other manner as the courts deem expedient. Precedence shall be given to actions entitled thereto by any statute.~~

~~RULE 41. DISMISSAL OF ACTIONS~~

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

~~(1) By Plaintiff; by Stipulation. Subject to the provisions of Rule 23(e), of Rule 66, and of any statute, an action may be dismissed by the plaintiff upon repayment of defendants' filing fees, without order of court (i) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs, or (ii) by filing a stipulation of dismissal signed by all parties who have appeared in the action. Unless~~

otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in any court of the United States or of any state an action based on or including the same claim.

(2) By Order of Court. Except as provided in subdivision (a)(1) of this rule, an action shall not be dismissed at the plaintiff's instance save upon order of the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon the defendant of the plaintiff's motion to dismiss, the action shall not be dismissed against the defendant's objection unless the counterclaim can remain pending for independent adjudication by the court. Unless otherwise specified in the order, a dismissal under this paragraph is without prejudice.

(b) Involuntary Dismissal: Effect Thereof. For failure of the plaintiff to comply with these rules or any order of court, a defendant may move for dismissal of an action or of any claim against the defendant. Unless the court in its order for dismissal otherwise specifies, a dismissal under this subdivision and any dismissal not provided for in this rule, other than a dismissal for lack of jurisdiction, for improper venue, or for failure to join a party under Rule 19, operates as an adjudication upon the merits.

(c) Dismissal of Counterclaim, Cross-Claim, or Third-Party Claim. The provisions of this rule apply to the dismissal of any counterclaim, cross-claim, or third-party claim. A voluntary dismissal by the claimant alone pursuant to subdivision (a)(1) of this rule shall be made before a responsive pleading is served or, if there is none, before the introduction of evidence at the trial or hearing.

(d) Costs of Previously Dismissed Action. If a plaintiff who has once dismissed an action in any court commences an action based upon or including the same claim against the same defendant, the court may make such order for the payment of costs of the action previously dismissed as it may deem proper and may stay the proceedings in the action until the plaintiff has complied with the order.

(e) Want of Prosecution.

The court may in its discretion dismiss any action for want of prosecution on motion of any party or on the court's own motion and after due notice to the parties, whenever plaintiff has failed for 2 years after action is filed to bring such action to trial.

Any action heretofore or hereafter commenced shall be dismissed by the court in which the same shall have been commenced or to which it may be transferred on motion of any party, or on the court's own motion, after due notice to the parties, unless such action is brought to trial within 5 years after the plaintiff has filed the action, except where the parties have stipulated in writing that the time may be extended.

When, in any action after judgment, a motion for a new trial has been made and a new trial granted, such action shall be dismissed on motion of any party after due notice to the parties, or by the court of its own motion, if no appeal has been taken, unless such action is brought to trial

~~within 3 years after the entry of the order granting a new trial, except when the parties have stipulated in writing that the time may be extended.~~

~~When in an action after judgment, an appeal has been taken and judgment reversed with cause remanded for a new trial (or when an appeal has been taken from an order granting a new trial and such order is affirmed on appeal), the action must be dismissed by the trial court on motion of any party after due notice to the parties, or of its own motion, unless brought to trial within 3 years from the date upon which remittitur is filed by the clerk of the trial court. A dismissal under this subdivision (e) is a bar to another action upon the same claim for relief against the same defendants unless the court otherwise provides.~~

Rule 41. Dismissal of Actions

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

(1) ***By the Plaintiff.***

(A) ***Without a Court Order.*** *Subject to Rule~~s~~ 23(f) ~~and 23.1~~ 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, Crossclaim, or Third-Party Claim.*** *This rule applies to a dismissal of any counterclaim, crossclaim, 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 motion, after notice to the parties, dismiss any action for want of prosecution~~, 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.** When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.~~

~~**(b) Separate Trials.** The court, in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial of any claim, cross-claim, counterclaim, or third-party claim, or of any separate issue or of any number of claims, cross-claims, counterclaims, third-party claims, or issues, always preserving inviolate the right of trial by jury.~~

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, crossclaims, 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 ~~shall~~ ***must*** be taken in open court, unless otherwise provided by ~~these rules~~ ***court rule*** or by statute. ~~The court may, for good cause shown in compelling circumstances and upon appropriate safeguards, permit presentation of testimony in open court by contemporaneous transmission from a different location.~~

(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~~ *relies on facts outside the* record, the court may hear the matter on affidavits ~~presented by the respective parties, but the court~~ *or* may ~~direct that~~ *hear* ~~the matter be heard~~ *it* 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. ~~Subject to~~ *Unless* a timely objection *has been made* pursuant to Rule 39A(e), or ~~otherwise stipulated to~~ *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, ~~or any other such documents as stipulated to,~~ 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 ~~shall~~ ***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. PROOF OF OFFICIAL RECORD~~

~~(a) Authentication.~~

~~(1) **Domestic.** An official record kept within the United States, or any state, district, commonwealth, or within a territory subject to the administrative or judicial jurisdiction of the United States, or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by the officer's deputy, and accompanied by a certificate that such officer has the custody. The certificate may be made by a judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office and having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of the officer's office.~~

~~(2) **Foreign.** A foreign official record, or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof; or a copy thereof, attested by a person authorized to make the attestation, and accompanied by a final certification as to the genuineness of the signature and official position (i) of the attesting person, or (ii) of any foreign official whose certificate of genuineness of signature and official position relates to the attestation or is in a chain of certificates of genuineness of signature and official position relating to the attestation. A final certification may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of the documents, the court may, for good cause shown, (i) admit an attested copy without final certification or (ii) permit the foreign official record to be evidenced by an attested summary with or without a final certification. The final certification is unnecessary if the record and the attestation are certified as provided in a treaty or convention to which the United States and the foreign country in which the official record is located are parties.~~

~~(b) **Lack of Record.** A written statement that after diligent search no record or entry of a specified tenor is found to exist in the records designated by the statement, authenticated as provided in subdivision (a)(1) of this rule in the case of a domestic record, or complying with the requirements of subdivision (a)(2) of this rule for a summary in the case of a foreign record, is admissible as evidence that the records contain no such record or entry.~~

~~(c) **Other Proof.** This rule does not prevent the proof of official records or of entry or lack of entry therein by any method authorized by law.~~

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. Determining Foreign Law

A party who intends to raise an issue concerning the law of a foreign country ~~shall~~ ***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~~ *as evidence*. The court's determination ~~shall~~ ***must*** be treated as a ruling on a question of law.

~~**RULE 45. SUBPOENA**~~

~~**(a) Form; Issuance.**~~

~~(1) Every subpoena shall~~

(A) state the name of the court from which it is issued; and

(B) state the title of the action, the name of the court in which it is pending, and its civil case number; and

(C) command each person to whom it is directed to attend and give testimony or to produce and permit inspection and copying of designated books, documents or tangible things in the possession, custody or control of that person, or to permit inspection of premises, at a time and place therein specified; and

(D) set forth the text of subdivisions (c) and (d) of this rule.

A command to produce evidence or permit inspection may be joined with a command to appear at trial or hearing or at deposition, or may be issued separately.

(2) A subpoena commanding attendance at a trial or hearing shall issue from the court for the township in which the hearing or trial is to be held. A subpoena for attendance at a deposition shall issue from the court for the township in which the action is pending. If separate from a subpoena commanding the attendance of a person, a subpoena for production or inspection shall issue from the court for the township in which the action is pending.

(3) The clerk or justice shall issue a subpoena, signed but otherwise in blank, to a party requesting it, who shall complete it before service. An attorney as officer of the court may also issue and sign a subpoena on behalf of the court if the attorney is authorized to practice therein.

(b) Service.

(1) A subpoena may be served by any person who is not a party and is not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and, if the person's attendance is commanded, by tendering to that person the fees for one day's attendance and the mileage allowed by law. When the subpoena is issued on behalf of the State or an officer or agency thereof, fees and mileage need not be tendered. Prior notice, not less than 15 days, of any commanded production of documents and things or inspection of premises before trial shall be served on each party in the manner prescribed by Rule 5(b).

(2) Subject to the provisions of clause (ii) of subparagraph (c)(3)(A) of this rule, a subpoena may be served at any place within the state.

(3) Proof of service when necessary shall be made by filing with the clerk or justice of the court by which the subpoena is issued a statement of the date and manner of service and of the names of the persons served, certified by the person who made the service.

~~(c) Protection of Persons Subject to Subpoena.~~

~~(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.~~

~~(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.~~

~~(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.~~

~~(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it~~

~~(i) fails to allow reasonable time for compliance;~~

~~(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or~~

~~(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or~~

~~(iv) subjects a person to undue burden.~~

~~(B) If a subpoena~~

~~(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or~~

~~(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party,~~

~~the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.~~

~~**(d) Duties in Responding to Subpoena.**~~

~~(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.~~

~~(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.~~

~~**(e) Contempt.** Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued.~~

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 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. EXCEPTIONS UNNECESSARY**~~

~~Formal exceptions to rulings or orders of the court are unnecessary; but for all purposes for which an exception has heretofore been necessary it is sufficient that a party, at the time the ruling or order of the court is made or sought, makes known to the court the action which the party desires the court to take or the party's objection to the action of the court and the party's grounds therefor; and, if a party has no opportunity to object to a ruling or order at the time it is made, the absence of an objection does not thereafter prejudice the party.~~

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~~ *must* be composed of 4 jurors. ~~For good cause shown to the court, a party may request a jury of 6 members and, unless otherwise stipulated, additional jurors' fees for a 6-member jury shall be paid by the party requesting the same within 10 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 4 members; 14 potential jurors will be selected for a jury of 6 members~~. If, after the exercise of all peremptory challenges or challenges for cause, the resulting jury panel is greater

than 4 members ~~for a 4-member jury~~, the first 4 members called will constitute the jury panel. ~~In the event the resulting jury panel is greater than 6 members for a 6-member jury, the first 6 members called will constitute the jury panel.~~

(c) Examination of Jurors. Each side ~~shall be~~ is allowed 15 minutes of voir dire, which time ~~shall~~ *must* not be deducted from the 2 hours of presentation time provided under Rule 39A(c).

(d) Challenges. ~~Each side shall be allowed to strike 2 jurors by peremptory challenge. Challenges for cause will remain the same as provided by statute.~~ ***The court must allow peremptory challenges and challenges for cause as provided in NRS Chapter 16, except that each side ~~is~~ is only entitled to two peremptory challenges.***

(e) Alternate Juror. ***In addition to the regular jury, the*** ~~The~~ court may direct that one *alternate* juror ~~in addition to the regular jury~~ be called and impaneled to sit ~~as an alternate juror~~. ~~***The alternate juror must be the next potential juror from the pool.***~~ The alternate juror ***must*** ~~shall~~ 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*** ~~shall~~ be drawn in the same manner, ~~shall~~ have the same qualifications, ~~shall~~ be subject to the same examination and challenges, ~~shall~~ take the same oath, and ~~shall~~ have the same functions, powers, facilities, and privileges as the regular jurors. An alternate juror ~~who does not~~ ***may*** replace a regular juror ~~shall be discharged~~ ***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 3 of the jurors ~~shall~~ ***must*** be taken as a verdict or finding of the jury composed of 4 members. ~~For a 6-member jury, a verdict or a finding of 5 of the jurors shall ***must*** be taken as a verdict or finding of the jury.~~

~~RULE 49. SPECIAL VERDICTS AND INTERROGATORIES~~

~~**(a) Special Verdicts.** The court may require a jury to return only a special verdict in the form of a special written finding upon each issue of fact. In that event the court may submit to the jury written questions susceptible of categorical or other brief answer or may submit written forms of the several special findings which might properly be made under the pleadings and evidence; or it may use such other method of submitting the issues and requiring the written findings thereon as it deems most appropriate. The court shall give to the jury such explanation and instruction concerning the matter thus submitted as may be necessary to enable the jury to make its findings upon each issue. If in so doing the court omits any issue of fact raised by the pleadings or by the evidence, each party waives the right to a trial by jury of the issue so omitted unless before the jury retires the party demands its submission to the jury. As to an issue omitted without such demand the court may make a finding; or, if it fails to do so, it shall be deemed to have made a finding in accord with the judgment on the special verdict.~~

~~(b) General Verdict Accompanied by Answer to Interrogatories. The court may submit to the jury, together with appropriate forms for a general verdict, written interrogatories upon one or more issues of fact the decision of which is necessary to a verdict. The court shall give such explanation or instruction as may be necessary to enable the jury both to make answers to the interrogatories and to render a general verdict, and the court shall direct the jury both to make written answers and to render a general verdict. When the general verdict and the answers are harmonious, the appropriate judgment upon the verdict and answers shall be entered pursuant to Rule 58. When the answers are consistent with each other but one or more is inconsistent with the general verdict, judgment may be entered pursuant to Rule 58 in accordance with the answers, notwithstanding the general verdict, or the court may return the jury for further consideration of its answers and verdict or may order a new trial. When the answers are inconsistent with each other and one or more is likewise inconsistent with the general verdict, the court shall not direct the entry of judgment but may return the jury for further consideration of its answers and verdict or may order a new trial.~~

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 JURY TRIALS; ALTERNATIVE MOTION FOR NEW TRIAL; CONDITIONAL RULINGS**~~

~~**(a) Judgment as a Matter of Law.**~~

~~(1) If during a trial by jury, a party has been fully heard on an issue and on the facts and law a party has failed to prove a sufficient issue for the jury, the court may determine the issue against that party and may grant a motion for judgment as a matter of law against that party with respect to a claim or defense that cannot under the controlling law be maintained or defeated without a favorable finding on that issue.~~

~~(2) Motions for judgment as a matter of law may be made at the close of the evidence offered by the nonmoving party or at the close of the case. Such a motion shall specify the judgment sought and the law and the facts on which the moving party is entitled to the judgment.~~

~~**(b) Renewing Motion for Judgment After Trial; Alternative Motion for New Trial.** If, for any reason, the court does not grant a motion for judgment as a matter of law made at the close of all the evidence, 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. The movant may renew its request for judgment as a matter of law by filing a motion no later than 10 days after service of written notice of entry of judgment and may alternatively request a new trial or join a motion for new trial under Rule 59. In ruling on a renewed motion the court may:~~

~~(1) if a verdict was returned:~~

~~(A) allow the judgment to stand,~~

~~(B) order a new trial, or~~

~~(C) direct entry of judgment as a matter of law; or~~

~~(2) if no verdict was returned:~~

~~(A) order a new trial, or~~

~~(B) direct entry of judgment as a matter of law.~~

~~**(c) Granting Renewed Motion for Judgment as a Matter of Law; Conditional Rulings; New Trial Motion.**~~

~~(1) If the renewed motion for judgment as a matter of law is granted, the court shall also rule on the motion for new trial, if any, by determining whether it should be granted if the judgment is thereafter vacated or reversed, and shall specify the grounds for granting or denying the motion for new trial. If the motion for a new trial is thus conditionally granted, the order thereon does not affect the finality of the judgment. In case the motion for a new trial has been conditionally granted and the judgment is reversed on appeal, the new trial shall proceed unless the appellate court has otherwise ordered. In case the motion for a new trial has been conditionally denied, the appellee on appeal may assert error in that denial; and if the judgment is reversed on appeal, subsequent proceedings shall be in accordance with the order of the appellate court.~~

~~(2) Any motion for a new trial under Rule 59 by a party against whom judgment as a matter of law is rendered shall be filed not later than 10 days after service of written notice of entry of the judgment.~~

~~**(d) Same: Denial of Motion for Judgment as a Matter of Law.** If the motion for judgment as a matter of law is denied, the party who prevailed on that motion may, as appellee, assert grounds entitling the party to a new trial in the event the appellate court concludes that the trial court erred in denying the motion for judgment. If the appellate court reverses the judgment, nothing in this rule precludes it from determining that the appellee is entitled to a new trial, or from directing the trial court to determine whether a new trial shall be granted.~~

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 JURY; OBJECTIONS; PRESERVING A CLAIM OF ERROR**~~

~~(a) Written Requests; Format.~~

~~(1) At the close of the evidence or at such earlier time as the court reasonably directs, a party may file, in addition to any jury instructions proposed pursuant to Rule 39A(d), written requests that the court instruct the jury on the law as set forth in the requests. The written requests shall be in the format directed by the court. If a party relies on statute, rule or case law to support or object to a requested instruction, the party shall provide a citation to or a copy of the precedent. An original and one copy of each instruction requested by a party shall be filed with the court. The copies shall be appropriately numbered and indicate who filed them.~~

~~(2) After the close of the evidence, a party may:~~

~~(A) file requests for instructions on issues that could not reasonably have been anticipated at an earlier time for requests set under Rule 51(a)(1), and~~

~~(B) with the court's permission file untimely requests for instructions on any issue.~~

~~(b) Instructions.~~

~~(1) The court:~~

~~(A) shall inform counsel of its proposed instructions and proposed action on the requests before instructing the jury and before the arguments to the jury; and~~

(B) must give the parties an opportunity to object on the record and out of the jury's hearing to the proposed instructions and actions on requests before the instructions and arguments are delivered.

(2) Whenever the court refuses to give any requested instruction, the court shall write the word ''refused'' in the margin of the original and initial or sign the notation. Whenever the court modifies any requested instruction, the court shall mark the same in such manner that it shall distinctly appear how the instruction has been modified and shall initial or sign the notation. The instructions given to the jury shall be firmly bound together and the court shall write the word ''given'' at the conclusion thereof and sign the last of the instructions. After the jury has reached a verdict and been discharged, the originals and copies of all instructions, whether given, modified or refused, shall be made part of the trial court record.

(3) The court shall instruct the jury before the parties' arguments to the jury, but this shall not prevent the giving of further instructions that may become necessary by reason of the argument. The jury shall be permitted to take to the jury room the written instructions given by the court, or a true copy thereof.

(c) Objections.

(1) 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 of the objection.

(2) An objection is timely if:

(A) a party that has been informed of an instruction or action on a request before the jury is instructed and before final arguments to the jury, as provided by Rule 51(b)(1)(A), objects at the opportunity for objection required by Rule 51(b)(1)(B); or

(B) a party that has not been informed of an instruction or action on a request before the time for objection provided under Rule 51(b)(1)(B) objects promptly after learning that the instruction or request will be, or has been, given or refused.

(d) Assigning Error; Plain Error.

(1) A party may assign as error:

(A) an error in an instruction actually given if that party made a proper objection under Rule 51(c), or

(B) a failure to give an instruction if that party made a proper request under Rule 51(a), and, if the court did not make a definitive ruling on the record rejecting the request, also made a proper objection under Rule 51(c).

~~(2) A court may consider a plain error in the instructions affecting substantial rights that has not been preserved as required by Rule 51(d)(1)(A) or (B).~~

~~(e) Scope. This rule governs instructions to the trial jury on the law that governs the verdict. Other instructions, including preliminary instructions to a venire and cautionary or limiting instructions delivered in immediate response to events at trial, are not within the scope of this rule.~~

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 BY THE COURT; JUDGMENT ON PARTIAL FINDINGS~~

~~(a) **Effect.** If a jury is not demanded, the justice shall hear the evidence and decide all questions of fact and law and render judgment accordingly. The court may, but absent demand therefor need not, find the facts specially and state separately its conclusions of law thereon. If the court has not, in writing, found the facts specially and set forth its conclusions of law, then, upon written request therefor filed with the court within 3 judicial days of written notice of the court's decision or if the decision is announced in open court, within 3 days thereof, a party appealing from the decision under Rule 72(a) and (b) may demand that the court make and enter specific findings of fact and conclusions of law. Requests for findings are not necessary for purposes of review, and when a request for findings is made, it does not toll the time within which an appeal must be made pursuant to Rule 72B. Any such findings shall be made a part of the record on appeal. If findings of fact are made, they shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses. The findings of a master, to the extent that the court adopts them, shall be considered as the findings of the court. Findings of fact and conclusions of law are unnecessary on decisions of motions under Rules 12 or 56 or any other motion except as provided in subdivision (c) of this rule. But an order granting summary judgment shall set forth the undisputed material facts and legal determinations on which the court granted summary judgment.~~

~~When a request for findings and conclusions has been filed, such findings and conclusions must be made, entered and served upon all counsel of record, or any party not represented by counsel within 7 judicial days of such written request.~~

~~All proposed findings of fact, conclusions of law, judgments, orders and decrees and such other papers as the court may direct, shall be prepared in writing by the attorney for the prevailing party, if there is one.~~

~~(b) **Amendment.** Upon a party's motion filed not later than 10 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 motion may accompany a motion for a new trial under Rule 59. When findings of fact are made in actions tried without a jury, the sufficiency of the evidence supporting the findings may later be questioned whether or not in the justice court the party raising the question objected to the findings, moved to amend them, or moved for partial findings.~~

~~**(c) Judgment on Partial Findings.** If during a trial without a jury a party has been fully heard on an issue and the court finds against the party on that issue, the court may enter judgment as a matter of law against that party with respect to a claim or defense that cannot under the controlling law be maintained or defeated without a favorable finding on that issue, or the court may decline to render any judgment until the close of all the evidence. Such a judgment shall be supported by findings of fact and conclusions of law as required by subdivision (a) 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.~~ *Reserved.*

(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. ~~**MASTERS**~~ ***Reserved.***

~~**(a) Appointment and Compensation.**~~

~~(1) The court in which any action is pending may appoint a special master therein. As used in these rules the word "master" includes a referee, an auditor, an examiner and an assessor. The compensation to be allowed to a master shall be fixed by the court, and shall be charged upon such of the parties or paid out of any fund or subject matter of the action, which is in the custody and control of the court as the court may direct. The master shall not retain the master's report as security for the master's compensation; but when the party ordered to pay the compensation allowed by the court does not pay it after notice and within the time prescribed by the court, the master is entitled to a writ of execution against the delinquent party.~~

~~(2) Any party may object to the appointment of any person as a master on one or more of the following grounds:~~

~~1. A want of any of the qualifications prescribed by statute to render a person competent as a juror.~~

~~2. Consanguinity or affinity within the third degree to either party.~~

~~3. Standing in the relation of guardian and ward, master and servant, employer and clerk, or principal and agent to either party, or being a member of the family of either party, or a partner in business with either party, or being security on any bond or obligation for either party.~~

~~4. Having served as a juror or been a witness on any trial between the same parties for the same cause of action, or being then a witness in the cause.~~

~~5. Interest on the part of such person in the event of the action, or in the main question involved in the action.~~

~~6. Having formed or expressed an unqualified opinion or belief as to the merits of the actions.~~

~~7. The existence of a state of mind in such person evincing enmity against or bias to either party.~~

~~**(b) Reference.** A reference to a master shall be the exception and not the rule. In actions to be tried by a jury, a reference shall be made only when the issues are complicated; in actions to be tried without a jury, save in matters of account and of difficult computation of damages, a reference shall be made only upon a showing that some exceptional condition requires it.~~

~~**(c) Powers.** The order of reference to the master may specify or limit the master's powers and may direct the master to report only upon particular issues or to do or perform particular acts or to receive and report evidence only and may fix the time and place for beginning and closing the hearings and for the filing of the master's report. Subject to the specifications and limitations stated in the order, the master has and shall exercise the power to regulate all proceedings in every hearing before the master and to do all acts and take all measures necessary or proper for the~~

efficient performance of the master's duties under the order. The master may require the production before the master of evidence upon all matters embraced in the reference, including the production of all books, papers, vouchers, documents, and writings applicable thereto. The master may rule upon the admissibility of evidence unless otherwise directed by the order of reference and has the authority to put witnesses on oath and may examine them and may call the parties to the action and examine them upon oath. When a party so requests, the master shall make a record of the evidence offered and excluded in the same manner and subject to the same limitations as provided in Rule 43(c) and statutes for a court sitting without a jury.

(d) Proceedings.

(1) Meetings. When a reference is made, the clerk or justice shall forthwith furnish the master with a copy of the order of reference. Upon receipt thereof unless the order of reference otherwise provides, the master shall forthwith set a time and place for the first meeting of the parties or their attorneys to be held within 20 days after the date of the order of reference and shall notify the parties or their attorneys. It is the duty of the master to proceed with all reasonable diligence. Either party, on notice to the parties and master, may apply to the court for an order requiring the master to speed the proceedings and to make the report. If a party fails to appear at the time and place appointed, the master may proceed ex parte or, in the master's discretion, adjourn the proceedings to a future day, giving notice to the absent party of the adjournment.

(2) Witnesses. The parties may procure the attendance of witnesses before the master by the issuance and service of subpoenas as provided in Rule 45. If without adequate excuse a witness fails to appear or give evidence, the witness may be punished as for a contempt and be subjected to the consequences, penalties, and remedies provided in Rules 37 and 45.

(3) Statement of Accounts. When matters of accounting are in issue before the master, the master may prescribe the form in which the accounts shall be submitted and in any proper case may require or receive in evidence a statement by a certified public accountant who is called as a witness. Upon objection of a party to any of the items thus submitted or upon a showing that the form of statement is insufficient, the master may require a different form of statement to be furnished, or the accounts or specific items thereof to be proved by oral examination of the accounting parties or upon written interrogatories or in such other manner as the master directs.

(e) Report.

(1) Contents and Filing. The master shall prepare a report upon the matters submitted to the master by the order of reference and, if required to make findings of fact and conclusions of law, the master shall set them forth in the report. The master shall file the report with the clerk or justice and in an action to be tried without a jury, unless otherwise directed by the order of reference, shall file with it a transcript of the proceedings and of the evidence and the original exhibits. Unless otherwise directed by the order or reference, the master shall serve a copy of the report on each party.

(2) In Nonjury Actions. In an action to be tried without a jury the court shall accept the master's findings of fact unless clearly erroneous. Within 10 days after being served with notice

~~of the filing of the report any party may serve written objections thereto upon the other parties. Application to the court for action upon the report and upon objections thereto shall be by motion and upon notice as prescribed in Rule 6(d). The court after hearing may adopt the report or may modify it or may reject it in whole or in part or may receive further evidence or may recommit it with instructions.~~

~~**(3) In Jury Actions.** In an action to be tried by a jury the master shall not be directed to report the evidence. The master's findings upon the issues submitted to the master are admissible as evidence of the matters found and may be read to the jury, subject to the ruling of the court upon any objections in point of law which may be made to the report.~~

~~**(4) Stipulation as to Findings.** The effect of a master's report is the same whether or not the parties have consented to the reference; but, when the parties stipulate that a master's findings of fact shall be final, only questions of law arising upon the report shall thereafter be considered.~~

~~**(5) Draft Report.** Before filing a report a master may submit a draft thereof to counsel for all parties for the purpose of receiving their suggestions.~~

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~~ *must* not contain a recital of pleadings, ~~the report of a master, or the~~ *or a* 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, crossclaim, 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* ~~of the~~ parties ~~only upon an express determination~~ *only if the court expressly determines* that there is no just reason for delay ~~and upon an express direction for the entry of judgment~~. ~~In the absence of such determination and direction,~~ *Otherwise, any order or other decision, however designated, that* ~~any order or other form of decision, however designated, which~~ adjudicates the rights and liabilities of fewer than *all the claims or the rights and liabilities of fewer than* all the parties ~~shall not terminate~~ *does not end* the action as to any of the *claims or* parties, and ~~the order or other form of decision is subject to revision~~ *may be revised* at any time before the entry of judgment adjudicating all the *claims and all the parties'* rights and liabilities ~~of all the parties~~.

(c) Demand for Judgment. A ~~judgment by default shall not be different~~ *default judgment must not differ* in kind from, or exceed in amount, ~~that prayed for in the demand for judgment~~ *what is demanded in the pleadings except that if the prayer is for unspecified damages, the court must determine the amount of the judgment*. ~~Except as to a party against whom a judgment is entered~~

~~by default, every~~ *Every other* final judgment ~~shall~~ *should* grant the relief to which ~~the~~ *each* party ~~in whose favor it is rendered~~ 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) ~~Entry~~ *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* ~~as provided by these rules and that fact is made to appear~~ by affidavit or otherwise, the clerk ~~or justice shall~~ *must* enter the party's default.

(b) *Entering a Default* Judgment. ~~Judgment by default may be entered as follows:~~

(1) By the Clerk ~~or Justice~~. ~~When~~ *If* the plaintiff's claim ~~against a defendant~~ is for a sum certain or for a sum which can by computation be made certain, *the clerk —on the plaintiff's request, with an* ~~, the clerk or justice, upon request of the plaintiff and upon~~ affidavit of the amount due – *must* ~~, shall~~ enter judgment for that amount and costs against the defendant~~, if the defendant~~ *who* has been defaulted for ~~failure to appear~~ *not appearing and who is neither a minor nor an incapacitated* ~~and is not an infant or incompetent~~ 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* ~~the party entitled to a judgment by default shall apply to the court therefor; but no judgment by default shall be entered against an infant or incompetent person unless represented in the action~~ by a general guardian, ~~guardian ad litem,~~ conservator, or other ~~such representative~~ *like fiduciary* who has appeared ~~therein~~. If the party against whom *a default* judgment ~~by default~~ is sought has appeared *personally or by a representative, that party or its representative must* ~~in the action, the party (or, if appearing by representative, the party's representative) shall~~ be served with written notice of the application for judgment at least ~~3~~ *7* days prior to the hearing ~~on such application. If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the~~ *The* court may conduct ~~such~~ hearings or *make referrals – preserving any statutory right to a jury trial – when, to enter or effectuate judgment, it needs to:* ~~order such references as it deems necessary and proper and shall accord a right of trial by jury to the parties when and as required by any statute of the State.~~

(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. ~~For good cause shown the~~ *The* court may set aside an entry of default *for good cause, and it may set aside a final judgment under Rule 60(b).* ~~and, if a judgment by default has been entered, may likewise set it aside in accordance with Rule 60.~~

*(d) **Default Judgment Damages.** In all cases, a default judgment is subject to the limitations of Rule 54(c).*

~~(d)~~ *(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. ~~In all cases a judgment by default is subject to the limitations of Rule 54(c).~~

~~(e)~~ *(f)* **Judgment Against the State.** ~~No judgment by default shall~~ *A default judgment may* be entered against the State, *its officers, or its agencies only if* ~~or an officer or agency thereof unless~~ the claimant establishes a claim or right to relief by evidence satisfactory to the court.

~~RULE 56. SUMMARY JUDGMENT~~

~~(a) For Claimant. A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory judgment may, at any time after the expiration of 20 days from the commencement of the action or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment in the party's favor upon all or any part thereof.~~

~~(b) For Defending Party. A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in the party's favor as to all or any part thereof.~~

~~(c) Motion and Proceedings Thereon. The motion shall be served at least 10 days before the time fixed for the hearing. Motions for summary judgment and responses thereto shall include a concise statement setting forth each fact material to the disposition of the motion which the party claims is or is not genuinely in issue, citing the particular portions of any pleading, affidavit, deposition, interrogatory, answer, admission, or other evidence upon which the party relies. The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages. An order granting summary judgment shall set forth the undisputed material facts and legal determinations on which the court granted summary judgment.~~

~~(d) Case Not Fully Adjudicated on Motion. If on motion under this rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in~~

~~the action as are just. Upon the trial of the action the facts so specified shall be deemed established, and the trial shall be conducted accordingly.~~

~~**(e) Form of Affidavits; Further Testimony; Defense Required.** Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading, but the adverse party's response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against the adverse party.~~

~~**(f) When Affidavits Are Unavailable.** Should it appear from the affidavits of a party opposing the motion that the party cannot for reasons stated present by affidavit facts essential to justify the party's opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.~~

~~**(g) Affidavits Made in Bad Faith.** Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused the other party to incur, including reasonable attorney's fees, and any offending party or attorney may be adjudged guilty of contempt.~~

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*~~ *must 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*~~ *45 days before the date set for trial.*

(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~~ only needs to consider 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. ~~Entry of~~ *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~~ judge and filed with the clerk.*

~~(1) upon a general verdict of a jury, or upon a decision by the court that a party shall recover only a sum certain or costs or that all relief shall be denied, the court shall sign the judgment and the judgment shall be filed;~~

~~(2) upon a decision by the court granting other relief, or upon a special verdict or a general verdict accompanied by answers to interrogatories, the court shall promptly approve the form and sign the judgment, and the judgment shall be filed.~~

~~*(2)* The court shall designate a party to serve *written* notice of entry of the judgment on the other parties under subdivision *Rule 58*(c).~~

(b) ~~Judgment in Other Cases.~~ ~~Except as provided in subdivision (b)(1) of Rule 55, all judgments shall be signed by the judge and filed.~~

~~(c)~~ **When Judgment Entered.** The filing *with the clerk* of a judgment, signed by the ~~justice~~ judge ~~or by the clerk, as the case may be *authorized by these rules*~~, constitutes the entry of ~~such~~ *the* judgment, and no judgment ~~*shall be*~~ *is* effective for any purpose until ~~the entry of the same, as hereinbefore provided~~ *it is entered*. The entry of the judgment ~~shall~~ *may* not be delayed for the taxing of costs.

~~(d)~~ *(c)* **Judgment Roll.** The judgment, as signed and filed, ~~shall~~ constitute*s* the judgment roll.

(d) ~~(e)~~ **Notice of Entry of Judgment.** ~~Within 10 days after entry of a judgment or an order, the party designated by the court under subdivision (a) shall 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 shall file the notice of entry. Any other party may in addition serve a notice of such entry. Service shall be made in the manner provided in Rule 5(b) for the service of papers. Failure to serve notice of entry does not affect the validity of the judgment, but the judgment may not be executed upon until such notice is served.~~

(1) Within 14 days after entry of a judgment or an order, ~~a party designated by the court under Rule 58(b)(2)~~ the prevailing party 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~~ a certificate of service of the judgment or order 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) Grounds.** A new trial may be granted to all or any of the parties and on all or part of the issues for any of the following causes or grounds materially affecting the substantial rights of an aggrieved party: (1) Irregularity in the proceedings of the court, jury, master, or adverse party, or any order of the court, or master, or abuse of discretion by which either party was prevented from having a fair trial; (2) Misconduct of the jury or prevailing party; (3) Accident or surprise which ordinary prudence could not have guarded against; (4) Newly discovered evidence material for the party making the motion which the party could not, with reasonable diligence, have discovered and produced at the trial; (5) Manifest disregard by the jury of the instructions of the court; (6) Excessive damages appearing to have been given under the influence of passion or prejudice; or, (7) Error in law occurring at the trial and objected to by the party making the motion. 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 for Motion.** A motion for a new trial shall be filed no later than 10 days after service of written notice of the entry of the judgment.~~

~~**(c) Time for Serving Affidavits.** When a motion for new trial is based upon affidavits they shall be filed with the motion. The opposing party has 10 days after service within which to file opposing affidavits, which period may be extended for an additional period not exceeding 20 days either by the court for good cause shown or by the parties by written stipulation. The court may permit reply affidavits.~~

~~**(d) On Court's Initiative; Notice; Specifying Grounds.** No later than 10 days after entry of judgment the court, on its own, may order a new trial for any reason that would justify granting one on a party's motion. After giving the parties notice and an opportunity to be heard, the court may grant a timely motion for a new trial for a reason not stated in the motion. When granting a new trial on its own initiative or for a reason not stated in a motion, the court shall specify the grounds in its order.~~

~~**(e) Motion to Alter or Amend a Judgment.** A motion to alter or amend the judgment shall be filed no later than 10 days after service of written notice of entry of the judgment.~~

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 JUDGMENT OR ORDER**~~

~~**(a) Clerical Mistakes.** Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. During the pendency of an appeal, such mistakes may be so corrected before the appeal is docketed in the appellate court, and thereafter while the appeal is pending may be so corrected with leave of the appellate court.~~

~~**(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, Etc.** On motion and upon such terms as are just, the court may relieve a party or party's legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation or other misconduct of an adverse party; (4) the judgment is void; or, (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that an injunction should have prospective application. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than 6 months after the proceeding was taken or the date that written notice of entry of the judgment or order was served. A motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court. Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in~~

~~the nature of a bill of review, are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.~~

~~(c) **Default Judgments: Defendant Not Personally Served.** When a default judgment shall have been taken against any party who was not personally served with summons and complaint, either in the State of Nevada or in any other jurisdiction, and who has not entered a general appearance in the action, the court, after notice to the adverse party, upon motion made within 6 months after the date of service of written notice of entry of such judgment, may vacate such judgment and allow the party or the party's legal representatives to answer to the merits of the original action. When, however, a party has been personally served with summons and complaint, either in the State of Nevada or in any other jurisdiction, the party must make application to be relieved from a default, a judgment, an order, or other proceeding taken against the party, or for permission to file an answer, in accordance with the provisions of subdivision (b) of this rule.~~

~~(d) **Default Judgments: Modification Nunc Pro Tunc.** Whenever a default judgment or decree has been entered, the party or parties in default therein may at any time thereafter, upon written consent of the party or parties in whose favor judgment or decree has been entered, enter general appearance in the action, and the general appearance so entered shall have the same force and effect as if entered at the proper time prior to the rendition of the judgment or decree. On such appearance being entered the court may make and enter a modified judgment or decree to the extent only of showing such general appearance on the part of the party or parties in default, and it shall be entered nunc pro tunc as of the date of the original judgment or decree; provided, however, that nothing herein contained shall prevent the court from modifying such judgment or decree as stipulated and agreed in writing by the parties to such action, and in accordance with the terms of such written stipulation and agreement.~~

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**~~

~~No error in either the admission or the exclusion of evidence and no error or defect in any ruling or order or in anything done or omitted by the court or by any of the parties is ground for granting a new trial or for setting aside a verdict or for vacating, modifying or otherwise disturbing a judgment or order, unless refusal to take such action appears to the court inconsistent with substantial justice. The court at every stage of the proceeding must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties.~~

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.** Except as stated herein, no execution shall issue upon a judgment nor shall proceedings be taken for its enforcement until the expiration of 10 days after service of written notice of its entry.~~

~~**(b) Stay on Motion for New Trial or for Judgment.** In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any proceedings to enforce a judgment pending the disposition of a motion for a new trial or to alter or amend a judgment made pursuant to Rule 59, or of a motion for relief from a judgment or order made pursuant to Rule 60, or of a motion for judgment in accordance with a motion for a judgment as a matter of law made pursuant to Rule 50, or of a motion for amendment to the findings or for additional findings made pursuant to Rule 52(b).~~

~~**(c) Reserved.**~~

~~(d) Stay Upon Appeal. When an appeal is taken the appellant by giving a supersedeas bond may obtain a stay. The bond may be given at or after the time of filing the notice of appeal. The stay is effective when the supersedeas bond is filed.~~

~~(e) Stay in Favor of the State or Agency Thereof. When an appeal is taken by the State or by any county, city or town within the State, or an officer or agency thereof and the operation or enforcement of the judgment is stayed, no bond, obligation, or other security shall be required from the appellant.~~

~~(f) Reserved.~~

~~(g) Power of Appellate Court Not Limited. The provisions in this rule do not limit any power of an appellate court or of a judge or justice thereof to stay proceedings during the pendency of an appeal or to suspend, modify, restore, or grant an injunction during the pendency of an appeal or to make any order appropriate to preserve the status quo or the effectiveness of the judgment subsequently to be entered.~~

~~(h) Stay of Judgment as to Multiple Claims or Multiple Parties. When a court has ordered a final judgment under the conditions stated in Rule 54(b), the court may stay enforcement of that judgment until the entering of a subsequent judgment or judgments and may prescribe such conditions as are necessary to secure the benefit thereof to the party in whose favor the judgment is entered.~~

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 Postjudgment 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 ~~under~~ 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 trial or hearing has been commenced and the justice of the peace is unable to proceed, any other justice of the peace may proceed with it upon certifying familiarity with the record and determining that the proceedings in the case may be completed without prejudice to the parties. In a hearing or trial without a jury, the successor justice of the peace shall at the request of a party recall any witness whose testimony is material and disputed and who is available to testify again without undue burden. The successor justice of the peace may also recall any other witness. But if such successor justice of the peace cannot perform those duties because the successor justice of the peace did not preside at the trial or for any other reason, the successor justice of the peace may, in that justice of the peace's discretion, grant a new trial.~~

Rule 63. Judge's Inability to Proceed

If a judge conducting a hearing or trial is unable to proceed, any other judge 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 judge 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 judge may also recall any other witness. But if such successor judge cannot perform those duties because the successor judge did not preside at the trial or for any other reason, the successor judge may, in that judge's discretion, grant a new trial.

VIII. PROVISIONAL AND FINAL REMEDIES AND SPECIAL PROCEEDINGS

~~**RULE 64. SEIZURE OF PERSON OR PROPERTY**~~

~~At the commencement of and during the course of an action, all remedies providing for seizure of person or property for the purpose of securing satisfaction of the judgment ultimately to be entered in the action are available under the circumstances and in the manner provided by the law of the State. The remedies thus available include arrest, attachment, garnishment, replevin, sequestration, and other corresponding or equivalent remedies, however designated.~~

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~~ will issue pursuant to NRS 40.300(3) may not occur until at least ~~11~~ 14 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 should not be entered ~~shall~~ must 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~~ 21 calendar days after service of summons and complaint.

(c) The process described at NRS 40.300(3) ~~shall~~ must 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~~ must not issue a temporary writ of restitution if the hearing considering such request occurs prior to ~~11~~ 14 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~~ will issue is scheduled pursuant to an Order to Show Cause, a Default Judgment ~~shall~~ must 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 permit the giving of security by a party, and security is given in the form of a bond or stipulation or other undertaking with one or more sureties, each surety submits to the jurisdiction of the court and irrevocably appoints the clerk of the court as the surety's agent upon whom any papers affecting the surety's liability on the bond or undertaking may be served. The surety's liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the court prescribes may be served on the clerk of the court, who shall forthwith mail copies to the sureties if their addresses are known.~~

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) In an action in which any part of the relief sought is a judgment for a sum of money or the disposition of a sum of money or the disposition of any other thing capable of delivery, a party, upon notice to every other party, and by leave of court, may deposit with the court all or any part of such sum or thing to be held by the clerk or justice of the court, or upon court order to be deposited in an interest-bearing account or invested in an interest-bearing instrument, subject to withdrawal, in whole or in part, at any time thereafter upon order of the court.~~

~~(b) When it is admitted by the pleading or examination of a party, that the party has possession or control of any money or other thing capable of delivery, 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, the court may order the same, upon motion, to be deposited in court, or deposited in an interest-bearing account or invested in an interest-bearing instrument, or delivered to such party, upon such conditions as may be just, subject to the further direction of the court.~~

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, on motion, 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 10 days before trial, any party may serve an offer in writing to allow judgment to be taken in accordance with its terms and conditions.~~

~~**(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 that the damages claimed by some offerees are entirely derivative of an injury to the others or that 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) Judgment Entered Upon Acceptance.** If within 10 days after the service of the offer, the offeree serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service. The clerk or justice shall enter judgment accordingly. The court shall allow costs in accordance with NRS 18.110 unless the terms of the offer preclude a separate award of costs. Any judgment entered pursuant to this section shall be expressly designated a compromise settlement. A defendant may within a reasonable time pay the amount of the offer and obtain a dismissal of the claim rather than a judgment.~~

~~**(e) Failure to Accept Offer.** If the offer is not accepted within 10 days after service, it shall 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 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 shall 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.** If the offeree rejects an offer and fails to obtain a more favorable judgment,~~

~~(1) the offeree cannot recover any costs or attorney's fees and shall not recover interest for the period after the service of the offer and before the judgment; and~~

~~(2) the offeree shall pay the offeror's post-offer costs, applicable interest on the judgment from the time of the offer to the time of entry of the judgment and reasonable attorney's 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's fees awarded to the party for whom the offer is made must be deducted from that contingent fee.~~

~~**(g) How Costs Are Considered.** To invoke the penalties of this rule, the court must determine if the offeree failed to obtain a more favorable judgment. Where the offer provided that costs 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. Where a defendant made an offer in a set amount which precluded a separate award of costs, the court must compare the amount of the offer together with the offeree's pre-offer taxable costs 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 shall have the same effect as an offer made before trial if it is served within a reasonable time not less than 10 days prior to the commencement of hearings to determine the amount or extent of liability.~~

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 are ~~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 ~~Process to enforce a judgment for the payment of money shall be~~ a writ of execution, unless the court directs otherwise. The procedure on execution~~,~~ - in proceedings supplementary to and in aid of ~~a~~ judgment *or execution* ~~,~~ *- must accord with these rules and state law.* ~~and in proceedings on and in aid of execution shall be in accordance with the practice and procedure of the State.~~

(2) ***Obtaining Discovery.*** In aid of the judgment or execution, the judgment creditor or a successor in interest ~~when that~~ *whose* interest appears of record, may obtain discovery from any person~~,~~ - including the judgment debtor~~,~~ ~~-in the manner~~ *as* provided in these rules *or by state law.*

(b) Service of Notice of Entry Required Prior to Execution. ~~Prior to execution upon a judgment, s~~ 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. JUDGMENT FOR SPECIFIC ACTS; VESTING TITLE~~

~~If a judgment directs a party to execute documents or to deliver such documents or to perform any other specific act and the party fails to comply within the time specified, the court may direct the act to be done at the cost of the disobedient party by some other person appointed by the court and the act when so done has like effect as if done by the party. On application of the party entitled to performance, the clerk or justice shall issue a writ of attachment or sequestration against the property of the disobedient party to compel obedience to the judgment. The court may also in proper cases adjudge the party in contempt. If personal property is within the State, the court in lieu of directing a conveyance thereof may enter a judgment divesting the title of any party and vesting it in others and such judgment has the effect of a conveyance executed in due form of law. When any order or judgment is for the delivery of possession, the party in whose favor it is entered is entitled to a writ of execution or assistance upon application to the clerk or justice.~~

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*~~ *a 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) ***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.*

(c) ***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.*

(d) ***Holding in Contempt.*** *The court may also hold the disobedient party in contempt.*

Rule 71. ~~**Process In Behalf Of And Against Persons Not Parties**~~ ***Enforcing a Judgment for a Specific Act***

When an order ~~is made in favor of~~ *grants relief for* a ~~person who is not a party to the action, that person may enforce obedience to the order by the same process as if the person were a party; and, when obedience to an order may be lawfully enforced against a person who is not a party, that person is liable to the same process~~ *nonparty or may be enforced against a nonparty, the procedure* for enforcing ~~obedience~~ to the order ~~as if~~ *is the same as for* a party.

IX. CIVIL APPEALS FROM JUSTICE COURTS

RULE 72. APPEAL – HOW TAKEN

~~**(a) Filing the Notice of Appeal.** An appeal permitted by law from a justice court to the district court shall be taken by filing a notice of appeal with the clerk or justice of the justice court within the time allowed by Rule 72B. Failure of an appellant to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for such action as the district court deems appropriate which may include dismissal of the appeal.~~

~~**(b) Joint or Consolidated Appeals.** If two or more persons are entitled to appeal from a judgment or order of a justice court and their interests are such as to make joinder practicable, they may file a joint notice of appeal, or may join in appeal after filing separate timely notices of appeal, and they may thereafter proceed on appeal as a single appellant. Appeals may be consolidated by order of the district court upon its own motion or upon motion of a party, or by stipulation of the parties to the several appeals.~~

~~**(c) Content of the Notice of Appeal.** The notice of appeal shall specify the party or parties taking the appeal; shall designate the judgment, order or part thereof appealed from; and shall name the court to which the appeal is taken.~~

~~**(d) Service of the Notice of Appeal.** The appellant shall file and serve notice of the filing of a notice of appeal by mailing a copy thereof to counsel of record of each party other than appellant or, if a party is not represented by counsel, to the party at the party's last known address. There shall be noted on each copy served the date on which the notice of appeal was filed. Service shall be sufficient notwithstanding the death of a party or the party's counsel. There shall be noted in the proof of service the names of the parties to whom copies have been mailed with the date of mailing. The clerk or justice shall note in the register of actions the names of the parties to whom are mailed the copies, with the date of filing.~~

(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 in 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 ground 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~~ must apprise appellant of the deficiencies in writing, and ~~shall~~ must send the notice of appeal to the district court in accordance with subdivision (f) ~~(g)~~ 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~~ must:

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

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

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

(2) 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~~ must serve the notice of appeal on all parties to the action in the justice court. Service on a party represented by counsel ~~shall~~ must be made on counsel. If a party is not represented by counsel, appellant ~~shall~~ must serve the notice of appeal on the party at the party's last known address. The appellant must note, on each copy, the date when the notice of appeal was filed. The notice of appeal filed with the justice court clerk ~~shall~~ must 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 to the justice court clerk ~~the district court~~ the 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~~ must, within 7 calendar days, forward to the clerk of the district court the required filing fee and file-stamped copies of the following documents:

- ☐ *the notice of appeal;*
- ☐ *the justice court docket entries;*
- ☐ *the civil case cover sheet, if any;*
- ☐ *the judgment(s) or order(s) being appealed;*
- ☐ *any notice of entry of the judgment(s) or order(s) being appealed;*
- ☐ *any certification order directing entry of judgment in accordance with JCRCP 54(b);*
- ☐ *the minutes of the justice court proceedings; and*
- ☐ *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(~~e~~)(1)(A) have not been filed in the justice court, the justice court clerk ~~shall~~ must nonetheless forward the notice of appeal together with all documents then on file with the clerk.

(C) The justice court clerk ~~shall~~ must promptly forward any later docket entries to the clerk of the district court.

(2) Appellant's Duty. An appellant ~~shall~~ must take all action necessary to enable the clerk to assemble and forward the documents enumerated in this subdivision.

RULE 72A. STANDING TO APPEAL; APPEALABLE DETERMINATIONS

~~**(a) Aggrieved Party May Appeal.** Any appealable judgment or order in a civil action or proceeding may be appealed from and reviewed as prescribed by these rules, and not otherwise. Any party aggrieved may appeal, with or without first moving for a new trial, and the district court may consider errors of law and the sufficiency of the evidence, and may remand for a new trial whether or not a motion for new trial has been made.~~

~~**(b) Appealable Determinations.** An appeal may be taken:~~

~~(1) From a final judgment in an action or proceeding commenced in the court in which the judgment is rendered.~~

~~(2) From an order granting or refusing a new trial, or dissolving or refusing to dissolve an attachment, or changing or refusing to change the place of trial, and from any special order made after final judgment except an order granting a motion to set aside a default judgment pursuant to Rule 60(b)(1).~~

~~(3) From an interlocutory judgment, order or decree made or entered in actions to redeem personal property from a mortgage thereof or lien thereon, determining such right to redeem and directing an accounting, and from an interlocutory judgment in actions for partition which~~

~~determines the rights and interests of the respective parties and directs partition, sale or division to be made.~~

~~**(c) Venue.** If an order granting or refusing to grant a motion to change the place of trial of an action or proceeding is not directly appealed from within 30 days, there shall be no appeal therefrom on appeal from the judgment in the action or proceeding or otherwise, and on demand or motion of either party to an action or proceeding the court or justice making the order changing or refusing to change the place of trial of an action or proceeding shall make an order staying the trial of the action or proceeding until the time to appeal from such order, changing or refusing to change the place of trial, shall have lapsed; or if an appeal from such order is taken, until such appeal shall, in the appellate court, or in some other manner, be legally determined.~~

~~**(d) 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 it is the duty of the justice court to enter summary judgment.~~

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

(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 it is the duty of the justice court to enter summary judgment.*

RULE 72B. APPEAL — WHEN TAKEN

~~**(a) Appeals in Civil Cases.** In a civil case in which an appeal is permitted by law from a justice court to the district court the notice of appeal required by Rule 72(a) shall be filed with the clerk or justice of the justice court within 20 days of the date of service of written notice of the entry of the judgment or order appealed from, except as otherwise provided by law. It shall also be served within the prescribed time. 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. If a timely notice of appeal is filed by a party, any other party may file and serve a notice of appeal within 14 days of the date on which the first notice of appeal was served, or within the time otherwise prescribed by this subdivision, whichever period last expires.~~

~~**(b) Termination of Time for Appeal.** The running of the time for filing a notice of appeal is terminated as to all parties by a timely motion filed in the justice court by any party pursuant to the Justice Court Rules of Civil Procedure enumerated in this sentence, and the *The* full time for appeal fixed by this subdivision commences to run and is to be computed from the date of service of written notice of entry of any of the following orders made upon a timely motion under such rules: (1) granting or denying a motion for judgment under Rule 50(b); (2) granting or denying a motion under Rule 52(b) to amend or make additional findings of fact, whether or not an alteration of the judgment would be required if the motion is granted; (3) granting or denying a motion under Rule 59 to alter or amend the judgment; (4) granting or denying a motion for a new trial under Rule 59. A judgment or order is entered within the meaning of this subdivision when it is signed by the justice or by the clerk, as the case may be, and filed.~~

(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*~~ *must be filed with the justice court clerk. Except as provided in* ~~*Rule 72B((a)(1)*~~ *Rule 72B(d) 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 4(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 JCRCP 41(a) has ~~is~~ 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;
(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)~~ Rule 72B(d), 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)~~ Rule 72B(d). If, however, a written order or judgment, or a written disposition of the last-remaining timely motion listed in ~~Rule 72B(a)(4)~~ Rule 72B(d), is entered before dismissal of the premature appeal, the notice of appeal ~~shall be~~ is considered filed on the date of and after entry of the order, judgment or written disposition of the last-remaining timely motion.*

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

*(i) **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

~~Unless an appellant is exempted by law, or has filed a supersedeas bond or other undertaking which includes security for the payment of costs on appeal, in civil cases a bond for costs on appeal or equivalent security shall be filed by the appellant in the justice court with the notice of appeal; but security shall not be required of an appellant who is not subject to costs. The bond or equivalent security shall be in the sum or value of $250 unless the justice court fixes a different amount. A bond for costs on appeal shall have sufficient surety, and it or any equivalent security shall be conditioned to secure the payment of costs if the appeal is finally dismissed or the judgment affirmed, or of such costs as the district court may direct if the judgment is modified. If a bond or equivalent security in the sum or value of $250 is given, no approval thereof is necessary. After a bond for costs on appeal is filed, a respondent may raise for determination by the justice court objections to the form of the bond or to the sufficiency of the surety. The provisions of Rule 73A apply to a surety bond upon a bond given pursuant to this rule.~~

(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 justice court ~~clerk~~ 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) Supersedeas Bond; When Required.** Whenever an appellant entitled thereto desires a stay on appeal, the person may file a bond for supersedeas, as provided in this rule.~~

~~(1) If the appeal be from a judgment or order directing the payment of money, the bond shall be conditioned for the satisfaction of the judgment in full together with costs and interest if for any reason the appeal is dismissed or if the judgment is affirmed, and to satisfy in full such modification of the judgment and such costs and interests as the appellate court may adjudge and~~

award, and that if the appellant does not make such payment within 30 days after the filing of affirmance of the judgment in whole or part, in the court in which the appeal is taken, judgment may be entered, on motion of the respondent, in the respondent's favor against the surety or sureties for such amount, together with the interest that may be due thereon, and the costs which may be awarded against the appellant upon the appeal. When the judgment is for the recovery of money not otherwise secured, the amount of the bond shall be fixed at such sum as will cover the whole amount of the judgment remaining unsatisfied, costs on the appeal and interest, unless the justice after notice and hearing and for good cause shown fixes a different amount or orders security other than the bond.

If the appeal be from an order dissolving or refusing to dissolve an attachment, the bond shall be in the sum of the value of the property attached and conditioned that if the order appealed from, or any part thereof, be affirmed, the appellant shall pay to the opposing party, on such appeal, all damages and costs caused by the appellant by reason of such appeal and the stay of execution thereon.

(2) If the judgment or order appealed from direct the assignment or delivery of documents, or personal property, the things required to be assigned or delivered shall be assigned and placed in the custody of such officer or receiver as the court may appoint, and the bond shall be in such amount as the court or justice may direct, to the effect that the appellant will, if the judgment or order appealed from, or any part thereof, be affirmed, pay to the opposing party on such appeal all damages and costs caused by the appellant by reason of such appeal and the stay of execution thereon. In lieu of the assignment and delivery, and of the bond herein provided for, the appellant may enter into a bond, in such amount as the court or justice thereof may direct, to the effect that if the judgment or order, or any part thereof, be affirmed, the appellant will obey the order and pay to the opposing party on such appeal all damages and costs caused by reason of said appeal and the stay of execution thereon.

(3) If the judgment or order appealed from direct the execution of a conveyance or other instrument, the instrument shall be executed and deposited with the clerk or justice of the court with whom the judgment or order is entered to abide by the judgment of the appellate court, and the bond shall be in such amount as the court or justice thereof may direct, to the effect that the appellant will, if the judgment or order appealed from, or any party thereof, be affirmed, pay to the opposing party on such appeal all damages and costs caused by the appellant by reason of such appeal and the stay of execution thereon.

(4) In cases involving an appeal by the defendant of an order of eviction in a formal proceeding, such appeal shall not stay the execution of the judgment, unless, no later than 10 days after the filing of a notice of appeal, the person shall execute and file with the court or justice an undertaking to the plaintiff, with two or more sureties, in an amount to be fixed by the court or justice, but which shall not be less than twice the amount of the judgment and costs, to the effect that, if the judgment appealed from be affirmed or the appeal be dismissed, the appellant will pay the judgment and the cost of appeal, the value of the use and occupation of the property, and damages justly accruing to the plaintiff during the pendency of the appeal. Upon taking the appeal and filing the undertaking, all further proceedings in the case shall be stayed.

Whenever an appeal is perfected, and a bond given as provided by paragraphs (1), (2), (3) and (4) herein, it shall stay all further proceedings in the court below, upon the judgment or order

~~appealed from or upon matters embraced therein, except as hereinafter specified. However, the court below may proceed upon any other matter included in the action or proceeding and not affected by the judgment or order appealed from; and the court below may in its discretion dispense with or limit the security required by (1), (2), (3) and (4) above, when an appellant is an executor, administrator, trustee, or other person acting in another's right.~~

~~In cases not provided for in (1), (2), (3) or (4) above, the giving of an appeal bond, under the provisions of Rule 73, shall stay proceedings in the court below upon the judgment or order appealed from, except that where it directs the same of perishable property, the court below may order the property to be sold and the proceeds thereof to be deposited to abide by the judgment of the appellate court, and except where the appellate court may otherwise direct upon such terms as it may in its discretion impose.~~

~~**(b) Supersedeas Bond: Form and Effect.** Any bonds required by these rules may be in one instrument or several at the option of the giver.~~

~~In every case where, under the provisions of these rules, a bond is required, such bond may be executed on the part of the appellant by at least two qualified and sufficient sureties, stating their place of residence and occupation, or by a bonding or surety company authorized and qualified to do business in the State of Nevada.~~

~~Where the bond is executed by such a bonding or surety company, no affidavit as to the sufficiency of such surety need accompany the bond. Otherwise, the bond shall be of no effect unless it be accompanied by the affidavit of personal sureties that they are each a resident and householder or freeholder within the State and that they are each worth the amount specified therein over and above their just debts and liabilities, exclusive of property exempt from execution; they may state in their affidavit that they are severally worth amounts less than that expressed in the bond, if the whole amount be equivalent to that of two qualified and sufficient sureties. Each such affidavit shall be accompanied by a financial statement in the form determined by the justice courts.~~

~~The adverse party may except to the sufficiency of the sureties within 5 days after the filing of the bond, and, unless they or other sureties justify before the justice within 10 days thereafter, upon notice to the adverse party, to the amount stated in their affidavits, the appeal shall be regarded as if no such bond had been given.~~

~~In all cases where a bond is required by these rules, a deposit in the court below of the amount of the judgment appealed from and such additional amount as may be specified by the justice of the court by which the judgment was rendered, shall be equivalent to filing the bond, and in all cases the bond or deposit may be waived by the written consent of the appellee filed in said action or proceeding.~~

~~When a proper bond to stay proceedings is filed, it shall stay further proceedings except as otherwise above provided, and if an execution or other order shall have been issued to the sheriff, coroner, or elisor, the person shall return the same, with the cause therefor, and his or her proceedings thereunder, upon receiving from the clerk or justice a notice of the stay of proceedings.~~

(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 also be made in the district court and, if filed in the district court, 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~~ must promptly mail a copy to each surety whose address is known.*

~~RULE 73B. BONDS — MISCELLANEOUS PROVISIONS~~ *[Reserved]*

~~**(a) Failure to File or Insufficiency of Bond.** If a bond on appeal or a supersedeas bond is not filed within the time specified, the appeal will be subject to such sanctions as provided in Rule 76. If the bond filed is found insufficient, and if the action is not yet docketed with the appellate court, a bond may be filed at such time before the action is so docketed, as may be fixed by the justice court. After the action is so docketed, application for leave to file a sufficient bond may be made only in the appellate court.~~

~~**(b) Judgment Against Surety.** By entering into an appeal or supersedeas bond given pursuant to Rule 73 or 73A, the surety submits to the jurisdiction of the court and irrevocably appoints the clerk of the justice court or the justice as the surety's agent upon whom any papers affecting the surety's liability on the bond may be served. The surety's liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the court prescribes may be served on the clerk of the court, or justice, who shall forthwith mail copies to the surety if the surety's address is known.~~

~~RULE 74. THE RECORD ON APPEAL~~ *[Reserved]*

~~**(a) Record on Appeal.** Unless approved by the justice or stipulated by the parties, the entire certified transcript of the proceedings which have been recorded by an official court reporter or by using electronic recording equipment shall be transmitted to district court.~~

~~**(b) Transcript.**~~

~~(1) Within 10 days after filing the notice of appeal, the appellant shall order a transcript of the proceedings for inclusion in the record and, unless a greater amount or different procedure is ordered by the justice, shall deposit the sum of $100 with the justice court to absorb the cost of the record, including but not necessarily limited to the transcript and copies. After determination~~

~~of the exact cost, any remaining balance shall be returned to the appellant or if additional cost is involved, the appellant shall pay such amount forthwith. Upon notice of appeal, request for record on appeal and the deposit being filed with the clerk of the justice court, the clerk or justice shall immediately deliver or mail to the reporter or reporters who reported the case, or the transcriber in the case of electronic recording, a form letter including the following matters:~~

~~(i) Caption of the case;~~

~~(ii) Date or dates of trial or hearing;~~

~~(iii) Portions of transcript requested;~~

~~(iv) Number of copies required; and~~

~~(v) Request for an estimate of the cost of transcript.~~

~~Upon receipt of the form letter from the justice court, the reporter or transcriber shall have 30 days for the preparation and filing of the transcript or recording with the justice court. The justice court, in its discretion and for good cause shown, may extend the time for preparation of transcript for an additional 30 days.~~

~~(2) The appellant shall furnish each party appearing separately, or their counsel, a copy of such transcript.~~

~~**(c) Statement of the Evidence or Proceedings When No Report Was Made or When the Transcript Is Unavailable.** If no report of the evidence or proceedings at a hearing or trial was made, or if a transcript is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection. The statement shall be served on the respondent, who may serve objections or propose amendments thereto within 10 days after service. Thereupon the statement and any objections or proposed amendments shall be submitted to the justice court for settlement and approval and as settled and approved shall be included by the clerk or justice of the justice court in the record on appeal.~~

~~**(d) Statement of Points.** If findings of fact and conclusions are not requested and included in the record pursuant to Rule 52(a) or in the absence of an agreed statement under Rule 74(e) the appellant shall serve with the designation of the record a concise statement of the points on which the appellant intends to rely on the appeal. This statement of points shall include all the salient facts of the appeal and a general statement of why appellate relief is sought. (E.g., the court's decision is not supported by substantial evidence; the jury verdict was clearly erroneous; there was jury misconduct; the justice made comments which prejudiced the jury; etc.) (The preceding is by way of example and not of limitation.) This statement shall be presented to the district court irrespective of whether or not the appellant designates for inclusion the complete record and all proceedings and evidence in the action.~~

~~**(e) Agreed Statement as the Record on Appeal.** In lieu of the record on appeal as defined in subdivision (a) of this rule, the parties may prepare and sign a statement of the case showing~~

how the issues presented by the appeal arose and were decided in the justice court and setting forth only so many of the facts averred and proved or sought to be proved as are essential to a decision of the issue presented. If the statement conforms to the truth, it, together with such additions as the court may consider necessary fully to present the issues raised by the appeal, shall be approved by the justice court and shall then be certified to the district court as the record on appeal and transmitted thereto by the clerk or justice of the justice court within the time provided by Rule 74A.

(f) Record to Be Transmitted by Clerk or Justice. Unless the record on appeal consists of an Agreed Statement pursuant to subdivision (e), the following documents shall be included in the record:

(1) Complaint (including all amended complaints);

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

(3) Pretrial order, if any;

(4) All stipulations;

(5) All jury instructions given and to which exceptions are taken, and excluded when offered;

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

(7) Master's report, if any, in nonjury cases;

(8) Opinion or memorandum of decision, if any;

(9) Judgment or order appealed from;

(10) Notice of Appeal;

(11) All exhibits received in evidence and duly marked by the justice or clerk;

(12) Transcript; and

(13) Statement of points pursuant to subsection (d), if any.

(g) Correction or Modification of the Record. If any difference arises as to whether the record truly discloses what occurred in the justice court, the difference shall be submitted to and settled by that court and the record made to conform to the truth. If anything material to either party is omitted from the record by error or accident or is misstated therein, the parties by stipulation, or the justice court, either before or after the record is transmitted to the district court, or the district court, on proper suggestion or of its own initiative, may direct that the omission or

misstatement be corrected, and if necessary, that a supplemental record be certified and transmitted. All other questions as to the form and content of the record shall be presented to the justice court before the record is transmitted or the district court after the record is transmitted.

(h) Reserved.

(i) Several Appeals. When more than one appeal is taken from the same judgment, a single record on appeal shall be prepared containing all the matter designated or agreed by the parties, without duplication.

[As amended; effective July 1, 2005.]

RULE 74A. TRANSMISSION OF THE RECORD *[Reserved]*

(a) Time for Transmission; Duty of Appellant. The record on appeal shall be transmitted to the district court within 30 days after the perfection of the appeal unless the time is shortened or extended by an order entered under subdivision (d) of this rule. After filing the notice of appeal the appellant shall comply with the provisions of Rules 73 and 74 and shall take any other action necessary to enable the clerk or justice to assemble and transmit the record including the payment of all necessary filing fees for both justice court and district court. If more than one appeal is taken, each appellant shall comply with the provisions of Rules 73 and 74 and this subdivision, and a single record shall be transmitted within 30 days after the perfection of the final appeal.

(b) Duty of Clerk to Certify and Transmit the Record. When the record is complete for purposes of the appeal, the clerk or justice of the justice court shall certify and transmit it to the clerk of the district court. The clerk or justice of the justice court shall list the documents comprising the record and shall transmit with the record a list of the documents and all evidence identified with reasonable definiteness.

Transmission of the record is effected when the clerk of the justice court mails or otherwise forwards the record to the clerk of the district court. The clerk of the justice court shall indicate, by indorsement on the face of the record or otherwise, the date upon which it is transmitted to the district court.

(c) Reserved.

(d) Extension of Time for Transmission of the Record; Reduction of Time. The justice court for good cause shown may extend the time for transmitting the record. A request for extension must be made within the time originally prescribed or within an extension previously granted, and the justice court shall not extend the time to a day more than 60 days from the date of the perfection of the first appeal. If the justice court is without authority to grant the relief sought or has denied a request therefor, the district court may on motion for good cause shown extend the time for transmitting the record or may permit the record to be transmitted and filed after the expiration of the time allowed or fixed. If a request for an extension of time for transmitting the record has been previously denied, the motion shall set forth the denial and shall state the reasons therefor, if any were given. The justice court or the district court may require the record to be transmitted and the appeal to be docketed at any time within the time otherwise fixed or allowed therefor.

~~(c) Record for Preliminary Determination in the District Court. If prior to the time the record is transmitted a party desires to make in the district court a motion for dismissal, for a stay pending appeal, for additional security on the bond on appeal, or on a supersedeas bond, or for any other intermediate order, the clerk of the justice court at the request of any party shall transmit to the district court such parts of the original record as any party shall designate.~~

~~[As amended; effective July 1, 2005.]~~

~~RULE 74B. DOCKETING THE APPEAL: FILING OF THE RECORD IN DISTRICT COURT~~ *[Reserved]*

~~(a) Docketing the Appeal.~~

~~(1) Upon filing of the notice of appeal, the appellant shall pay to the clerk or justice of the justice court the filing fees prescribed by NRS 4.060 for the justice courts and NRS 19.013 for district courts, and the clerk shall, when the record is complete, forward the appeal record for docketing in district court, together with a sum sufficient for the filing fee. If an appellant is authorized to prosecute the appeal without pre-payment of fees, the clerk shall forward the appeal record for docketing in district court when the record is complete. The district court may upon motion for cause shown enlarge the time for docketing the appeal or permit the appeal to be docketed out of time.~~

~~(2) If a notice of appeal is filed by any party other than the original appellant, in accordance with Rule 72B, the subsequent appeal shall be known as a cross-appeal and in all respects treated as an initial appeal, including the payment of the filing fees prescribed in paragraph (1) of this subdivision. Cross-appeals will be filed under the same docket number and calendared and argued with the initial appeal.~~

~~(b) Filing the Record. Upon receipt of the record or of papers authorized to be filed in lieu of the record under the provisions of Rule 74(c) and (e) by the clerk of the district court following timely transmittal and after the appeal has been timely docketed, the clerk shall file the record. The clerk shall immediately give notice to all parties of the date on which the record was filed.~~

~~[As amended; effective July 1, 2005.]~~

~~RULE 75. BRIEFS~~ *[Reserved]*

~~(a) Requirement of. Unless required by a statewide District Court Rule, local District Court Rule, or district court order, there is no requirement that briefs be served and filed.~~

~~(b) Construction and Applicability. The Nevada Rules of Appellate Procedure (NRAP) governing briefs, including their preparation, filing and service, so far as applicable, and where not otherwise specifically prescribed by a statewide District Court Rule, local District Court Rule, district court order or practice or inconsistent with these rules, and consistent with the intent of these rules to secure the just, speedy and inexpensive determination of case, shall govern appeals from justice courts.~~

~~(1) **Length of Briefs.** Except by permission of the district court, briefs, if typewritten, shall not exceed 10 pages or, if printed, 7 pages, exclusive of pages containing the table of contents, tables of citations of legal authorities, and any addendum containing copies of the statutes, rules, regulations, etc.~~

~~(2) **Time for Serving and Filing Briefs.** If briefs are required either by a statewide District Court Rule, local District Court Rule, or district court order and unless otherwise prescribed, the appellant shall serve and file the opening brief with the district court within 30 days after the date on which the record is filed. The respondent shall serve and file the answering brief within 30 days after service of the brief of the appellant. After service of respondent's brief, any reply brief must be served and filed within 15 days. By written stipulation, filed prior to the due date set forth herein with the district court, the parties may extend the time for filing any brief for a total of 15 additional days unless the court otherwise orders. Applications for extensions of time beyond that to which the parties are permitted to stipulate are not favored and will be considered only on motion for good cause clearly shown, or ex parte in cases of extreme and unforeseeable emergency. The district court may shorten the periods prescribed above for serving and filing briefs, either by rule for all cases or for classes of cases, or by order for specific cases.~~

~~(3) **Number of Copies to Be Filed and Served.** An original and 2 copies of each brief shall be filed with the clerk of the district court unless the district court by order in a particular case shall direct a different number, and one copy shall be served on counsel for each party separately represented, or the party, if unrepresented.~~

~~[As amended; effective July 1, 2005.]~~

~~RULE 75A. ORAL ARGUMENT~~ *[Reserved]*

~~Unless otherwise ordered by the district court, oral argument shall be had in each case in a manner reasonably consistent with NRAP 34 governing oral argument in the supreme court, whether or not briefs are required and are on file in the action.~~

~~RULE 76. DISMISSAL FOR FAILURE OF APPELLANT TO COMPLY WITH RULES~~ *[Reserved]*

~~(a) If the appellant shall fail to cause timely transmission of the record as provided in Rule 74A, or, if required, to timely file an opening brief, or to post the undertaking as required by Rule 73 or 73A, or to arrange for a transcript as required by Rule 74, and 74A, or the payment of filing fees as required by Rule 74B, unless exempt, or upon a showing that any other necessary steps have not been taken, the appeal may be dismissed by the district court upon a motion of any respondent or upon its own motion at the cost of the appellant. Prior to the granting of the dismissal, the appellant shall be given written notice of the motion to dismiss. The motion shall be supported by a certificate of the clerk or justice of the justice court, showing the date and substance of the judgment or order from which the appeal was taken, the date on which the notice of appeal was filed, the expiration date of any order extending the time for transmitting the record, and proof of service. The notice of the motion to dismiss may be mailed or delivered to the appellant or the appellant's attorney. The appellant may respond in writing within 7 days of such service, showing good cause, if any, why the motion should not be granted. The district court clerk shall docket the~~

appeal for the limited purpose of permitting the district court to entertain the motion without requiring payment of the filing fee, but the appellant shall not be permitted to respond without payment of the fee unless the person is otherwise exempt therefrom. The district court, with or without allowing a response from the respondent, shall grant the motion to dismiss if good cause is not shown. If satisfied as to good cause for the delay, the district court shall allow the appeal to continue upon such terms as it may order.

(b) If any respondent shall fail to timely file an answering brief, such failure may be treated by the district court as a confession of error and sufficient grounds for reversal of the judgment or order appealed from.

[As amended; effective July 1, 2005.]

RULE 76A. POWERS OF DISTRICT COURT ON APPEAL *[Reserved]*

A case appealed must not be tried anew. Upon an appeal heard upon the record or a statement of the case, the district court may review all orders affecting the judgment appealed from and may set aside, or confirm, or modify, any or all of the proceedings subsequent to and dependent upon such judgment, and may, if necessary or proper, order a new trial. For a failure to prosecute an appeal or unnecessary delay in bringing it to a hearing, the district court, after notice, may order the appeal dismissed, with costs; and if it appears to such court that the appeal was made solely for delay, it may add to the costs such damages as may be just, not exceeding 25 percent of the judgment appealed from. Judgments rendered in the district court on appeal shall have the same force and effect, and may be enforced in the same manner as judgments in actions commenced in the district court. Upon the filing of a judgment in the district court on appeal, the clerk of the district court shall forthwith forward a copy of the judgment, together with the remittitur, to the justice court of original jurisdiction and to all parties.

[As amended; effective June 28, 1988.]

RULE 76B. TIMETABLE GOVERNING APPEALS FROM JUSTICE COURTS *[Reserved]*

Appeal, civil:	Within 20 days of service of written notice of entry of judgment or order appealed from. Rule 72B(a).
Enlargement of time for appeals:	Time for taking appeal may be enlarged by timely motion for: (1) Judgment under Rule 50(b). (2) Additional or amended findings of fact under Rule 52(b). (3) Altering or amending judgment under Rule 59.

	~~(4) New trial under Rule 59.~~ ~~The time for taking appeal commences anew upon entry of an order granting or denying any of the above motions. Rule 72B(b).~~
~~**Cross-appeal:**~~	~~Within 14 days of service of first notice of appeal, or within time otherwise prescribed by rule, whichever is longer. Rule 72B(a).~~
~~**Appeal from formal eviction:**~~	~~Within 10 days of service of entry of order. NRS 40.380; Rule 73A(4).~~
~~**Fees:**~~	~~Payable upon filing notice of appeal. Rule 74B(a)(1).~~
~~**Bond for costs:**~~	~~Filed with notice of appeal. Rule 73.~~
~~**Bond, supersedeas:**~~	~~At or after time of filing notice of appeal. Stay is effective when bond filed. Rule 73A.~~
~~**Transcript of proceedings:**~~	~~Appellant must order within 10 days of notice of appeal. Transcript must be prepared by reporter within 30 days after receipt of form letter from clerk, except 30-day extension may be granted. Rule 74(b)(1).~~
~~**Transmission and docketing of record on appeal:**~~	~~Within 30 days after perfection of appeal, unless shortened or extended. Where multiple appeals are taken, within 30 days after perfection of the final appeal. Rule 74A(a).~~
~~**Enlargement or shortening of time for transmission and docketing record on appeal:**~~	~~Time may be extended by the justice court not more than 60 days from filing of first notice of appeal, or by the district court for additional time, provided orders of extension are made before expiration of last previous time. The justice court or the district court may order the time for transmission and docketing to be shortened. Rule 74A(d).~~
~~**Record for preliminary determination:**~~	~~On any of the following motions, a party may docket in the district court such parts of the original record as the person requests, prior to docketing the complete record on appeal:~~

~~(1) Motion to dismiss appeal.~~

~~(2) Motion for stay pending appeal.~~

~~(3) Motion for additional security for bond on appeal or supersedeas bond.~~

~~(4) Motion for any intermediate order. Rule 74A(e).~~

~~**Briefs:**~~	~~If ordered, appellant's opening brief; within 30 days after the record is filed. Respondent's answering brief; within 30 days after service of the opening brief. Appellant's reply brief, if any; within 15 days of service of respondent's answering brief. Rule 75(a), 75(b)(2).~~
~~**Oral argument:**~~	~~In all cases, unless otherwise ordered by the district court. Rule 75A.~~

X. JUSTICE COURTS AND CLERKS

~~RULE 77. JUSTICE COURTS AND CLERKS~~

~~**(a) Justice Courts Always Open.** The justice courts shall be deemed always open for the purpose of filing any pleading or other proper paper, of issuing and returning mesne and final process, and of making and directing all interlocutory motions, orders and rules.~~

~~**(b) Trials and Hearings; Orders in Chambers.** Unless otherwise provided by law, all trials upon the merits shall be conducted in open court, on the record, and so far as convenient in a regular court room, except private trial may be had as provided by statute. All other acts or proceedings may be done or conducted by a justice in chambers, without the attendance of the clerk or other court officials and at any place either within or without the township, but within the county. Notwithstanding anything herein contained to the contrary, no hearing, other than an ex parte matter, shall be conducted outside the township without the consent of all parties affected thereby.~~

~~**(c) Clerk's Office and Orders by Clerk.** The clerk's office, if there be one, with the clerk or a deputy in attendance shall be open, to the extent practicable, during business hours, on all days except Saturdays, Sundays and nonjudicial days. All motions and applications filed in the clerk's office or justice court for issuing mesne process, for issuing final process to enforce and execute judgments, for entering defaults or judgments by default, and for other proceedings which do not require allowance or order of the court are grantable of course by the clerk; but the clerk's action may be suspended or altered or rescinded by the court upon cause shown. Any duty of a court clerk may be performed by a deputy court clerk or by a justice.~~

~~(d) Nonjudicial Days. Nonjudicial days for justice courts are the same as for district courts. If any day on which an act required to be done by any one of these rules falls on a Saturday, Sunday or legal holiday, the act may be performed on the next judicial day.~~

~~(e) Reserved.~~

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. MOTION DAY~~

~~Unless local conditions make it impracticable, each justice court shall establish regular times and places, at intervals sufficiently frequent for the prompt dispatch of business, at which motions requiring notice and hearing may be heard and disposed of; but the justice at any time or place and on such notice, if any, as the justice considers reasonable, may make orders for the advancement, conduct and hearing of actions.~~

~~To expedite its business, the court may make provision by rule or order for the submission and determination of motions without oral hearing upon brief written statements of reasons in support and opposition.~~

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**~~ *Appendix of Forms*

The forms contained in the Appendix of Forms are authorized for use in the Nevada Justice Courts.

Rule 80. Record or Transcript of Proceedings ~~As Evidence~~

(a) ~~Proceedings on the Record — Method.~~ ~~Proceedings which are required by law or rule to be on the record in each justice court must be recorded by using sound recording equipment or be reported by a certified shorthand reporter who shall take down the proceedings in the same manner and with the same effect as in a district court.~~

~~**(b) Sound** *Audio and/or Video* **Recording Operator.**~~ Whenever ~~sound~~ *audio and/or video* recording equipment is used to record proceedings, the the ~~justice~~ *judge* ~~shall~~ *must operate or* appoint a suitable person to operate the ~~sound~~ *audio and/or video* recording equipment, ~~and such~~ *Any* person *so appointed* ~~shall~~ *must* subscribe to an oath that the person will ~~so~~ operate ~~it~~ *the audio and/or video recording equipment* ~~as~~ to record all of the proceedings to which the person is assigned.

(b) Preservation of ~~Sound~~ Audio and/or Video Recording. *Each court must establish a reliable method of preserving all* ~~sound~~ *audio and/or video recordings made in compliance with NRS 4.390.* ~~and to preserve the tapes.~~

~~**(c) Sound Recording Transcription.** Whenever sound recording equipment is used to record proceedings the justice shall designate a suitable person to transcribe the recording into a typewritten transcript and such person shall subscribe to an oath that the person has correctly transcribed the recording. Such oath shall be affixed at the end of each transcript.~~

~~**(d) Proceedings on the Record — Designation.** The following proceedings in each justice court shall be conducted on the record:~~

~~(1) Preliminary hearings on gross misdemeanor and felony cases;~~

~~(2) Traffic trials;~~

~~(3) Misdemeanor trials;~~

~~(4) Coroner's inquests;~~

~~(5) Extradition waiver hearing; and~~

~~(6) Any other proceedings as required by statute or court order or may be properly requested by any of the parties to the action.~~

~~**(e) Proceedings on the Record — Transcript as Evidence.** Proceedings recorded or reported shall be transcribed into typewritten transcripts, certified as correct and filed with the clerk or justice, as required by these rules or by statute. Whenever the testimony of a witness at a~~

~~trial or hearing which was recorded or reported is admissible in evidence at a later trial, such testimony may be proved by the transcript thereof duly certified by the person who reported the testimony or the person who transcribed the sound recording tapes.~~

~~**(f) Preservation of Sound Recording Tapes.** The sound~~ *audio and/or video* recording ~~tapes~~ of each proceeding ~~shall~~ must 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 the ~~justice~~ *judge* may order the destruction of the recording. If an appeal is taken, the ~~tape~~ *recording* ~~shall~~ *must* be retained until at least 30 days after final disposition of the case on appeal. The the ~~justice~~ *judge* may order the destruction of the recording at any time after that date. Upon order of the district court the ~~tape~~ recording ~~shall~~ *must* be ~~forthwith~~ transmitted to the district court.

XI. ~~GENERAL PROVISIONS~~ CIVIL TRAFFIC INFRACTIONS

~~RULE 81. APPLICABILITY IN GENERAL~~

~~**(a) To What Proceedings Applicable.** These rules do not govern procedure and practice in any special statutory proceeding insofar as they are inconsistent or in conflict with the procedure and practice provided by the applicable statute. Where the applicable statute provides for procedure under the former statutes governing civil actions, such procedure shall be in accordance with these rules.~~

~~**(b) Chief Justices of the Peace.** Rule 84, relating to chief justices of the peace, shall apply to all proceedings in the justice courts, whether criminal, civil or otherwise.~~

Rule 81. Civil Penalty Schedule. ~~*The limited jurisdiction courts must*~~ *Each justice court may adopt a* ~~*statewide*~~ *uniform civil penalty schedule.*

~~**RULE**~~ *Rule* **82.** ~~**JURISDICTION AND VENUE UNAFFECTED**~~ ***Discovery.*** *Formal discovery as conducted in a civil action under these rules is not* ~~*authorized*~~ *allowed. A copy of the civil traffic infraction citation and* ~~*any*~~ *the written statement of the issuing officer, if one is provided to the court from the 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.*

~~These rules shall not be construed to extend or limit the jurisdiction of the justice courts or the venue of actions therein.~~

~~**RULE**~~ *Rule* **83.** ~~**RULES BY JUSTICE COURTS**~~ ***Subpoenas.*** *Procedures for issuing a subpoena for a contested hearing on a civil traffic infraction will follow Rule 45.*

~~Each justice or justice court in a township with more than one justice, by action of a majority of the justices thereof, may from time to time make and amend the rules governing its practice not inconsistent with these rules. Copies of rules and amendments so made by any justice court shall upon their promulgation be furnished to the Supreme Court, but shall not become effective until~~

~~after approval by the Supreme Court and publication. In all cases not provided for by these rules the justice courts may regulate their practice in any manner not inconsistent with these rules.~~

~~RULE~~ *Rule* **84. ~~CHIEF JUSTICES OF THE PEACE~~** ~~*Reserved.*~~ *Motions.*

(a) Motions based upon Rules 3 – 71 may be ruled upon summarily.

(b) Motions requiring factual findings or an evidentiary hearing may be resolved at the time of the contested hearing or in advance, at the discretion of the court.

(c) All filed motions must be served pursuant to Rule 5 and must comply with Rule 11.

~~**(a) Election.** In any township having three or more justices of the peace, the justices shall annually elect one of their number to serve as chief justice of the peace for that township. The election shall take place between November 15 and December 1 of each year, and the chief justice of the peace so elected shall begin to serve on the first Monday in January of the next year. Any incumbent justice of the peace who will not be returning to office the next year (because of retirement, resignation, failure to be reelected, or other reason) shall not be eligible to vote in the election for chief justice of the peace. Any person who has been elected to take office as justice of the peace shall be eligible to vote in the election for chief justice of the peace. Except with the unanimous consent of the justices of the peace in a township, no chief justice of the peace shall serve more than 2 successive one-year terms.~~

~~**(b) Responsibilities.** The chief justice of the peace in a township shall:~~

~~(1) Be responsible for the administration of court rules and regulations.~~

~~(2) Consider and rule on any ex parte applications for orders in cases which have not been assigned.~~

~~(3) Hear or reassign emergency matters when the assigned justice is absent or otherwise unavailable.~~

~~(4) Designate another justice to perform the duties of chief justice of the peace when the chief justice of the peace is absent.~~

~~(5) Oversee all administrative and clerical work and functions of the court as set forth in NRS Chapter 4.~~

~~(6) Call and preside over meetings with the other justices of that township, as often as may be deemed necessary by the chief justice of the peace, to discuss and set policy on procedures, planning, caseload distribution, judicial training, vacations, court improvements, personnel and any other matters of benefit or concern to the court.~~

RULE 85. ~~TITLE~~ *Reserved.*

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

RULE 86. ~~EFFECTIVE DATE~~ *Reserved.*

~~**Effective Date.** These rules will take effect on the date specified by the Supreme Court. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that in the opinion of the court their application in a particular action pending when the rules take effect would not be feasible or would work injustice, in which event the former procedure will apply.~~

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 claim action, the action ~~shall~~ ***may*** be ~~deemed~~ commenced ~~when any person appears before any justice or clerk and executes an affidavit substantially in the form set forth~~ ***by the filing of an affidavit of complaint as set forth*** in Rule 89~~, and the justice court shall proceed as provided in these rules~~.

(b) ~~Counterclaims and cross-claims are governed by Rule 13~~ ~~.~~*A counterclaim and/or cross claim may be filed within 21 days of service of the affidavit of complaint. The counter-claim and crossclaim must comply with the affidavit of complaint requirements set forth in Rule 89.*

(c) ***When any counterclaim or other pleading raises any issue or claim which may not be adjudicated as a small claims action, the*** ~~***justice***~~ *judge* ***may separate the issues or claims and adjudicate those which 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*** ~~***justice***~~ *judge* ***must order the entire matter be reclassified as a civil action in the justice court or transferred for adjudication in district court.*** *Where a case is reclassified as a civil action in the justice court, the court may require the parties to:*

(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)*~~ *(d)* 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

The affidavit mentioned in Rule 88 shall be made on a blank substantially in the following form:

IN THE JUSTICE COURT, _____ TOWNSHIP
COUNTY OF _____, STATE OF NEVADA

Case No. _____
Docket No. _____

_____	_____
Name	Name
v.	
_____	_____
Address	Address
_____	_____
Plaintiff	Defendant

STATE OF NEVADA)
)ss. **AFFIDAVIT OF COMPLAINT**
COUNTY OF _____) **AND ORDER**

_____, being first duly sworn, deposes and says: That the defendant is indebted to the plaintiff in the sum of $_____; that the reason for this indebtedness is _____
_____;
that this affiant has demanded payment of the sum; that the defendant refuses to pay the same; that one or more of the defendants is a resident of, does business in, or is employed in _____ Township, in the County of _____, State of Nevada; that affiant resides at the above address.

_____
Plaintiff Affiant

Subscribed and sworn to before me this _____ day of _____, 20___.

_____
Justice of the Peace, Court Clerk or Notary

{On the affidavit shall be printed:}

ORDER

The State of Nevada to the within-named Defendant, Greetings:
You are hereby ordered to appear for trial and to be prepared to answer the within and foregoing claim at _____ on the _____ day of _____, 20___, at the hour of ..... and to establish your defense against said claim. You are further notified that in the event you do not

~~appear, judgment will be given against you for the amount of claim as stated in the above affidavit of complaint.~~

~~Dated: This _____ day of _____, 20___.~~

~~_____~~

~~Clerk or Justice of the Peace~~

(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.

(c) If a justice court has created a mandatory mediation program, the court may order the parties to attend mediation prior to ordering the defendant to appear for trial as required by section (b)(1) above.

(d) The affidavit of small claims complaint must comply with Rule 11.

Rule 90. ~~**FILING OF SMALL CLAIMS**~~ ***Date of Trial Appearance Fixed by Court***

~~When the plaintiff-claimant appears, the plaintiff-claimant shall prepare such an affidavit as is set forth in Rule 89, or, at the plaintiff-claimant's request, the justice or clerk may draft an affidavit for the plaintiff-claimant. Upon the affidavit being sworn to by the plaintiff and the payment of the filing fee, the justice or clerk shall file the same and make or otherwise provide at least two true and correct copies thereof. One copy will be used for service. The original, with proof of service, will be filed with the court. The justice or clerk shall determine that all blanks in the order, on the original, are filled in and that the order is signed and also that all copies include the same information.~~

(a) Upon the filing of the affidavit of small claims complaint, the ~~justice~~ judge 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 ~~justice~~ judge 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~~ ~~the filing~~ *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).~~*4.2 or, if applicable, Rule 4.3.*

(b) Upon motion, the ~~*justice*~~ *judge* ~~or clerk~~ ~~shall determine the~~ *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.* ~~the court may direct that personal service be made. Whenever personal service is ordered, the court may specify who shall make such personal service. The constable, sheriff or other qualified person making personal service shall comply with Rule 4(d). The signed, returned receipt or other evidence of service shall be attached to or filed with the original affidavit and order of each small claim. Advance payment for costs of service must be made or, with the approval of the court or server, guaranteed by the plaintiff but all reasonable costs may be recovered as part of the judgment.~~

(c) Service of the affidavit *of complaint* and order ~~shall~~ *must* be made on the defendant at least ~~10~~ *14* days prior to the date ~~that the defendant is required to appear~~ *of trial*. Proof of service ~~shall~~ *must* immediately be filed with the court.

(d) If a justice court has created a mandatory mediation program, the court may order the parties to attend mediation prior to setting the date, time, and location of trial, as required by this rule.

~~RULE 92. DATE OF TRIAL APPEARANCE FIXED BY JUSTICE COURT~~

Rule 92. ~~***MOTIONS***~~ *Motions.*

~~Except as stipulated in writing by the parties or otherwise provided by the court or by these rules, the date of the appearance of the defendant for trial, as provided in the order indorsed on the affidavit, shall not be more than 90 days from the date of service of the order. The justice or clerk may from time to time amend the date of appearance on the order if it appears that service has not or cannot be made to allow sufficient time for the defendant to respond or to allow the court efficiently to control its calendar.~~

~~The justice or the clerk shall notify the plaintiff, in advance, of the time, date and place of trial or shall provide by local rule a procedure for the plaintiff to determine, in advance, the time, date and place of trial.~~

(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.

(d) All filed motions must be served pursuant to Rule 5 and must comply with Rule 11.

Rule 93. Dismissal Without Prejudice

Any affidavit *of complaint* and order which remains unserved for a period of one year from the original filing date may be dismissed by the justice ~~or clerk~~, without prejudice. Written notice of entry of a dismissal pursuant to this rule ~~shall~~ ***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***~~ *judge* or clerk ~~shall~~ ***must*** 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* ~~justice~~ or paid as a result of an execution, when, and by whom and the date of the issuance of any abstract of judgment.

(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 ~~shall~~ ~~***must***~~ have the right to offer evidence ~~in~~ *on* 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 ~~shall be~~ ***is*** necessary, and the trials and dispositions of all such actions ~~shall~~ ***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***~~ *allowed.*

Rule 97. Payment of Judgment

If the judgment or order ~~be~~ *is* against the defendant, the ~~person shall~~ ***defendant must*** pay the same forthwith or at such times and upon such terms and conditions as the ~~***justice***~~ *judge* ~~shall~~ ~~***must***~~ *may* 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. ~~, pursuant to Rule 72 *et seq.*, except that the~~

(b) ***The*** filing of a notice of appeal must be done within ~~5~~ *7 calendar* days from the ~~entry~~ *service* of the judgment~~, rather than the 20-day period provided for in Rule 72B~~. *The time for filing the notice of appeal must be calculated pursuant to Rule 6.*

(c) No formal Notice of Entry of Judgment is required.

(d) The form of appeal and appeal bond ~~shall~~ *must* ~~be filed pursuant to~~ comply with 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:* ~~substantially in the following form:~~

~~IN THE JUSTICE COURT, _____ TOWNSHIP~~
~~COUNTY OF _____, STATE OF NEVADA~~

~~_____, Plaintiff~~
~~Appellant,~~

~~v.~~ ~~NOTICE OF APPEAL TO~~
~~DISTRICT COURT~~

~~_____, Defendant~~
~~Respondent~~

~~To _____ {party}, and _____, his attorney:~~

~~Comes now the defendant {or plaintiff} and does hereby appeal from the judgment entered in the justice court on the _____ day of _____, 20___, to the district court in and for the above-named county and state.~~

~~The basis for the appeal is: _____~~
~~_____~~

~~I acknowledge that I am required to post an appeal bond and to pay all filing fees and costs of appeal, including the expense of a transcript of the trial before this appeal will be filed with and considered by the district court. I further acknowledge that if the appeal is dismissed or the judgment is affirmed, I will be subject to reimbursing the other party for court costs, and attorney's fees, not to exceed $15, together with any reasonable expenses as determined by the district court.~~

~~Dated: This _____ day of _____, 20___.~~

~~_____~~

~~Defendant (or Plaintiff) Appellant~~

(~~a~~1) A brief statement of the basis for the appeal;

(~~b~~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 ~~mentioned~~ *required* in Rule 99 ~~shall~~ *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 ~~substantially in the form set out in this rule~~. After an appeal bond is filed, the other party may raise, for determination by the ~~*justice*~~ *judge*, objections to the form of the bond or to sufficiency of the surety. ~~The filing of a bond on appeal stays execution on the judgment until the appeal is determined.~~

(b) Bond on Appeal — ~~Defendant Form~~ *Judgment Debtor.*

~~IN THE JUSTICE COURT, _____ TOWNSHIP~~
~~COUNTY OF _____, STATE OF NEVADA~~

~~_____,~~ ~~Defendant~~
~~Appellant,~~

~~*v.*~~ ~~APPEAL BOND DEFENDANT~~
~~(Informal Surety Bond)~~

~~_____,~~ ~~Plaintiff~~
~~Respondent.~~

~~Whereas, the above-entitled court in the above-entitled action did on the _____ day of _____, 20___, enter judgment in favor of the plaintiff and against the defendant in the sum of $_____, plus costs in the amount of $_____; and~~

~~Whereas, the defendant intends to appeal to the district court of the State of Nevada, in and for the above-named county;~~

~~Now, therefore, the undersigned does undertake and promise that in the event the judgment is affirmed, or the appeal dismissed, then and in that event, the undersigned will pay the judgment, together with interest and attorney's fees not to exceed $15, together with costs and any other amount ordered by the district court to be paid, immediately upon demand by the plaintiff.~~

~~Dated: This _____ day of _____, 20___.~~

~~_____~~

~~Surety (Not Party)~~

~~STATE OF NEVADA)~~

~~_____ } ss.~~
~~COUNTY OF_____ }~~

~~_____, the surety named in the above bond, being duly sworn, says: That he is a property owner and resident within the State of Nevada, and has assets worth the sums hereinabove mentioned, in excess of all of his debts and liabilities, exclusive of property exempt from execution, as shown on the attached sworn financial statement; and that he has read all of the foregoing and states that everything therein is true and correct.~~

~~_____~~
~~Surety~~

~~Subscribed and sworn to before me this _____ day of _____, 20___.~~

~~_____~~
~~Notary, Court Clerk or Justice of the Peace~~

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's fees should such attorney's 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's fees should such attorney's fees be awarded by the district court.

~~**(c) Bond on Appeal – Plaintiff – Form:**~~

~~**IN THE JUSTICE COURT, _____ TOWNSHIP**~~
~~**COUNTY OF _____, STATE OF NEVADA**~~

~~_____, Plaintiff~~
~~Appellant,~~

~~v.~~ ~~**APPEAL BOND – PLAINTIFF**~~
~~(Informal Surety Bond)~~

~~_____, Defendant-~~
~~_____ Respondent.~~

~~Whereas, the above-entitled court in the above-entitled action did on the _____ day of _____, 20___, enter judgment in favor of the plaintiff and against the defendant in the sum of $_____, plus costs in the sum of $_____, which was less than the amount sought (or against the plaintiff in total and in favor of the defendant); and~~

~~Whereas, the plaintiff intends to appeal to the district court of the State of Nevada, in and for the above-named county;~~

~~Now, therefore, the undersigned does undertake and promise that in the event the appeal is dismissed or the judgment is affirmed, then and in that event the undersigned will pay $250 or any portion thereof as determined by the district court as and for costs and expenses, including an attorney's fee not to exceed $15, if required, to the defendant on demand.~~

~~Dated: This _____ day of _____, 20___.~~

~~_____~~
~~_____ Surety (Not Party)~~

~~STATE OF NEVADA }~~
~~_____ }ss.~~
~~COUNTY OF _____ }~~

~~_____, the surety named in the above bond, being duly sworn, says: That he is a property owner and resident within the State of Nevada, and has assets worth the sums hereinabove mentioned, in excess of all of his debts and liabilities, exclusive of property exempt from execution, as shown on the attached sworn financial statement; and that he has read all of the foregoing and states that everything therein is true and correct.~~

~~_____~~
~~_____ Surety~~

~~Subscribed and sworn to before me this _____ day of _____, 20___.~~

~~_____~~
~~_____ Notary, Court Clerk or Justice of the Peace~~

XIII. SUMMARY EVICTION PROCEEDINGS

Rule 101. Notice Requirements

Notices required for summary eviction under NRS 40.253 , ~~and~~ 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 ~~shall be~~ *is* deemed filed with a justice court upon the timely filing of ~~an~~ *a contesting* affidavit by a tenant ~~and the payment of the required filing fee by the tenant~~ or upon the filing of an affidavit *of complaint for summary eviction* by the landlord ~~with an application for an order of summary eviction~~, together with the payment of the required filing fee. ~~by the landlord. Upon filing such an affidavit and application, the~~ *The* filing party ~~shall~~ *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. ~~This cover sheet shall be signed by the initiating party or his or her representative, and the filing may be denied if unaccompanied by such a cover sheet.~~

Rule 103. Requirement of Hearing

No hearing is required when the landlord files an affidavit *of complaint for* ~~and application for an order of~~ summary eviction if the tenant has not filed an affidavit *contesting the notice of eviction*. Nothing in this rule is intended to prevent the ~~justice~~ *judge* from conducting a hearing on the ~~justice~~ *judge*'s own motion. ~~In any case in which the justice determines that a notice to the tenant has not or may not have been served as required, although the court may not have been informed of this fact until after the signing of a summary eviction order, the court may stay all proceedings until a hearing has been held.~~

Rule 104. Notice of Hearing

~~Prior to the holding of a hearing for summary eviction, the justice shall determine the method of service of notice of the hearing on both parties. The date of service of the notice shall be calculated to afford the parties sufficient opportunity to prepare their cases and be present at the hearing. A justice court may enact rules requiring landlords to provide additional information to tenants on the notice of eviction, and such rules shall not be subject to the provisions of Rule 83.~~ *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 ~~applications for orders~~ *affidavits of complaint for* ~~of~~ summary eviction ~~shall~~ *must* be informal. No formal pleading other than *those required by statute* ~~the affidavits and application provided by~~ *or these rules* may be required. ~~, since it is the intent of such hearings to determine the truthfulness and sufficiency of any affidavit, notice or service of any notice and to dispense fair and speedy justice.~~

Rule 106. Reserved

~~**RULE 107. TEMPORARY WRIT OF RESTITUTION PURSUANT TO NRS 40.300(3)**~~ ***[Reserved]***

~~(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.~~

~~(b) All orders issued requiring the Defendant/Tenant to show cause why a temporary writ 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 past.~~

RULE 108. ~~SHORTENING TIME TO ANSWER PURSUANT TO NRS 40.300(2)~~ *[Reserved]*

~~In an eviction action, time to appear and defend may not be shortened to less than 10 calendar days after service of summons and complaint.~~

RULE 109. ~~SETTING OF TRIAL IN ACTIONS PURSUANT TO NRS 40.290~~*[Reserved]*

~~(a) In no case shall a trial on the merits be set less than 20 calendar days after service of summons and complaint.~~

~~(b) If the court issues an order to show cause why a temporary writ of restitution shall not be issued, it may notice on such order the date and time set for trial in addition to the date and time set for the temporary writ show cause hearing. However, if service of the summons and complaint occurs less than 11 days prior to the date for a hearing for a temporary writ or less than 20 calendar days prior to a trial date, the court shall continue the relevant hearing date upon request by the tenant.~~

~~(c) The trial on the merits shall not be set and noticed using an order to show cause.~~

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 for 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 dismissed.

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*~~ *judge* for qualification of in forma pauperis status.

(d) If the clerk or ~~*justice*~~ *judge* 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*~~ *judge* 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.

APPENDIX OF FORMS:

(Attorney or Plaintiff Information) *FORM 1*

(Caption)

Notice of a Lawsuit and Request to Waive Service of Summons under Rule 4.1 of the Justice Court Rules of Civil Procedure

To (name the defendant or—if the defendant is a corporation, partnership, association, or other entity—name an officer or agent authorized to receive service):

Why are you getting this?
A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is enclosed with this letter.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons and complaint by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within (give at least 30 days or at least 60 days if the defendant is outside the United States) from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?
If you return the signed waiver, I will file it with the court. The lawsuit will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you, and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Your Duty to Avoid Unnecessary Expenses of Serving a Summons
Rule 4.1(a) of the Justice Court Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. You have a duty to cooperate in saving unnecessary expenses even if you believe that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 of the Justice Court Rules of Civil Procedure on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond to the complaint than if a summons had been served.

I certify that this request is being sent to you on the date below.
Date: _____

_____
(Signature of the attorney or self-represented party)

_____
(Printed name)

_____
(Address)

_____
(Email address)

_____
(Telephone number)

FORM 2

(Attorney or Plaintiff Information)

(Caption)

Waiver of Service of Summons under Rule 4.1 of the Justice Court Rules of Civil Procedure

To (name the plaintiff's attorney or the self-represented plaintiff):

I have received your request to waive service of a summons in this lawsuit along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this lawsuit.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the lawsuit, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 of the Justice Court Rules of Civil Procedure within 60 days from _____, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: _____

_____

(Signature of the attorney or unrepresented party)

_____

(Printed name)

_____

(Address)

_____

(Email address)

_____

FORM 3

IN THE JUSTICE COURT, TOWNSHIP
COUNTY OF , STATE OF NEVADA

Case No.
Docket No.

Name *Name*

v.

Address *Address*

Plaintiff *Defendant*

STATE OF NEVADA }
}ss. AFFIDAVIT OF COMPLAINT
COUNTY OF } AND ORDER

, being first duly sworn, deposes and says: That the defendant is indebted to the plaintiff in the sum of $; that the reason for this indebtedness is

; that this affiant has demanded payment of the sum; that the defendant refuses to pay the same; that one or more of the defendants is a resident of, does business in, or is employed in Township, in the County of , State of Nevada; that affiant resides at the above address.

Plaintiff — Affiant

Subscribed and sworn to before me this day of , 20 .

Justice of the Peace, Court Clerk or Notary

{On the affidavit shall be printed:}

ORDER

The State of Nevada to the within-named Defendant, Greetings:

You are hereby ordered to appear for trial and to be prepared to answer the within and foregoing claim at on the day of , 20 , at the hour of ..... and to establish your defense against said claim. You are further notified that in the event you do not appear, judgment will be given against you for the amount of claim as stated in the above affidavit of complaint.

Dated: This day of , 20 .

Clerk or Justice of the Peace

FORM 4

IN THE JUSTICE COURT, TOWNSHIP
COUNTY OF , STATE OF NEVADA

Case No.
Department No.

, Plaintiff-Appellant,

v.

, Defendant-Respondent

NOTICE OF APPEAL TO DISTRICT COURT

To {party}, and , his attorney:

Comes now the defendant {or plaintiff} and does hereby appeal from the judgment entered in the justice court on the day of , 20 , to the district court in and for the above-named county and state.

The basis for the appeal is:

I acknowledge that I am required to post an appeal bond and to pay all filing fees and costs of appeal, including the expense of a transcript of the trial before this appeal will be filed with and considered by the district court. I further acknowledge that if the appeal is dismissed or the judgment is affirmed, I will be subject to reimbursing the other party for court costs, and attorney's fees, not to exceed $15, together with any reasonable expenses as determined by the district court.

Dated: This day of , 20 .

Defendant {or Plaintiff} — Appellant

FORM 5

IN THE JUSTICE COURT, TOWNSHIP
COUNTY OF , STATE OF NEVADA

Case No.
Department No.

, Plaintiff-Appellant,

v.

, Defendant-Respondent

APPEAL BOND — DEFENDANT
(Informal Surety Bond)

Whereas, the above-entitled court in the above-entitled action did on the day of , 20 , enter judgment in favor of the plaintiff and against the defendant in the sum of $, plus costs in the amount of $; and

Whereas, the defendant intends to appeal to the district court of the State of Nevada, in and for the above-named county;

Now, therefore, the undersigned does undertake and promise that in the event the judgment is affirmed, or the appeal dismissed, then and in that event, the undersigned will pay the judgment, together with interest and attorney's fees not to exceed $15, together with costs and any other amount ordered by the district court to be paid, immediately upon demand by the plaintiff.

Dated: This day of , 20 .

Surety (Not Party)

STATE OF NEVADA }
}ss.
COUNTY OF }

, the surety named in the above bond, being duly sworn, says: That he is a property owner and resident within the State of Nevada, and has assets worth the sums hereinabove mentioned, in excess of all of his debts and liabilities, exclusive of property exempt from execution, as shown on the attached sworn financial statement; and that he has read all of the foregoing and states that everything therein is true and correct.

Surety

Subscribed and sworn to before me this day of , 20 .

Notary, Court Clerk or Justice of the Peace

IN THE JUSTICE COURT, TOWNSHIP
COUNTY OF , STATE OF NEVADA

Case No.
Department No.

, Plaintiff-Appellant,

v.

, Defendant-Respondent

APPEAL BOND — PLAINTIFF
(Informal Surety Bond)

Whereas, the above-entitled court in the above-entitled action did on the day of , 20 , enter judgment in favor of the plaintiff and against the defendant in the sum of $, plus costs in the sum of $, which was less than the amount sought (or against the plaintiff in total and in favor of the defendant); and

Whereas, the plaintiff intends to appeal to the district court of the State of Nevada, in and for the above-named county;

Now, therefore, the undersigned does undertake and promise that in the event the appeal is dismissed or the judgment is affirmed, then and in that event the undersigned will pay $250 or any portion thereof as determined by the district court as and for costs and expenses, including an attorney's fee not to exceed $15, if required, to the defendant on demand.

Dated: This day of , 20 .

Surety (Not Party)

STATE OF NEVADA }
}ss.
COUNTY OF }

, the surety named in the above bond, being duly sworn, says: That he is a property owner and resident within the State of Nevada, and has assets worth the sums hereinabove mentioned, in excess of all of his debts and liabilities, exclusive of property exempt from execution, as shown on the attached sworn financial statement; and that he has read all of the foregoing and states that everything therein is true and correct.

Surety

Subscribed and sworn to before me this day of , 20 .

Notary, Court Clerk or Justice of the Peace

EXHIBIT 2
(Clean Proposed Amendments)

I. GENERAL PROVISIONS

INTRODUCTION

The following are the Justice Court Rules of Civil Procedure. In each case where there is no rule, the rule number will be followed by the notation "reserved."

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 must be construed and administered to secure the just, speedy, and inexpensive determination of every action. Whenever it is made to appear 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 must 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 conflict with a statute, the statute must control.

(e) Each justice court may adopt the Rural Justice Courts Rules or may promulgate local rules of practice in any manner not inconsistent with these rules.

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

Rule 2. Forms of Actions

There are 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 through 77 govern civil actions. Rules 81 through 87 govern traffic civil infractions. Rules 88 through 100 govern small claims actions. Rules 101 through 111 govern summary eviction actions. Rules 77 through 80 govern all actions filed in justice courts.

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

Rule 3. Commencement of Civil Action

A civil action is commenced by filing a complaint with the court. Upon filing such a complaint, 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. This cover sheet must be signed by the initiating party, or his or her representative, and the filing may be denied 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, 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. A 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 the waiver form, Form 2 in the JCRCP Appendix of Forms or its substantial equivalent, 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 two years;

(ii) resides in a foreign country and has been absent from the United States for at least six 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 four 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 four 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 protection 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. Serving 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 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 crossclaim, 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.** A 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 declared to be 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 filed and served with any opposition at the time set forth by these Rules or applicable local rules.

(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 calendar days are added after the period would otherwise expire under Rule 6(a).

III. PLEADINGS AND MOTIONS

Rule 7. Pleadings Allowed; Form of Motions and Other Papers

(a) **Pleadings.** Only these pleadings are allowed:

(1) a complaint;

(2) an answer to a complaint;

(3) an answer to a counterclaim designated as a counterclaim;

(4) an answer to a crossclaim;

(5) a third-party complaint;

(6) an answer to a third-party complaint; and

(7) if the court orders one, a reply to an answer.

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

(1) In General. A request for a court order must be made by motion. The motion must:

(A) be in writing unless made during a hearing or trial;

(B) state with particularity the grounds for seeking the order; and

(C) state the relief sought.

(2) Form. The rules governing captions, signing, and other matters of form in pleadings apply to motions and other papers.

Rule 8. General Rules of Pleading

(a) **Claim for Relief.** A pleading that states a claim for relief must contain:

(1) a short and plain statement of the grounds for the court's jurisdiction, unless the court already has jurisdiction and the claim needs no new jurisdictional support;

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

(3) a demand for the relief sought, which may include relief in the alternative or different types of relief; and

(4) if the pleader monetary damages, the demand for relief must request damages in compliance with NRS 4.370.

(b) **Defenses; Admissions and Denials.**

(1) In General. In responding to a pleading, a party must:

(A) state in short and plain terms its defenses to each claim asserted against it; and

(B) admit or deny the allegations asserted against it by an opposing party.

(2) Denials—Responding to the Substance. A denial must fairly respond to the substance of the allegation.

(3) General and Specific Denials. A party that intends in good faith to deny all the allegations of a pleading—including the jurisdictional grounds—may do so by a general denial. A party that does not intend to deny all the allegations must either specifically deny designated allegations or generally deny all except those specifically admitted.

(4) Denying Part of an Allegation. A party that intends in good faith to deny only part of an allegation must admit the part that is true and deny the rest.

(5) Lacking Knowledge or Information. A party that lacks knowledge or information sufficient to form a belief about the truth of an allegation must so state, and the statement has the effect of a denial.

(6) Effect of Failing to Deny. An allegation—other than one relating to the amount of damages—is admitted if a responsive pleading is required and the allegation is not denied. If a responsive pleading is not required, an allegation is considered denied or avoided.

(c) **Affirmative Defenses.**

(1) **In General.** In responding to a pleading, a party must affirmatively state any avoidance or affirmative defense, including:

(A) accord and satisfaction;
(B) arbitration and award;
(C) assumption of risk;
(D) contributory negligence;
(E) discharge in bankruptcy;
(F) duress;
(G) estoppel;
(H) failure of consideration;
(I) fraud;
(J) illegality;
(K) injury by fellow servant;
(L) laches;
(M) license;
(N) payment;
(O) release;
(P) res judicata;
(Q) statute of frauds;
(R) statute of limitations; and
(S) waiver.

(2) **Mistaken Designation.** If a party mistakenly designates a defense as a counterclaim, or a counterclaim as a defense, the court must, if justice requires, treat the pleading as though it were correctly designated, and may impose terms for doing so.

(d) **Pleading to Be Concise and Direct; Alternative Statements; Inconsistency.**

(1) **In General.** Each allegation must be simple, concise, and direct. No technical form is required.

(2) **Alternative Statements of a Claim or Defense.** A party may set out two or more statements of a claim or defense alternatively or hypothetically, either in a single count or defense or in separate ones. If a party makes alternative statements, the pleading is sufficient if any one of them is sufficient.

(3) **Inconsistent Claims or Defenses.** A party may state as many separate claims or defenses as it has, regardless of consistency.

(e) **Construing Pleadings.** Pleadings must be construed so as to do justice.

Rule 9. Pleading Special Matters

(a) **Capacity or Authority to Sue; Legal Existence.**

(1) **In General.** Except when required to show that the court has jurisdiction, a pleading need not allege:

(A) a party's capacity to sue or be sued;

(B) a party's authority to sue or be sued in a representative capacity; or

(C) the legal existence of an organized association of persons that is made a party.

(2) **Raising Those Issues.** To raise any of those issues, a party must do so by a specific denial, which must state any supporting facts that are peculiarly within the party's knowledge.

(b) **Fraud or Mistake; Conditions of Mind.** In alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake. Malice, intent, knowledge, and other conditions of a person's mind may be alleged generally.

(c) **Conditions Precedent.** In pleading conditions precedent, it suffices to allege generally that all conditions precedent have occurred or been performed. But when denying that a condition precedent has occurred or been performed, a party must do so with particularity.

(d) **Official Document or Act.** In pleading an official document or official act, it suffices to allege that the document was legally issued or the act legally done.

(e) **Judgment.** In pleading a judgment or decision of a domestic or foreign court, a judicial or quasi-judicial tribunal, or a board or officer, it suffices to plead the judgment or decision without showing jurisdiction to render it.

(f) **Time and Place.** An allegation of time or place is material when testing the sufficiency of a pleading.

(g) **Special Damages.** If an item of special damage is claimed, it must be specifically stated.

Rule 10. Form of Pleadings

(a) **Caption; Names of Parties.** Every pleading must have a caption with the court's name, the county, a title, a case number, and a Rule 7(a) designation. The caption of the complaint must name all the parties; the caption of other pleadings, after naming the first party on each side, may refer generally to other parties.

(b) **Paragraphs; Separate Statements.** A party must state its claims or defenses in numbered paragraphs, each limited as far as practicable to a single set of circumstances. A later pleading may refer by number to a paragraph in an earlier pleading. If doing so would promote clarity, each claim founded on a separate transaction or occurrence—and each defense other than a denial—must be stated in a separate count or defense.

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

(d) **Using a Fictitious Name to Identify a Defendant.** If the name of a defendant is unknown to the pleader, the defendant may be designated by any name. When the defendant's true name is discovered, the pleader should promptly substitute the actual defendant for a fictitious party.

Rule 11. Signing Pleadings, Motions, and Other Papers; Representations to the Court; Sanctions

(a) **Signature.** Every pleading, written motion, and other paper must be signed by at least one attorney of record in the attorney's name—or by a party personally if the party is unrepresented. The paper must state the signer's address, email address, and telephone number. Unless a rule or statute specifically states otherwise, a pleading need not be verified or accompanied by an affidavit. The court must strike an unsigned paper unless the omission is promptly corrected after being called to the attorney's or party's attention.

(b) **Representations to the Court.** By presenting to the court a pleading, written motion, or other paper—whether by signing, filing, submitting, or later advocating it—an attorney or unrepresented party certifies 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 the cost of litigation;

(2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;

(3) the factual contentions have evidentiary support or, if specifically so identified, will likely 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 belief or a lack of information.

(c) **Sanctions.**

(1) **In General.** If, after notice and a reasonable opportunity to respond, the court determines that Rule 11(b) has been violated, the court may impose an appropriate sanction on any attorney, law firm, or party that violated the rule or is responsible for the violation. Absent exceptional circumstances, a law firm must be held jointly responsible for a violation committed by its partner, associate, or employee.

(2) **Motion for Sanctions.** A motion for sanctions must be made separately from any other motion and must describe the specific conduct that allegedly violates Rule 11(b). The motion must be served under Rule 5, but it must not be filed or be presented to the court if the challenged paper, claim, defense, contention, or denial is withdrawn or appropriately corrected within 21 days after service or within another time the court sets. If warranted, the court may award to the prevailing party the reasonable expenses, including attorney fees, incurred for presenting or opposing the motion.

(3) **On the Court's Initiative.** On its own, the court may order an attorney, law firm, or party to show cause why conduct specifically described in the order has not violated Rule 11(b).

(4) Nature of a Sanction. A sanction imposed under this rule must be limited to what suffices to deter repetition of the conduct or comparable conduct by others similarly situated. The sanction may include nonmonetary directives; 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 part or all of the reasonable attorney fees and other expenses directly resulting from the violation.

(5) Limitations on Monetary Sanctions. The court must not impose a monetary sanction:

(A) against a represented party for violating Rule 11(b)(2); or

(B) on its own, unless it issued the show-cause order under Rule 11(c)(3) before voluntary dismissal or settlement of the claims made by or against the party that is, or whose attorneys are, to be sanctioned.

(6) Requirements for an Order. An order imposing a sanction must describe the sanctioned conduct and explain the basis for the sanction.

(d) Inapplicability to Discovery. This rule does not apply to disclosures and discovery requests, responses, objections, and motions under Rules 16.1, 26 through 37, and 45(a)(4). Sanctions for improper discovery or refusal to make or allow 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 crossclaim within 21 days after being served with the pleading that states the counterclaim or crossclaim.

(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 crossclaim 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 Crossclaim

(a) **Compulsory Counterclaim.**

(1) **In General.** A pleading must state as a counterclaim any claim that—at the time of its service—the pleader has against an opposing party if the claim:

(A) arises out of the transaction or occurrence that is the subject matter of the opposing party's claim; and

(B) does not require adding another party over whom the court cannot acquire jurisdiction.

(2) **Exceptions.** The pleader need not state the claim if:

(A) when the action was commenced, the claim was the subject of another pending action; or

(B) the opposing party sued on its claim by attachment or other process that did not establish personal jurisdiction over the pleader on that claim, and the pleader does not assert any counterclaim under this rule.

(b) **Permissive Counterclaim.** A pleading may state as a counterclaim against an opposing party any claim that is not compulsory.

(c) **Relief Sought in a Counterclaim.** A counterclaim need not diminish or defeat the recovery sought by the opposing party. It may request relief that exceeds in amount or differs in kind from the relief sought by the opposing party.

(d) **Counterclaim Against the State.** These rules do not expand the right to assert a counterclaim—or to claim a credit—against the State, its political subdivisions, their agencies and entities, or any current or former officer or employee thereof.

(e) **Counterclaim Maturing or Acquired After Pleading.** The court may permit a party to file a supplemental pleading asserting a counterclaim that matured or was acquired by the party after serving an earlier pleading.

(f) **Abrogated.**

(g) **Crossclaim Against a Coparty.** A pleading may state as a crossclaim any claim by one party against a coparty if the claim arises out of the transaction or occurrence that is the subject matter of the original action or of a counterclaim, or if the claim relates to any property that is the subject matter of the original action. The crossclaim may include a claim that the coparty is or may be liable to the crossclaimant for all or part of a claim asserted in the action against the crossclaimant.

(h) **Joining Additional Parties.** Rules 19 and 20 govern the addition of a person as a party to a counterclaim or crossclaim.

(i) **Separate Trials; Separate Judgments.** If the court orders separate trials under Rule 42(b), it may enter judgment on a counterclaim or crossclaim under Rule 54(b) when it has jurisdiction to do so, even if the opposing party's claims have been dismissed or otherwise resolved.

Rule 14. Third-Party Practice

(a) **When a Defending Party May Bring in a Third Party.**

(1) **Timing of the Summons and Complaint.** A defending party may, as third-party plaintiff, file a third-party complaint against a nonparty, the third-party defendant, who is or may be liable to it for all or part of the claim against it. But the third-party plaintiff must, by motion, obtain the court's leave to file the third-party complaint if it files the third-party complaint more than 14 days after serving its original answer. A summons, the complaint, and the third-party complaint must be served on the third-party defendant, or service must be waived.

(2) **Third-Party Defendant's Claims and Defenses.** After being served or waiving service, the third-party defendant:

(A) must assert any defense against the third-party plaintiff's claim under Rule 12;

(B) must assert any counterclaim against the third-party plaintiff under Rule 13(a), and may assert any counterclaim against the third-party plaintiff under Rule 13(b) or any crossclaim against a defendant or another third-party defendant under Rule 13(g);

(C) may assert against the plaintiff any defense that the third-party plaintiff has to the plaintiff's claim; and

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

(3) **Plaintiff's Claims Against a Third-Party Defendant.** The plaintiff may assert against the third-party defendant any claim arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff. The third-party defendant must then assert any defense under Rule 12 and any counterclaim under Rule 13(a), and may assert any counterclaim under Rule 13(b) or any crossclaim under Rule 13(g).

(4) **Defendant's Claims Against a Third-Party Defendant.** A defendant may assert against the third-party defendant any crossclaim under Rule 13(g).

(5) **Motion to Strike, Sever, or Try Separately.** Any party may move to strike the third-party claim, to sever it, or to try it separately.

(6) **Third-Party Defendant's Claim Against a Nonparty.** A third-party defendant may proceed under this rule against a nonparty who is or may be liable to the third-party defendant for all or part of any claim against it.

(b) **When a Plaintiff May Bring in a Third Party.** When a claim is asserted against a plaintiff, the plaintiff may bring in a third party if this rule would allow a defendant to do so.

Rule 15. Amended and Supplemental Pleadings

(a) **Amendments Before Trial.**

(1) **Amending as a Matter of Course.** A party may amend its pleading once as a matter of course within:

(A) 21 days after serving it; or

(B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

(2) **Other Amendments.** In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires.

(3) **Time to Respond.** Unless the court orders otherwise, any required response to an amended pleading must be made within the time remaining to respond to the original pleading or within 14 days after service of the amended pleading, whichever is later.

(b) **Amendments During and After Trial.**

(1) **Based on an Objection at Trial.** If, at trial, a party objects that evidence is not within the issues raised in the pleadings, the court may permit the pleadings to be amended. The court should freely permit an amendment when doing so will aid in presenting the merits and the objecting party fails to satisfy the court that the evidence would prejudice that party's action or defense on the merits. The court may grant a continuance to enable the objecting party to meet the evidence.

(2) **For Issues Tried by Consent.** When an issue not raised by the pleadings is tried by the parties' express or implied consent, it must be treated in all respects as if raised in the pleadings. A party may move—at any time, even after judgment—to amend the pleadings to conform them to the evidence and to raise an unpleaded issue. But failure to amend does not affect the result of the trial of that issue.

(c) **Relation Back of Amendments.** An amendment to a pleading relates back to the date of the original pleading when:

(1) the amendment asserts a claim or defense that arose out of the conduct, transaction, or occurrence set out—or attempted to be set out—in the original pleading; or

(2) the amendment changes a party or the naming of a party against whom a claim is asserted, 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:

(A) received such notice of the action that it will not be prejudiced in defending on the merits; and

(B) 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.** On motion and reasonable notice, the court may, on just terms, permit a party to serve a supplemental pleading setting out any transaction, occurrence, or event that happened after the date of the pleading to be supplemented. The court may permit supplementation even though the original pleading is defective in stating a claim or defense. The court may order that the opposing party plead to the supplemental pleading within a specified time.

Rule 16. Pretrial Conferences

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

(b) **Attendance and Subjects to Be Discussed at Pretrial Conferences.**

(1) A represented party must authorize at least one of its attorneys to make stipulations and admissions about all matters that can reasonably be anticipated for discussion at a pretrial conference. If appropriate, the court may require that a party or its representative be present or reasonably available by other means to consider possible settlement.

(2) **Matters for Consideration.** At any pretrial conference, the court may consider and take appropriate action on the following matters:

(A) formulating and simplifying the issues, and eliminating frivolous claims or defenses;

(B) amending the pleadings if necessary or desirable;

(C) obtaining admissions and stipulations about facts and documents to avoid unnecessary proof, and ruling in advance on the admissibility of evidence;

(D) avoiding unnecessary proof and cumulative evidence, and limiting the use of testimony under NRS 47.060 and NRS 50.275;

(E) identifying witnesses and documents, scheduling the filing and exchange of any pretrial briefs, and setting dates for further conferences and for trial;

(F) settling the case and using special procedures to assist in resolving the dispute when authorized by statute or local rule;

(G) disposing of pending motions;

(H) adopting special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems;

(I) ordering a separate trial under Rule 42(b) of a claim, counterclaim, crossclaim, third-party claim, or particular issue;

(J) establishing a reasonable limit on the time allowed to present evidence; and

(K) facilitating in other ways the just, speedy, and inexpensive disposition of the action.

(3) **Pretrial Orders.** After any conference under this rule, the court should issue an order reciting the action taken. This order controls the course of the action unless the court modifies it.

Rule 16.1. Mandatory Pretrial Disclosure Requirements for Civil Actions

(a) **Initial Disclosures.** Within 30 days of the filing of defendant's answer, a party must, without awaiting a discovery request, provide to the other parties:

(1) the name and, if known, the address and telephone number of each individual likely to have information discoverable under Rule 26(b), including for impeachment or rebuttal, identifying the subjects of the information;

(2) a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, including for impeachment or rebuttal, and, unless privileged or protected from disclosure, any record, report, or witness statement, in any form, concerning the incident that gives rise to the lawsuit;

(3) when personal injury is in issue, the identity of each relevant medical provider so that the opposing party may prepare an appropriate medical authorization for signature to obtain medical records from each provider;

(4) a computation of each category of damages claimed by the disclosing party—who must make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered; and

(5) for inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment and any disclaimer or limitation of coverage or reservation of rights under any such insurance agreement.

(b) **Disclosure of Expert Testimony.**

(1) **In General.** In addition to the disclosures required by Rule 16.1(a), a party must disclose to the other parties the identity of any witness it may use at trial to present evidence under NRS 50.275, 50.285, and 50.305.

(2) **Witnesses Who Must Provide a Written Report.** Unless otherwise stipulated or ordered by the court, this disclosure must be accompanied by a written report—prepared and signed by the witness—if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony. The report must contain:

(i) a complete statement of all opinions the witness will express, and the basis and reasons for them;

(ii) the facts or data considered by the witness in forming them;

(iii) any exhibits that will be used to summarize or support them;

(iv) the witness's qualifications, including a list of all publications authored in the previous ten years;

(v) a list of all other cases in which, during the previous four years, the witness testified as an expert at trial or by deposition; and

(vi) a statement of the compensation to be paid for the study and testimony in the case.

(3) **Witnesses Who Do Not Provide a Written Report.** Unless otherwise stipulated or ordered by the court, if the witness is not required to provide a written report, this disclosure must state:

(i) the subject matter on which the witness is expected to present evidence under NRS 50.275, 50.285, and 50.305;

(ii) a summary of the facts and opinions to which the witness is expected to testify;

(iii) the qualifications of that witness to present evidence under NRS 50.275, 50.285, and 50.305, which may be satisfied by the production of a resume or curriculum vitae; and

(iv) the compensation of the witness for providing testimony at deposition and trial, which is satisfied by production of a fee schedule.

(4) **Treating Physicians.**

(i) **Status.** A treating physician who is retained or specially employed to provide expert testimony in the case, or whose duties as the party's employee regularly involve giving expert testimony on behalf of the party, must provide a written report under Rule 16.1(b)(2). Otherwise, a treating physician who is properly disclosed under Rule 16.1(a) may be deposed or called to testify without providing a written report. A treating physician is not required to provide a written report under Rule 16.1(b)(2) solely because the physician's testimony may discuss ancillary treatment, or the diagnosis, prognosis, or causation of the patient's injuries, that is not contained within the physician's medical chart, as long as the content of such testimony is properly disclosed under Rule 16.1(a).

(ii) **Change in Status.** A treating physician will be deemed a retained expert witness subject to the written report requirement of Rule 16.1(b)(2) if the party is asking the treating physician to provide opinions outside the course and scope of the treatment provided to the patient.

(iii) **Disclosure.** The disclosure regarding a non-retained treating physician must include the information identified in Rule 16.1(b)(3), to the extent practicable. In that regard,

appropriate disclosure may include that the physician will testify in accordance with his or her medical chart, even if some records contained therein were prepared by another healthcare provider.

(5) **Timing to Disclose Expert Testimony:** A party must make these disclosures 120 days after the filing of defendant's answer.

(c) **Initial Disclosures Report.** Within 14 days of the required disclosures under Rule 16.1(a), each party must file with the court a report containing a list of the disclosures made and served upon the opposing party. This report may be prepared and filed as a joint report.

(d) **Later Joined Parties:** Any party first served or otherwise joined after the filing of the Initial Disclosures Report must make the Rule 16.1(a) disclosures within 30 days after being served or joined unless a different time is set by stipulation or court order and must file their Initial Disclosures Report within 14 days of making the required disclosures.

(e) **Duty to Supplement; Sanctions.** Each party is under a continuing duty to promptly supplement their Initial Disclosures. Failure of a party to promptly supplement the required disclosures 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. 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, crossclaim, or third-party claim may join, as independent 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 at set forth in NRS 4.370.

(2) **Defendants.** Persons may be joined in one action as defendants if any question of law or fact common to all defendants will arise in the action; and

(A) any right to relief 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 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.

(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 crossclaim 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.

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) **Reserved.**

(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;

(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 must 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. DISCLOSURES 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 through 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 one hour in length.
(2) Propound up to a total of 10 written interrogatories, including all discrete subparts.
(3) Propound up to a total of 10 requests for production of documents.
(4) Request up to 10 written admissions.
(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 Initial Disclosures Report or pretrial memorandum.

Rule 26. General Provisions Governing Discovery

(a) **Discovery Methods.** At any time after the filing of the Initial Disclosures Report, 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, electronic, 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 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 must 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.**

(1) **In General.** Within the United States or a territory or insular possession subject to United States jurisdiction, a deposition must be taken before:

(A) an officer authorized to administer oaths either by federal law or by the law in the place of examination; or

(B) a person appointed by the court where the action is pending to administer oaths and take testimony.

(2) **Definition of "Officer."** The term "officer" in Rules 30, 31, and 32 includes a person appointed by the court under this rule or designated by the parties under Rule 29(a).

(b) **In a Foreign Country.**

(1) **In General.** A deposition may be taken in a foreign country:

(A) under an applicable treaty or convention;

(B) under a letter of request, whether or not captioned a "letter rogatory";

(C) on notice, before a person authorized to administer oaths either by federal law or by the law in the place of examination; or

(D) before a person commissioned by the court to administer any necessary oath and take testimony.

(2) **Issuing a Letter of Request or a Commission.** A letter of request, a commission, or both may be issued:

(A) on appropriate terms after an application and notice of it; and

(B) without a showing that taking the deposition in another manner is impracticable or inconvenient.

(3) **Form of a Request, Notice, or Commission.** When a letter of request or any other device is used according to a treaty or convention, it must be captioned in the form prescribed by that treaty or convention. A letter of request may be addressed "To the Appropriate Authority in [name of country]." A deposition notice or a commission must designate by name or descriptive title the person before whom the deposition is to be taken.

(4) **Letter of Request—Admitting Evidence.** Evidence obtained in response to a letter of request need not be excluded merely because 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 Nevada.

(c) **Disqualification.** A deposition must not be taken before a person who is any party's relative, employee, or attorney; who is related to or employed by any party's attorney; or who is financially interested in the action.

Rule 29. Stipulations Regarding Discovery Procedure

Unless the court orders otherwise, 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 a Deposition May Be Taken.**

(1) **Without Leave.** A party may, by oral questions, depose any person, including a party, without leave of court only 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 4 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 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 4 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 if the deponent were present and testifying; and

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

(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 10 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 10 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; and

(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. 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 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 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 10 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 an 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 its demand, a party may specify the issues which the party wishes to have tried by a jury; 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 must be tried by the court; but may, on motion, order a jury trial on any or all issues for which a jury might have been demanded.

(c) **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 must continue the trial. 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 should 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 reporting.

(c) Time Limits for Conduct of Trial. Plaintiff(s) and defendant(s) are allowed 2 hours each to present their respective cases unless a different time limit 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 are treated as one plaintiff, and all defendants collectively are treated as one defendant.

(d) Pretrial Memorandum. The parties must file a joint Pretrial Memorandum no later than 45 days before the scheduled jury trial, unless otherwise ordered by the court. 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 **must** include citation to, and a copy of, the statute, rule or case law supporting the proposed instruction. The court **should** encourage limited jury instructions.

(6) All objections to proposed jury instructions.

(7) Any other requirements under local rules.

(e) Evidentiary Objections. The parties must file 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 no later than 30 days before the scheduled jury trial, unless otherwise ordered by the court. All oppositions to evidentiary objections or motions in limine must be filed and served no later 14 days after the filing of the evidentiary objections or motions, unless a different time is set by the court. No replies or supplemental pleadings are permitted, unless otherwise ordered by the court.

(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 judge's discretion, oral testimony may be provided by telephone or other remote electronic means.

(3) **Cap on Recovery for Expert Witness Fees.** Recovery for expert witness fees is limited to $1,500 per expert.

(4) **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 to be presented. Plaintiff's 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 unless otherwise ordered by the court. Any evidentiary objections relating to any proposed exhibit must be raised pursuant to Rule 39A(e) or will 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 $5,000, unless recoverable attorney fees are governed by a written agreement between the parties allowing a greater award.

Rule 40. Scheduling of Cases for Trial

The justice courts may 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 Rule 23(f) 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, Crossclaim, or Third-Party Claim.** This rule applies to a dismissal of any counterclaim, crossclaim, 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 motion, after notice to the parties, dismiss any action for want of prosecution.

(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, crossclaims, 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 relies on facts outside the record, the court may hear the matter on affidavits or may hear it 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 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 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. Determining 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 as evidence. 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) **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 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 must be composed of 4 jurors.

(b) Juror Selection. Twelve potential jurors will be selected from the county jury pool. If, after the exercise of all peremptory challenges or challenges for cause, the resulting jury panel is greater than 4 members, the first 4 members called will constitute the jury panel.

(c) Examination of Jurors. Each side is allowed 15 minutes of voir dire, which time must 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 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 3 of the jurors must be taken as a verdict or finding of the jury composed of 4 members.

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) **Reserved.**

(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 must not contain a recital of pleadings, or a record of prior proceedings.

(b) **Judgment on Multiple Claims or Involving Multiple Parties.** When an action presents more than one claim for relief – whether as a claim, counterclaim, crossclaim, 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 except that if the prayer is for unspecified damages, the court must determine the amount of the judgment. 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 which can by computation be made certain, the clerk —on the 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 or 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 must 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 45 days before the date set for trial.

(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 only needs to consider 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 judge and filed with the clerk.

(b) **When Judgment Entered.** The filing with the clerk of a judgment, signed by judge, 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, the prevailing party must serve a copy of the judgment or order, upon each party who is not in default for failure to appear and must file a certificate of service of the judgment or order with the clerk of the court. Any party or the court may 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, or adverse party or in any order of the court 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.** 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.

(b) **Stay Pending the Disposition of Certain Postjudgment 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. Judge's Inability to Proceed

If a judge conducting a hearing or trial is unable to proceed, any other judge 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 judge 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 judge may also recall any other witness. But if such successor judge cannot perform those duties because the successor judge did not preside at the trial or for any other reason, the successor judge may, in that judge'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 will issue pursuant to NRS 40.300(3) may not occur until at least 14 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 should not be entered must indicate that such hearing is not the trial on the merits, describe how such trial date will be set or indicate the trial date, and indicate that such trial will be set no earlier than 21 calendar days after service of summons and complaint.

(c) The process described at NRS 40.300(3) must 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 must not issue a temporary writ of restitution if the hearing considering such request occurs prior to 14 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 will issue is scheduled pursuant to an Order to Show Cause, a Default Judgment must 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, the court, on motion, 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 are 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 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 perform a 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) **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.

(c) **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.

(d) **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 grants relief for a nonparty or may be enforced against a 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 in 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 ground 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 must apprise appellant of the deficiencies in writing, and must send the notice of appeal to the district court in accordance with subdivision (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 must:

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

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

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

(2) 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 must serve the notice of appeal on all parties to the action in the justice court. Service on a party represented by counsel must be made on counsel. If a party is not represented by counsel, appellant must serve the notice of appeal on the party at the party's last known address. The appellant must note, on each copy, the date when the notice of appeal was filed. The notice of appeal filed with the justice court clerk must 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 to the justice court clerk the 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 must, within 7 calendar days, forward to the clerk of the district court the required filing fee and file-stamped copies of the following documents:

- ☐ the notice of appeal;
- ☐ the justice court docket entries;
- ☐ the civil case cover sheet, if any;
- ☐ the judgment(s) or order(s) being appealed;
- ☐ any notice of entry of the judgment(s) or order(s) being appealed;
- ☐ any certification order directing entry of judgment in accordance with JCRCP 54(b);
- ☐ the minutes of the justice court proceedings; and
- ☐ 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 must nonetheless forward the notice of appeal together with all documents then on file with the clerk.

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

(2) Appellant's Duty. An appellant must take all action necessary to enable the clerk to assemble and forward the documents enumerated in this subdivision.

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 must 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 must 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 it is the duty of the justice court to enter summary judgment.

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 must be filed with the justice court clerk. Except as provided in Rule 72B(d) a notice of appeal must be filed after entry of a written judgment or order, and no later than 21 days after the date 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 4(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 JCRCP 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;
(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(d), 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(d). If, however, a written order or judgment, or a written disposition of the last-remaining timely motion listed in Rule 72B(d), is entered before dismissal of the premature appeal, the notice of appeal is considered filed on the date of and after entry of the order, judgment or written disposition of the last-remaining timely motion.

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

(i) 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 justice 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 also be made in the district court and, if filed in the district court, 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 must 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. Appendix of Forms

The forms contained in the Appendix of Forms are authorized for use in the Nevada Justice Courts.

Rule 80. Record or Transcript of Proceedings

(a) Audio and/or Video Recording Operator. Whenever **audio and/or video** recording equipment is used to record proceedings, the judge **must operate or** appoint a suitable person to operate the **audio and/or video** recording equipment. **Any** person **so appointed must** subscribe to an oath that the person will operate **the audio and/or video recording equipment** to record all of the proceedings to which the person is assigned.

(b) Preservation of Audio and/or Video Recording. Each court must establish a reliable method of preserving all audio and/or video recordings made in compliance with NRS 4.390. The audio and/or video recording of each proceeding must 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 judge may order the destruction of the recording. If an appeal is taken, the ~~tape~~ recording must be retained until at least 30 days after final disposition of the case on appeal. The jduge 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

Each justice court may adopt a uniform civil penalty schedule.

Rule 82. Discovery

Formal discovery as conducted in a civil action under these rules is not allowed. A copy of the civil traffic infraction citation and the written statement of the issuing officer, if one is provided to the court from the 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. Motions

(a) Motions based upon Rules 3-71 may be ruled upon summarily.
(b) Motions requiring factual findings or an evidentiary hearing may be resolved at the time of the contested hearing or in advance, at the discretion of the court.
(c) All filed motions must be served pursuant to Rule 5 and must comply with Rule 11.

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 claim action, the action may be commenced by the filing of an affidavit of complaint as set forth in Rule 89.

(b) A counterclaim and/or cross claim may be filed within 21 days of service of the affidavit of complaint. The counter-claim and crossclaim must comply with the affidavit of complaint requirements set forth in Rule 89.

(c)When any counterclaim or other pleading raises any issue or claim which may not be adjudicated as a small claims action, the judge may separate the issues or claims and adjudicate those which 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 judge must order the entire matter be reclassified as a civil action in the justice court or transferred for adjudication in district court. Where a case is reclassified as a civil action in the justice court, the court may require the parties to:

(1) amend their pleadings to conform with the requirements for a complaint and answer in a civil action under these Rules.

(2) pay the appropriate filing fees.

(d) 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.

(c) If a justice court has created a mandatory mediation program, the court may order the parties to attend mediation prior to ordering the defendant to appear for trial as required by section (b)(1) above.

(d) The affidavit of small claims complaint must comply with Rule 11.

Rule 90. Date of Trial Appearance Fixed by Court

(a) Upon the filing of the affidavit of small claims complaint, the judge 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 judge 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) 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 4.2 or, if applicable, Rule 4.3.

(b) Upon motion, the justice 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.

(d) If a justice court has created a mandatory mediation program, the court may order the parties to attend mediation prior to setting the date, time, and location of trial, a required by this rule.

Rule 92. Motions

(a) Small claims actions are informal proceedings. 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.

(d) All filed motions must be served pursuant to Rule 5 and must comply with Rule 11.

Rule 93. Dismissal Without Prejudice

Any affidavit **of complaint** and order which remains unserved for a period of one year from the original filing date may be dismissed by the justice, 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 judge or clerk must 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.

(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 have the right to offer evidence on 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 allowed.

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 judge may 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 7 calendar days from the service of the judgment. The time for filing the notice of appeal must be calculated pursuant to Rule 6.

(c) No formal Notice of Entry of Judgment is required.

(d) The form of appeal and appeal bond must comply with Rules 99 and 100.

Rule 99. Form of Appeal — Small Claims

The appeal may be taken by filing in the justice court a notice of appeal containing the following information:

(a) A brief statement of the basis for the appeal;

(b) 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 judge, 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's fees should such attorney's 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's fees should such attorney's 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, 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 judge from conducting a hearing on the judge'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 or these rules 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 for 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 dismissed.

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 judge for qualification of in forma pauperis status.

(d) If the clerk or judge 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 judge 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.

APPENDIX OF FORMS:

Form 1: Rule 4.1 Request to Waive Service of Summons
Form 2: Waiver of Service of Summons under Rule 4.1 of the JCRCP
Form 3: Rule 89 Affidavit of Complaint and Order
Form 4: Rule 99 Notice of Appeal
Form 5: Rule 100 Appeal Bond

(Attorney or Plaintiff Information) FORM 1

(Caption)

Notice of a Lawsuit and Request to Waive Service of Summons under Rule 4.1 of the Justice Court Rules of Civil Procedure

To (name the defendant or—if the defendant is a corporation, partnership, association, or other entity—name an officer or agent authorized to receive service):

Why are you getting this?
A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is enclosed with this letter.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons and complaint by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within (give at least 30 days or at least 60 days if the defendant is outside the United States) from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?
If you return the signed waiver, I will file it with the court. The lawsuit will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you, and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Your Duty to Avoid Unnecessary Expenses of Serving a Summons
Rule 4.1(a) of the Justice Court Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. You have a duty to cooperate in saving unnecessary expenses even if you believe that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 of the Justice Court Rules of Civil Procedure on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond to the complaint than if a summons had been served.

I certify that this request is being sent to you on the date below.

Date: _____

_____
(Signature of the attorney or self-represented party)

_____
(Printed name)

_____
(Address)

_____
(Email address)

_____
(Telephone number)

FORM 2

(Attorney or Plaintiff Information)

(Caption)

Waiver of Service of Summons under Rule 4.1 of the Justice Court Rules of Civil Procedure

To (name the plaintiff's attorney or the self-represented plaintiff):

I have received your request to waive service of a summons in this lawsuit along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this lawsuit.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the lawsuit, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 of the Justice Court Rules of Civil Procedure within 60 days from _____, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: _____

_____
(Signature of the attorney or unrepresented party)

_____
(Printed name)

_____
(Address)

_____
(Email address)

_____

FORM 3

IN THE JUSTICE COURT, _____ TOWNSHIP
COUNTY OF _____, STATE OF NEVADA

Case No. _____
Docket No. _____

_____	_____
Name	Name
v.	
_____	_____
Address	Address
_____	_____
Plaintiff	Defendant

STATE OF NEVADA }
}ss. **AFFIDAVIT OF COMPLAINT**
COUNTY OF_____ } **AND ORDER**

_____, being first duly sworn, deposes and says: That the defendant is indebted to the plaintiff in the sum of $_____; that the reason for this indebtedness is _____

;

that this affiant has demanded payment of the sum; that the defendant refuses to pay the same; that one or more of the defendants is a resident of, does business in, or is employed in _____ Township, in the County of _____, State of Nevada; that affiant resides at the above address.

Plaintiff — Affiant

Subscribed and sworn to before me this _____ day of _____, 20___.

Justice of the Peace, Court Clerk or Notary

{On the affidavit shall be printed:}

ORDER

The State of Nevada to the within-named Defendant, Greetings:

You are hereby ordered to appear for trial and to be prepared to answer the within and foregoing claim at _____ on the _____ day of _____, 20___, at the hour of ..... and to establish your defense against said claim. You are further notified that in the event you do not appear, judgment will be given against you for the amount of claim as stated in the above affidavit of complaint.

Dated: This _____ day of _____, 20___.

Clerk or Justice of the Peace

FORM 4

IN THE JUSTICE COURT, _____ TOWNSHIP
COUNTY OF _____, STATE OF NEVADA

Case No. _____
Department No. _____

_____ ,__ Plaintiff-Appellant,

v.

_____ ,_ Defendant-Respondent

NOTICE OF APPEAL TO DISTRICT COURT

To _____ {party}, and _____, his attorney:

Comes now the defendant {or plaintiff} and does hereby appeal from the judgment entered in the justice court on the _____ day of _____, 20___, to the district court in and for the above-named county and state.

The basis for the appeal is: _____

_____

I acknowledge that I am required to post an appeal bond and to pay all filing fees and costs of appeal, including the expense of a transcript of the trial before this appeal will be filed with and considered by the district court. I further acknowledge that if the appeal is dismissed or the judgment is affirmed, I will be subject to reimbursing the other party for court costs, and attorney's fees, not to exceed $15, together with any reasonable expenses as determined by the district court.

Dated: This _____ day of _____, 20___.

Defendant {or Plaintiff} — Appellant

FORM 5

IN THE JUSTICE COURT, _____ TOWNSHIP
COUNTY OF _____, STATE OF NEVADA

Case No. _____
Department No. _____

_____ ,__ Plaintiff-Appellant,

v.

_____ ,_ Defendant-Respondent

APPEAL BOND — DEFENDANT
(Informal Surety Bond)

Whereas, the above-entitled court in the above-entitled action did on the _____ day of _____, 20___, enter judgment in favor of the plaintiff and against the defendant in the sum of $_____, plus costs in the amount of $_____; and

Whereas, the defendant intends to appeal to the district court of the State of Nevada, in and for the above-named county;

Now, therefore, the undersigned does undertake and promise that in the event the judgment is affirmed, or the appeal dismissed, then and in that event, the undersigned will pay the judgment, together with interest and attorney's fees not to exceed $15, together with costs and any other amount ordered by the district court to be paid, immediately upon demand by the plaintiff.

Dated: This _____ day of _____, 20___.

Surety (Not Party)

STATE OF NEVADA }
}ss.
COUNTY OF_____ }

_____, the surety named in the above bond, being duly sworn, says: That he is a property owner and resident within the State of Nevada, and has assets worth the sums hereinabove mentioned, in excess of all of his debts and liabilities, exclusive of property exempt from execution, as shown on the attached sworn financial statement; and that he has read all of the foregoing and states that everything therein is true and correct.

Surety

Subscribed and sworn to before me this _____ day of _____, 20___.

_____
Notary, Court Clerk or Justice of the Peace

IN THE JUSTICE COURT, _____ TOWNSHIP
COUNTY OF _____, STATE OF NEVADA

Case No. _____
Department No. _____

_____ ,__ Plaintiff-Appellant,

v.

_____ ,_ Defendant-Respondent

APPEAL BOND — PLAINTIFF
(Informal Surety Bond)

Whereas, the above-entitled court in the above-entitled action did on the _____ day of _____, 20___, enter judgment in favor of the plaintiff and against the defendant in the sum of $_____, plus costs in the sum of $_____, which was less than the amount sought (or against the plaintiff in total and in favor of the defendant); and

Whereas, the plaintiff intends to appeal to the district court of the State of Nevada, in and for the above-named county;

Now, therefore, the undersigned does undertake and promise that in the event the appeal is dismissed or the judgment is affirmed, then and in that event the undersigned will pay $250 or any portion thereof as determined by the district court as and for costs and expenses, including an attorney's fee not to exceed $15, if required, to the defendant on demand.

Dated: This _____ day of _____, 20___.

Surety (Not Party)

STATE OF NEVADA }
}ss.
COUNTY OF_____ _ }

_____, the surety named in the above bond, being duly sworn, says: That he is a property owner and resident within the State of Nevada, and has assets worth the sums hereinabove mentioned, in excess of all of his debts and liabilities, exclusive of property exempt from execution, as shown on the attached sworn financial statement; and that he has read all of the foregoing and states that everything therein is true and correct.

Surety

Subscribed and sworn to before me this _____ day of _____, 20___.

_____
Notary, Court Clerk or Justice of the Peace