

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PROPOSED  
AMENDMENTS TO THE RULES OF  
PRACTICE FOR THE EIGHTH JUDICIAL  
DISTRICT COURT.

ADKT No. 612

FILED

OCT 23 2023

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

PETITION TO AMEND THE RULES OF PRACTICE  
FOR THE EIGHTH JUDICIAL DISTRICT COURT

The Honorable Jerry A. Wiese, Chief Judge of the Eighth Judicial District Court, and the Honorable Jacqueline M. Bluth, Chairperson of the Rules Committee of the Eighth Judicial District Court, in accordance with Section 3.2 of the Nevada Rules on the Administrative Docket, petition the Nevada Supreme Court to adopt the proposed amendments to the Rules of Practice for the Eighth Judicial District Court as set forth in Exhibits A to F.

In the fall of 2022, the Eighth Judicial District Court solicited its judicial officers for rule amendment proposals and volunteers to serve on the Rules Committee. The intention of the Rules Committee was to address inconsistencies within the rules, clarify administrative roles and duties, and make the Court more efficient overall.

The Rules Committee was formed and included judicial officers from each division of the Eighth Judicial District Court. It received proposals from several judicial officers, judicial staff, and court employees, and met several times to review comments, questions, and suggestions. Certain rule proposals were also presented to the relevant bar sections for comments. The Rules Committee finalized a set of proposed amendments for circulation and feedback amongst all judicial officers of the Eighth Judicial District Court. Ultimately, the proposed amendments were approved by the Eighth Judicial District Court judges at an all-judges meeting on June 14, 2023.

Each of the attached Exhibits contains the grounds for the adoption, amendment, or repeal of certain rules with redlined versions of the proposed new or amended rules, pursuant to



1  
2 Nevada Rule on the Administrative Docket Section 3.3. The Exhibits are arranged in  
3 chronological order and by parts. Rules that are not proposed for deletion or amendment are not  
4 included.

5 Based on the foregoing, it is respectfully requested that the Nevada Supreme Court  
6 approve the proposed amendments to the Rules of Practice for the Eighth Judicial District Court  
7 as set forth in Exhibits A through F.  
8


9  
10 Respectfully submitted,

11 Dated this 11th day of October, 2023

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14 45C E5C 575E B440  
15 Jacqueline M. Bluth  
16 District Court Judge

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18 Dated this 13th day of October, 2023

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21 BDD 544 ADCE 1F43  
22 Jerry A. Wiese  
23 District Court Judge  
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**EXHIBITS**  
**TO PETITION TO AMEND THE**  
**RULES OF PRACTICE FOR THE EIGHTH JUDICIAL DISTRICT COURT**  
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## Exhibit A: Changes to EDCR PART I

### Grounds for proposal:

The proposals to several rules in EDCR Part I are to clarify the two Eighth Judicial District Court Divisions as the General Jurisdiction Division and the Family Division, and to clarify the duties of the chief judge, presiding judges, court executive officer, and assistant court administrators. This proposal also allows the chief judge to assign a judge to preside over civil commitments and adds construction defect as a case type.

The Eighth Judicial District Court has determined that the establishment of a Professional Negligence/Medical Malpractice Court (“Med Mal Court”) improves efficiency within its caseloads. The proposed new rule within Part I and the proposed changes to EDCR 1.62 and 1.92 define and accommodate such a court.

Many departments already extend the trial date past the 9 months of the “original” trial date, so the rule proposal to EDCR 1.90 allows for that extension, but not further than an additional 9 months.

### Proposed changes:

**Rule 1.11. ~~Family division Jurisdiction~~ Divisions--Jurisdiction.** There are two divisions of the District Court: General Jurisdiction Division and Family Division. These rules shall apply to all cases within the respective divisions. ~~jurisdiction of the family division of the district court pursuant to NRS 3.223. All matters heard in the family division shall be randomly assigned to a trial judge serving in the family division.~~ Jurisdiction of the Family Division of the District Court is as described pursuant to NRS 3.223. All other civil or criminal case types constitute the General Jurisdiction Division of the District Court.

**Rule 1.12. Definitions of words and terms.** In these rules, unless the context or subject matter otherwise requires:

(a) “Case” must include and apply to any and all actions, proceedings and other court matters, however designated.

(b) “Clerk” means the clerk of the district court.

(c) “Court” means the district court.

(d) “District judges” means all judges elected to the district court whether serving in the family, or general jurisdiction ~~civil/criminal~~ divisions of the court.

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

(f) “Person” must include and apply to corporations, firms, associations and all other entities, as well as natural persons.

(g) “Must” is mandatory and “may” is permissive.

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

(i) Wherever the term “master” appears in these rules it is interchangeable with the term “referee” as used in the Constitution of the State of Nevada and the Nevada Revised Statutes and vice versa.

**Rule 1.30. Chief judge.**

(a) The district judges must biennially select one of their number to serve as chief judge for a term of 2 years to begin July 1. However, by election, the term may, ~~by election~~, be extended 2 years.

(b) The chief judge must:

(1) Be responsible for the chief judge’s own motion calendar.

(2) Hear all extraditions and any other miscellaneous petitions regarding criminal matters.

(3) Share and direct responsibility for hearing both civil and/or criminal ~~overflow~~ cases on an overflow basis, as necessary, and the probate calendar with all trial judges.

(4) Share and direct responsibility for hearing probate cases, and oversee the functions of the probate commissioner and his/her staff.

(5) Refer all involuntary mental commitment proceedings to hearing masters, direct the appointment of said masters with the approval of the district judges, reduce to written order the findings of such masters, hear all objections to the master’s findings and direct the enforcement thereof as may be appropriate.

(6) Shall appoint, as necessary, for the orderly conduct of court business, presiding judges, over any of the various case types within the General Jurisdiction and Family Divisions of the court as may be warranted to assist the chief judge in his administrative duties over the court. Assignment should be made by administrative order describing the case type(s) presided over and the general duties of each respective presiding judge. Presiding judges serve at the pleasure of the chief judge.

(7) Make regular and special assignments of all judges, and hear or reassign emergency matters when a judge is absent or otherwise unavailable.

(8) Instruct any grand jury impaneled, receive any reports, indictments or presentments made by it and handle any other matters pertaining to it.

(9) Supervise the court executive officer ~~administrator~~ in the management of the court and the performance of the court executive officer’s ~~administrator’s~~ duties. Supervise the administrative business of the court and have general supervision of the attaches of the court. The various commissioners, referees, hearing officers and court hearing masters shall report to and be directed by their supervising presiding judge pursuant to local court rule or as designated by the chief judge; however, the chief judge will maintain general supervision over all such officers.

(10) Coordinate with the court clerk and the Office of the Clerk of the Court to assure quality and continuity of services necessary to the operation of the court.

(11) Attend meetings of the family divisions’ judges.

(12) Approve requests by civil litigants to proceed in forma pauperis and waiver of fees.

~~(13) Appoint presiding judges over civil, civil/criminal and family divisions of the district court.~~

(14) Exercise general supervision over all administrative court personnel that are not permanently assigned to a particular district court judge.

(15) Determine the need for and approve: (a) the allocation of space and furnishings in the court building; (b) the construction of new court buildings, courtrooms and related physical

facilities; (c) the modification of existing court buildings, courtrooms and related physical facilities; and (d) the temporary assignment or reassignment of courtrooms between departments to accommodate the needs of litigants, and efficient and effective case management.

(1514) Supervise the court's calendar, and apportion the business of the court among the several departments of the court as equally as possible.

(1615) Reassign cases from a department to another department as convenience or necessity requires. The chief judge shall have authority to assign overflow cases.

(1716) Appoint standing and special committees of judges as may be advisable to assist in the proper performance of the duties and functions of the court.

(1817) Provide for liaison between the court and other governmental and civic agencies; and when appropriate, meet with or designate a judge or judges to meet with any committee of the bench, bar, news media, and community to review problems and to promote understanding of the administration of justice.

(1918) Assure that court duties are timely and orderly performed.

(i) The chief judge shall set and preside over frequent and regular meetings of the judges or an elected representative committee of the judges not less than once a quarter and additional special meetings as may be required by the business of the court, distributing to all judges a prepared agenda before the meeting and minutes thereafter. If a quorum of judges is not present at the quarterly judges' meeting, the chief judge shall have the authority to mandate attendance at the next quarterly judges' meeting.

(ii) The chief judge must designate another judge to perform the chief judge's duties (serve as acting chief judge) in his or her absence (or unavailability as chief judge). The acting chief judge, ~~as well as the presiding judges of the criminal and civil divisions and the family division~~ shall serve at the pleasure of the chief judge.

(iii) The chief judge may be removed from office by a two-thirds vote of the judges present at a duly noticed meeting. Any judge may appeal any order of the chief judge to the full panel of the district judges in the district. Any order of the chief judge can only be reversed by a two-thirds vote of the judges attending a regularly scheduled meeting.

(iv) The duties prescribed in these rules shall be done in accordance with applicable Nevada Revised Statutes, Supreme Court Rules and established court policies. To facilitate the business of the court, the chief judge may delegate the duties prescribed in these rules to other judges.

(2019) Supervise all ~~criminal division~~ masters.

(i) The chief judge shall determine, within budgetary constraints, the number of ~~criminal division~~ masters and the compensation to be paid to those masters based on a salary schedule approved by a majority of the judges of the Eighth Judicial District Court.

(ii) The chief judge shall be responsible for disciplinary decisions involving the ~~criminal division~~ masters.

(iii) The chief judge shall be responsible for the assignment and reassignment of masters to the various case types as necessary. ~~determine, as necessary from time to time, whether to assign a criminal division master to handle matters assigned to other masters under the EDCR.~~

(2120) An executive committee composed of the chief judge and all presiding judges and any others appointed to the committee by the chief judge ~~over the civil, criminal and family divisions~~ shall meet once a month to address any items of administration or other business and shall provide a report and minutes of those meetings at the quarterly meeting of the district judges.



**~~Rule 1.31. Presiding judge—family/civil/criminal divisions.~~**

~~—(a) The chief judge shall appoint a presiding judge to manage the family division of the district court.~~

~~—(b) The presiding judge is responsible for the following judicial duties:~~

~~—(1) The presiding judge's own caseload comprised of one-half of a regular department caseload or the juvenile judge position normal caseload, and any overflow domestic calendar;~~

~~—(2) Guardianship calendars:~~

~~—(A) To hear, or arrange for hearing by another family division judge, all guardianship matters, including all contested guardianship matters and objections to a commissioner's findings;~~

~~—(B) Meet with and supervise the guardianship commissioner in the performance of his or her duties.~~

~~—(3) Protective order calendars:~~

~~—(A) Hear all matters involving temporary and extended protective orders against domestic violence under NRS 33.017, including all contested matters and objections to a commissioner's findings, unless the matter has been assigned to a specific family division judge;~~

~~—(B) Meet with and supervise the domestic violence commissioner in the performance of his or her duties.~~

~~—(C) Review and approve or disapprove of the recommendation of the domestic violence commissioner with respect to the disposition of all initial TPO petitions unless the matter has been assigned to a specific family division judge.~~

~~—(4) Mental commitment calendars:~~

~~—(A) To refer all mental commitment hearings to a mental commitment hearing master, hear, or arrange for such hearing by another family division judge, whether contested or an objection to a recommendation;~~

~~—(B) Meet with and supervise the mental commitment hearing master in the performance of his or her duties under Rule 1.44.~~

~~—(5) Child support calendars:~~

~~—(A) To refer all child support cases to family division hearing masters, direct the appointment of said masters with the approval of the family division judges, hear all objections to the master's findings, unless another family division judge has been assigned to the matter, and direct the enforcement thereof as may be appropriate.~~

~~—(B) Meet with and supervise the activities of the child support hearing masters in the performance of their duties under Rule 1.40.~~

~~—(C) Review and approve or disapprove of the recommendations of the child support masters with respect to the disposition of all child support petitions unless the matter has been assigned to a specific family division judge.~~

~~—(6) Public welfare paternity calendars:~~

~~—(A) To refer all public welfare paternity cases to hearing masters, direct the appointment of such masters with the approval of the family division judges, hear all objections to the master's findings, and direct the enforcement thereof as may be appropriate.~~

~~—(B) Meet with and supervise the activities of the hearing masters in the performance of their duties.~~

~~—(7) Hear or assign all cases regarding abuse and neglect under NRS Chapter 432B if the juvenile judge has a conflict preventing his or her involvement, unless the presiding judge is the~~



~~juvenile judge, which will cause the matter to be randomly assigned to another family division judge.~~

~~(8) Hear or assign all cases regarding delinquency under NRS Chapters 62A through 62I if the juvenile judge has a conflict preventing his or her involvement, unless the presiding judge is the juvenile judge, in which event the case will be randomly assigned to another family division judge.~~

~~(9) Meet with and supervise the activities of the discovery commissioner in the performance of his or her duties.~~

~~(10) Hear all out of state consents to terminate parental rights in contemplation of an adoption.~~

~~(11) Hear all motions to disqualify a family division judge when so directed by the chief judge.~~

~~(12) Review and approve or deny all initial requests to proceed in forma pauperis waiving the fees for the family litigant.~~

~~(13) Assign or reassign all cases pending in the family division of the district court.~~

~~(14) Assign or reassign courtrooms in the family division.~~

~~(15) Supervise compliance with Supreme Court Rule 251.~~

~~(16) Attend and preside over every family division judges monthly meeting.~~

~~(17) Attend every general district judges meeting.~~

~~(18) Attend every bench/bar and executive committee meeting.~~

~~(19) Complete assignments received from the chief judge of the Eighth Judicial District or Nevada Supreme Court to assist in the smooth and efficient work of the district court on behalf of the public.~~

~~(20) Attend special meetings called by the chief judge; assist with any project assigned to the family division by the chief judge.~~

~~(21) Direct the family division administrator in the management of the division and the performance of the administrator's duties including, but not limited to, the collection and compilation of statistics on the caseload and other procedures adopted by a majority vote of the family division judges to promote the objectives of the family division of the district court; meet with the family division administrator as needed.~~

~~(22) Meet with the district court administrator, the head of the Department of Family and Youth Services, the clerk's office supervisors, and family division department heads.~~

~~(23) Serve on the Department of Family and Youth Services Policy/Fiscal Affairs Board.~~

~~(24) Coordinate with the family division court clerk and the office of the court clerk for the family division to ensure quality and continuity of services necessary to the operation of the court.~~

~~(25) Meet with employees to discuss problems and/or suggestions for improvement to the family division procedures.~~

~~(26) Complete any assignment received from the chief judge of the Eighth Judicial District or Nevada Supreme Court to assist in the smooth and efficient work of the district court on behalf of the public.~~

#### **Civil Presiding Judge**

~~(a) The chief judge shall appoint a civil presiding judge to manage the civil/criminal division of the district court.~~

~~(b) The civil presiding judge is responsible for the following judicial duties:~~



- ~~— (1) The presiding judge's own caseload;~~
- ~~— (2) Meet with and supervise the discovery commissioner in the performance of his or her duties under Rule 2.34;~~
- ~~— (3) Meet with and supervise the arbitration commissioner in the performance of his or her duties;~~
- ~~— (4) Hear all motions to disqualify a civil/criminal division judge when so directed by the chief judge;~~
- ~~— (5) Assign or reassign all civil cases pending in the civil/criminal division of the district court;~~
- ~~— (6) Assign or reassign courtrooms in the civil/criminal division;~~
- ~~— (7) Attend and preside over every civil division judges monthly meeting;~~
- ~~— (8) Attend every general district judges meeting;~~
- ~~— (9) Attend every bench/bar and executive committee meeting; and~~
- ~~— (10) Complete assignments received from the chief judge of the Eighth Judicial District or Nevada Supreme Court to assist in the smooth and efficient work of the district court on behalf of the public.~~

#### **Criminal Presiding Judge**

- ~~— (a) The chief judge shall appoint a criminal presiding judge to manage the civil/criminal division of the district court.~~
- ~~— (b) The criminal presiding judge is responsible for the following judicial duties:~~
  - ~~— (1) The presiding judge's own caseload;~~
  - ~~— (2) Meet with and supervise the arraignment master in the performance of his or her duties;~~
  - ~~— (3) Hear all motions to disqualify a civil/criminal division judge when so directed by the chief judge;~~
  - ~~— (4) Assign or reassign all criminal cases pending in the civil/criminal division of the district court;~~
  - ~~— (5) Assign or reassign courtrooms in the civil/criminal division;~~
  - ~~— (6) Attend and preside over every criminal division judges monthly meeting;~~
  - ~~— (7) Attend every general district judges meeting;~~
  - ~~— (8) Attend every bench/bar and executive committee meeting; and~~
  - ~~— (9) Complete assignments received from the chief judge of the Eighth Judicial District or Nevada Supreme Court to assist in the smooth and efficient work of the district court on behalf of the public.~~

**Rule 1.33. Specialization of judges; procedure for selection.** The chief judge ~~may~~must assign the judges of the district ~~(excluding family court judges)~~ to specialized case types ~~in divisions of~~ the court for 2-year terms as needed. The assignments ~~may~~must provide for rotation of the judges among the various ~~case types~~divisions. In making the assignments, the chief judge shall request the district judges to recommend the assignments, and shall take into account the desires of each individual judge. ~~However, the final selection, however,~~ is left to the discretion of the chief judge. Assignments ~~may~~shall be made as follows:

- (a) Civil ~~/Criminal division~~: judges as needed;
- (b) Business ~~Court division~~: at least 3 judges who have experience as a judge or practitioner in "business matters" as defined in Rule 1.61(a);

- (c) Constructional defects: judges as needed; ~~Civil only division: judges as needed;~~
- (d) Drug Court, Mental Health Court, Civil Commitments, Competency, TAP/OPEN, MAT Veterans' Court, Gambling Court, DAAY Court etc. ~~Overflow division: judges as needed;~~
- (e) Overflow ~~division:~~ judges as needed;
- (f) Family civil domestic: judges as needed;
- (g) Family juvenile: judges as needed;
- (h) Guardianship: judges as needed;
- (i) Probate: judges as needed;
- (j) Med Mal Court or professional negligence: judges as needed;
- (k) Any other specialty assignments: judges as needed.

**Rule 1.44. Civil commitments and hearing masters; duties of the Division of Public and Behavioral Health; duties of counsel.**

(a) The provisions of this rule apply to all court-ordered admissions of any person alleged to be in a mental health crisis.

(b) Unless otherwise ordered by the chief judge, or the district court judge assigned by the chief judge, civil commitment hearings must be conducted by the civil commitment hearing master. The compensation of the masters must not be taxed against the parties, but when fixed by the chief judge, must be paid out of appropriations made for the expenses of the court. Every master must be in good standing as a member of the State Bar of Nevada.

(c) The civil commitment hearing master may conduct formal court hearings at the hospital or wherever is most convenient to the master and the person alleged to be in a mental health crisis. The master has the authority to swear witnesses, take evidence, appoint independent medical evaluators, evaluate competency, recommend guardians, and conduct all other matters relating to the involuntary commitment proceeding. All proceedings must be recorded or transcribed by a duly appointed court recorder or reporter as provided by law.

(d) Not less than 24 hours before the time set for a commitment hearing, the Administrator of the Public and Behavioral Health Division, or the administrator's designee, must examine each person alleged to be in a mental health crisis and prepare, for presentation at the hearing, a report designating which facilities are available together with a recommendation of the least restrictive environment suitable to the patient's needs. At the time of the hearing, the person alleged to be in a mental health crisis must not be so under the influence of or so suffer the effects of drugs, medication or other treatment as to be hampered in preparing for or participating in the hearing, and a record of all drugs, medication or other treatment that the person has received during the 72 hours immediately prior to the hearing must be presented to the master.

(e) The Clark County Public Defender's Office must furnish counsel for all persons alleged to be in a mental health crisis not otherwise represented by an attorney.

(1) Prior to the hearing, the public defender or the attorney for the person alleged to be in a mental health crisis must interview the person, explain to the person his or her rights pending court-ordered treatment, the procedures leading to court-ordered treatment, the standards for court-ordered treatment and the alternative of becoming a voluntary patient. The public defender must also explain that the person can obtain counsel at the person's own expense.

(2) Prior to the hearing, the person's attorney must review the commitment petition, evaluation reports, the patient's medical records and the list of alternatives to court-ordered treatment.

(f) At the conclusion of each hearing, a copy of the written recommendation of the hearing master must be given to the person, the person's counsel and the district attorney. Not later than 5:00 p.m. on the day the hearing concludes, the hearing master's recommendation must be submitted to the chief judge or the district court judge assigned by the chief judge.

(g) Objections to the master's recommendation must be made to the chief judge or the district court judge assigned by the chief judge at the time the report is submitted or at such other time as the chief judge or the district court judge assigned by the chief judge may prescribe. The chief judge or the district court judge assigned by the chief judge may require oral objections to be reduced to writing.

(h) After reviewing the master's recommendation and any objection thereto, the chief judge or the district court judge assigned by the chief judge must:

- (1) Approve the same and order the recommended disposition,
- (2) Reject the recommendation and order such relief as may be appropriate, or
- (3) Direct a rehearing.

(i) All rehearings of matters heard before the master must be before the chief judge or the district court judge assigned by the chief judge and must be conducted de novo.

(j) No recommendation of a master will become effective until expressly approved by the chief judge or the district court judge assigned by the chief judge.

#### **Rule 1.45. Juvenile judges.**

(a) The judges assigned a juvenile dependency caseload~~division judge~~ must hear all cases involving allegations of abuse and neglect of a minor child under NRS Chapter 432B.

(b) The judges assigned to a juvenile delinquency caseload~~division judge~~ must:

- (1) Hear juvenile delinquency cases in accordance with NRS Chapters 62A through 62I.
- (2) Supervise the activities of the juvenile delinquency division hearing masters in the performance of their duties pursuant to NRS Chapters 62A through 62I; under EDCR 1.46, hear all objections to the master's findings; and direct the enforcement thereof as may be appropriate.
- (3) Hear all de novo appeals of delinquency cases and any other miscellaneous matters regarding delinquency cases.

~~(4) Where applicable, represent the division on all matters involving the probation committee, director of juvenile services, chief probation officer, or other employee/services referenced in NRS Chapters 62A through 62I.~~

#### **Rule 1.48. Criminal ~~division~~ masters.**

(a) The provisions of this rule derive from NRS 3.245 and apply to all criminal proceedings before a criminal ~~division~~ master.

(b) A criminal ~~division~~ master must be a senior judge or justice, senior justice of the peace, justice of the peace, district judge serving in the family division, or a member of the State Bar of Nevada who is in good standing as a member of the state bar and has been so for a minimum of 5 continuous years immediately preceding appointment as a criminal ~~division~~ master.

(c) Upon appointment, a criminal ~~division~~ master shall be precluded from practicing law in Clark County and must recuse himself or herself from hearing any case that he or she previously handled as an attorney and from any case where the defendant was a client of the criminal ~~division~~ master or the law firm where the criminal ~~division~~ master practiced.

(d) The Clark County District Attorney's Office, the Clark County Public Defender's Office, the Special Public Defender's Office, and any other government office or private attorney



appointed to represent an indigent defendant shall provide legal representation for the State of Nevada and indigent defendants before a criminal ~~division~~ master as they would before any judge of the Eighth Judicial District Court.

(e) The compensation of all criminal ~~division~~ masters shall be fixed as provided by Rule 1.30(b)(19) and shall be paid from appropriations made for the expenses of the court.

(f) A motion to recuse or disqualify a criminal ~~division~~ master shall be heard by the chief judge or a judge of the General Jurisdiction ~~criminal Division~~ designated by the chief judge. If the chief judge must designate a district judge to hear a motion to recuse or disqualify a criminal ~~division~~ master, the chief judge shall, to the extent that it is practicable, designate the district judge sitting in the department to which the proceeding was randomly assigned for trial.

(g) All proceedings before a criminal ~~division~~ master must be conducted in accordance with the Nevada and United States Constitutions, the Nevada Revised Statutes, and these rules.

(h) A criminal ~~division~~ master serves at the pleasure of the district judges of the Eighth Judicial District Court and unless those judges, by simple majority vote, cause the chief judge to enter an order terminating the appointment of a criminal ~~division~~ master, such master shall continue to serve until the appointment of a successor. In the event of a tie vote, the chief judge's vote shall break the tie.

(i) All proceedings before a criminal ~~division~~ master shall be of record in the same manner provided by law for proceedings before judges of the Eighth Judicial District Court. All pleas of guilty or nolo contendere shall be transcribed and become a part of the court record.

(j) A motion for reconsideration of a recommendation or decision of a criminal ~~division~~ master shall be brought before the district judge sitting in the department of origin and shall be decided upon the pleadings and any transcript of the proceedings before the criminal ~~division~~ master unless the district judge deems further evidence to be necessary. The "department of origin" is the department of the Eighth Judicial District Court to which the clerk's office randomly assigned the case for trial.

(k) A criminal ~~division~~ master shall hear cases assigned by the chief judge, including:

(1) In conjunction with a clerk of court, accepting returns of true bills by the grand jury.

(2) Conducting arraignments and accepting pleas of guilty, nolo contendere, and not guilty, including ascertaining whether the defendant will invoke or waive speedy trial rights.

(3) Setting trial dates in conjunction with the clerk of the trial court.

(4) Referring cases to the Division of Parole and Probation for preparation of a presentence report and setting sentencing dates in the department of origin.

(5) Setting or modifying bail at the time of return of a true bill or arraignment.

(6) Ruling in open court on motions to quash bench warrants and setting court dates in the department of origin.

(7) Handling cases calendared for bench warrant return.

(8) Unless the sentencing judge requests that all probation revocation proceedings come before that judge, presiding over notices of intent to seek revocation and status checks on revocation of probation and either setting a revocation hearing before the judge in the department of origin or accepting a stipulation by all parties to resolve the revocation proceedings. However, all contested hearings on motions for probation revocation shall be heard by the district court judge who originally granted probation. Furthermore, in given cases, the sentencing judge granting probation may order that any subsequent proceeding regarding probation shall be heard by that judge and any such order shall preempt the jurisdiction of a master in regard thereto.

(9) Setting motions and/or hearing dates in the department of origin.

(10) Determining conflicts or indigency and appointing counsel where appropriate.

(11) When an issue of the defendant's competency to stand trial arises, ordering a minimum of 2 psychiatric examinations and reports to be prepared and setting a date for a competency determination before the department of origin.

(12) Upon stipulation of counsel, when 2 consistent reports opining incompetence have been submitted, referring the defendant for custodial treatment pending the attainment of competency to stand trial.

(13) Upon stipulation of counsel, pursuant to negotiations, referring the defendant to drug court and setting the drug court date or referring a defendant to the Serious Offender's Diversion Program or another comparable stipulated diversion alternative.

(14) Upon stipulation of counsel, allowing the amendment of charging documents and pleadings.

(15) Pursuant to negotiations and upon stipulation and waiver, sitting as a ~~master magistrate~~ and adjudicating and sentencing on a simple misdemeanor.

(16) Presiding over the drug court calendar and attending to all drug court related duties and procedures upon occasion and in the event that the judge assigned to preside over the drug court is out of the jurisdiction for judicial/legal training, on vacation, out sick or is otherwise temporarily unable to preside over the drug court calendar.

(17) On gross misdemeanor cases, upon stipulation of counsel to waive any jurisdictional defect and to waive the presentence report and to have imposed a particular sentence, imposing said stipulated sentence. The resulting judgment of conviction shall be reviewed by the master and, upon approval, initialed by the master, and the judgment shall then be submitted to the judge in the assigned department for signature.

**Rule 1.50. Court—~~Executive Officer~~administrator.** The court ~~executive officer administrator~~ is responsible for the administration of the rules, policies and directives of the district court. In addition to the duties prescribed below, the district court ~~administrator~~ ~~executive officer~~ shall be denominated the administrator of the clerk of the court and ~~shall~~ ~~may~~ appoint an assistant court administrator to hold the additional title of clerk of the court who shall perform all the statutory and other duties assigned to that office. Subject to the direction of the chief judge acting on behalf of the district judges, the court ~~executive officer~~ ~~administrator~~ must:

(a) Supervise the assistant court administrators, ~~family division administrator~~, jury commissioner and other officers and employees of or serving the district court, except for the department staff of each judge.

(b) Supervise the office of the court clerk and the processing of all pleadings and papers related to court business and the court clerks.

(c) Direct the supervisor of the Court Interpreter Program.

(d) Direct bailiff management at security gate and schedule relief support for all bailiff positions.

(e) Plan, organize and direct budgetary, fiscal, personnel management training, facilities and equipment of the district court and represent the judicial branch of government in the district.

(f) Monitor a system of internal controls which includes payroll, purchasing, accounts payable, accounts receivable, information systems and inventory for the following divisions: adjudication, administration, family mediation services, jury services, family adjudication and grand jury.

(g) Expedite movement of the court calendars and coordinate automated case management system in cooperation with the clerk's office, including, but not limited to the development of integrated data entry systems.

(h) Supervise preparation and submission of reports on activities of the court to state, regional and local authorities as required.

(i) Determine statistics to be gathered and manage the flow of information through and about the court.

(j) Direct research, evaluation and monitoring and propose new and revised policies as necessary to improve work operations.

(k) Coordinate the calendars and activities of judges visiting from other jurisdictions and of hearing officers assigned for specific purposes.

(l) Represent the court on regional and statewide judicial and justice system coordinating councils, conferences, conventions, and committees as assigned.

(m) Handle public information and liaison with other government executive, legislative and judicial agencies and the community.

(n) Perform such other functions and duties as may be assigned by the district judges.

**Rule 1.51. Assistant court administrators.** The assistant court administrators serve under the direction of the court executive officer administrator. The assistant court administrators are responsible for all duties assigned by the court administrator executive officer and, in the absence of the court administrator executive officer, shall perform all of the duties of the court administrator executive officer under Rule 1.50.

~~**Rule 1.52. Family division administrator.** The district court administrator, with the consent of the district court judges serving in the family division, must appoint a family division administrator. The family division administrator serves under the direction of the court administrator. The family division administrator is responsible for the administration of the rules, policies and directives of the family division of the district court. Subject to the direction of the presiding judge acting on behalf of the district judges serving in the family division and the court administrator, the family division administrator must:~~

~~— (a) Supervise the employees of, or serving in, the family division of the district court, except for the department staff of each judge.~~

~~— (b) Direct the supervisor of the Family Mediation and Assessment Center and the CASA program for the court.~~

~~— (c) Coordinate jury and court interpreter services when necessary.~~

~~— (d) Direct bailiff management at security installations and coordinate relief support for all bailiff positions involving the family division.~~

~~— (e) Plan, organize and direct budgetary, fiscal, personnel management training, facilities and equipment of the family division.~~

~~— (f) Represent, when authorized by the family division judges, the judicial branch of government in the district with regard to matters affecting the family division.~~

~~— (g) Monitor a system of internal controls which includes payroll, purchasing, accounts payable, accounts receivable, information systems and inventory for the family division.~~

~~— (h) Monitor and, when necessary, expedite movement of the family division court calendars and coordinate the automated case management system in cooperation with the family division clerk's office.~~



- ~~— (i) Supervise preparation and submission of reports on activities of the family division to state, regional and local authorities as required by law.~~
- ~~— (j) Determine what statistics need to be gathered to manage the flow of information pertaining to the family division.~~
- ~~— (k) Direct research, evaluation and monitoring and propose new and revised policies as necessary to improve work operations.~~
- ~~— (l) Coordinate the calendars and activities of judges visiting from other jurisdictions and of masters assigned for specific purposes.~~
- ~~— (m) Represent the family division on regional and statewide judicial and justice system coordinating councils, conferences, conventions and committees as assigned by the presiding judge or the court administrator.~~
- ~~— (n) Handle public information and liaison with other government executive, legislative and judicial agencies and the community.~~
- ~~— (o) Perform such other functions and duties as may be assigned by the district judges serving in the family division.~~

**Rule 1.60. Assignment or transfer of cases generally.**

(a) The chief judge shall have the authority to assign or reassign all cases pending in the district. Additionally, the presiding judges ~~of the family division shall have the authority to assign or reassign cases in their respective assignments pending in the family division; the civil presiding judge shall have the authority to assign or reassign civil cases pending in the civil/criminal division; and the criminal presiding judge shall have the authority to assign or reassign criminal cases pending in the civil/criminal division.~~ Unless otherwise provided in these rules, all cases must be distributed on a random basis. However, when a case is remanded to a lower court or tribunal for further proceedings, it must be returned to the original judge at the conclusion of these proceedings.

(b) The chief judge may, in the event the calendar of any judge becomes unusually congested due to extraordinary circumstances, redistribute a calendar or a portion thereof on an equitable basis provided, however, that the calendar of a judge serving in the family division may not be redistributed in violation of [NRS 3.0105](#).

(c) Any judge who plans to be absent on a judicial day (for vacation, education or other court approved project) must reset the time for the hearing of his or her cases or arrange for another department to handle the judge's calendar, and shall coordinate planned absences with the chief judge to assure that adequate judicial coverage is maintained. If a judge is ill or unexpectedly absent, ~~arrangements should be made the judge's secretary or the chief judge must arrange for the absent judge's calendar to be heard by any other district judge, or by a senior judge.~~

(d) Judges who disqualify themselves from hearing a case must direct the entry of an appropriate minute order for reassignment on a random basis. If all the trial judges in this district are disqualified, the clerk must notify the court administrator to reassign the case to a senior judge or a visiting judge from another judicial district.

(e) Under the supervision of the chief judge, the court administrator shall assign appropriate matters to available senior judges and visiting judges.

(f) No attorney or party may directly or indirectly influence or attempt to influence the clerk of the court or court staff or any officer thereof to assign a case to a particular judge. A violation of this rule is an act of contempt of court and may be punished accordingly.

(g) These rules also apply to the family division, its judges and presiding judge.

(h) When, upon motion of a party, or sua sponte by the court, it appears to the assigned judge that a case has been improperly assigned to the wrong division of the court, then that judge must transfer the case to the correct division and order the clerk's office to randomly reassign the case to a judge serving in the new division. Any objection to the ruling must be heard by the presiding judge of the division from which the case was reassigned in the same manner as objections to a discovery recommendation under Rule 2.34(f). Disputes concerning case assignments that remain unresolved shall be resolved by the chief judge. The ruling of the chief judge is final and non-appealable.

**Rule 1.62. Assignment of civil cases.** Unless otherwise provided in these rules, all civil cases not designated business matters or Med Mal Court matters shall be divided and randomly assigned among those trial judges assigned to the General Jurisdiction civil/criminal division and full-time civil Division hearing civil matters. The chief judge may reassign and transfer a case to a judge who hears civil matters full-time if the trial of the matter is likely to exceed 4 weeks in length. ; additionally, any civil case which will take 4 weeks or more to try may be handled by a full-time civil judge. No department assignment may be made for uncontested probate matters, or mental competency cases.

~~—(a) Assignment of civil cases to full-time civil judges. Civil cases shall be assigned randomly to the balance of full-time civil judges not designated business court judges. In addition to random assignment of cases, civil cases initially assigned to a civil/criminal judge may be reassigned and transferred to a full-time civil judge not hearing business matters if the trial of the matter is likely to exceed 4 weeks in length.~~

~~—(b) At the time these rules take effect, all pending civil cases will be analyzed and a determination made by the presently assigned judge to:~~

- ~~—(1) Keep the case and try it;~~
- ~~—(2) Reassign it to the business court;~~
- ~~—(3) Determine the likely length of the trial and, if the trial will exceed 4 weeks in length, the case may be remanded to a full-time civil judge, or leave the case as is and available for random reassignment to another civil/criminal judge to accommodate case reassignment pursuant to these rules.~~

**Rule 1.63. Assignment of family cases.** Unless otherwise provided in these rules, all Family Division cases must be divided evenly among the judges serving in the Family Division, except the presiding judge pursuant to Rule 5.42. The family division judges shall determine how to assign guardianship cases. Upon the election of a new presiding judge, the caseload of the new presiding judge shall be adjusted with the out-going presiding judge in the most efficient manner to accommodate the judiciary, the bar and the litigants.

**Rule 1.65. Assignment of and lack of peremptory challenges in construction defect matters.**

(a) **Assignment.** In those instances where one of the construction defect judges recuses or is disqualified pursuant to NRS 1.235, the case shall be randomly reassigned to another construction defect judge by the office of the clerk of the court. In those instances where all construction defect judges have recused or been disqualified, then the case shall be reassigned by the chief judge to a judge in the civil General Jurisdiction Division. Should such civil judge recuse



or be disqualified, the chief judge will then reassign to another judge in the General Jurisdiction ~~civil~~ Division.

(b) **Peremptory challenges.** The assignment procedure established here is an exception to Supreme Court Rule 48.1. Neither a construction defect judge nor a civil judge assigned a construction defect case by the chief judge may be the subject of a peremptory challenge by the parties.

**Rule 1.66 Medical Malpractice Matters.**

(a) Professional Negligence/Medical Malpractice matters defined. "Med Mal Court matters" shall be:

(1) Matters in which any claim or issues are based on NRS Chapter 41A without regard to the amount in controversy; and

(2) Claims made pursuant to NRS Chapter 41A in the alternative to any other claims.

(b) Assignment of Med Mal Court matters.

(1) Unless otherwise provided in these rules, Med Mal Court matters shall be divided among those judges designated as Med Mal Court judges by the chief judge.

(2) Any party in a case may file a request in the pleadings that a case be assigned as a Med Mal Court matter. A request may be made by a plaintiff, applicant or petitioner in the caption of the initial complaint, application or petition. If the request is made in the caption of the initial complaint, application or petition, the matter will be automatically assigned as a Med Mal Court matter by the clerk's office. If the request is made by a party in the caption of its initial appearance or response, other than the plaintiff/applicant/petitioner, then the case shall be randomly assigned to a Med Mal Court judge for determination as to whether the case should be handled as a Med Mal Court matter.

(3) Any party aggrieved by designation of a case as a Med Mal matter may seek review by the Med Mal Court judge within fourteen (14) days of receipt of the assignment of the case to a Med Mal Court judge or within fourteen (14) days of filing a responsive pleading, whichever is later.

(4) The Med Mal Court judge shall decide whether a case is or is not a Med Mal matter and that decision shall not be appealable or reviewable by writ. Any matter not deemed a Med Mal matter shall be randomly reassigned if it was originally assigned to the Med Mal Court judge. If a case was submitted to the Med Mal Court judge to determine whether it is a Med Mal matter and the Med Mal Court judge rules that it is not, that case will be reassigned to the department from which it came.

(c) Peremptory challenge. In those instances where one of the Med Mal Court judges is peremptorily challenged pursuant to SCR 48.1, recuses, or is disqualified, the case shall be randomly reassigned to another Med Mal Court judge by the office of the clerk of the court. If all Med Mal Court judges have recused or been disqualified, then the case shall be reassigned by the chief judge to a judge in the General Jurisdiction Division. Should such judge recuse or be disqualified, the chief judge will then reassign to another judge in the General Jurisdiction Division.



**Rule 1.73. Calendaring of contested family motions.** The district judges serving in the ~~F~~family ~~D~~ivision, ~~except the presiding judge,~~ will provide the clerk's office with a schedule of days and times in which to set motions, reserving for the court specific times wherein the court will calendar special matters, returns and trials. Motion times must be obtained from the clerk's office. A motion noticed for hearing on the wrong day or time may, at the discretion of the judge, be set over to the next appropriate day or vacated to be properly noticed.

**Rule 1.90. Caseload management.**

**(a) Delay reduction standards.**

(1) Time to disposition. For criminal cases, the aspirational standard of the court is for 50% of all cases to be resolved within 6 months, 90% of all cases to be resolved within 1 year (with the last 10% being only life sentence or death penalty cases) and for 100% of the cases to be resolved within 2 years. It is the goal of the court to achieve a final resolution in 80% of its civil cases within 24 months of filing and a final resolution in 95% of its cases within 36 months of the date of filing. The court recognizes that there will be exceptional cases which will not be resolved within 36 months. The court also recognizes that 100% of all cases must be resolved within 60 months from the date of filing, unless there is a written stipulation by the parties to extend deadlines under [NRCJ 41\(e\)\(2\)\(B\)](#).

(2) Time limits for judges. Except in complex litigation as defined in [NRCJ 16.1\(f\)](#), judges shall ensure that pretrial discovery is completed within 18 months from the filing of the joint case conference report. Discovery in complex litigation shall be completed within 24 months from the filing of the joint case conference report.

(3) Time limits for pretrial motions. All pretrial motions shall be heard and decided no later than 14 days before the date scheduled for trial.

(4) Time limits for matters under submission. Unless the case is extraordinarily complex, a judge or other judicial officer shall issue a decision in all matters submitted for decision to him or her not later than 21 days after said submission. In extraordinarily complex cases, a decision must be rendered not later than 28 days after said submission. Following the decision of the judge or other judicial officer, the prevailing party shall submit a written order to the judge or judicial officer not later than 14 days from the date of the decision.

(5) Time limits for entry of judgments. Unless the case is extraordinarily complex, a judge or other judicial officer shall order the prevailing party to prepare a written judgment and findings of fact and conclusions of law and submit the same not later than 21 days following trial. In extraordinarily complex cases, the attorney for the prevailing party shall submit a written judgment and findings of fact and conclusions of law to the judge or judicial official not later than 28 days following the conclusion of trial.

(6) Time limits for remands from Nevada Supreme Court. Any case remanded for further action by the supreme court shall be scheduled for a status check no later than 28 days from issuance of the remittitur.

**(b) Civil caseload management.**

(1) Responsibility of trial judge. It is the clear responsibility of each individual trial judge to manage the individual calendar in an efficient and effective manner. Each judge is charged with the responsibility for maintaining a current docket.

(2) Dismissal calendar. Each department shall review its civil caseload for complaints not served or not answered within 180 days of filing and for civil cases pending longer than 12 months

in which no action has been taken for more than 6 months. The cases shall either be disposed of or moved forward by means of a dismissal calendar held at least monthly in each department.

(3) Scheduling orders. In civil cases, the judge shall issue a scheduling order pursuant to [NRCP 16\(b\)](#). In addition to the required contents of [NRCP 16\(b\)\(3\)\(A\)](#), the scheduling order shall contain dates for any pretrial conferences, a final pretrial conference and/or calendar call, and the trial or trial stack. The scheduling order may include any other appropriate matters.

(4) Trial setting. Cases shall be set for trial no later than 6 months from the date of the discovery cut-off date.

(5) Trial date. The trial shall go forward on the trial date or within the trial stack ~~originally~~ set, unless the court grants a continuance upon a showing of good cause. No trial shall be continued pursuant to stipulation of the parties without approval of the judge. At the time a continuance is granted, the judge must set a new trial date. The new trial date shall be set at the earliest available date ~~no later than 9 months from the last trial date~~ ~~within 9 months of the original trial date~~.

(6) Number of trials. Each department must set a minimum of 10 cases for each full week of a trial stack. In determining the maximum number of cases to set, the judge should consider the following factors: the length of time between the filing of the trial order and the trial date, length of trial and fallout, or dispositions expected before trial date.

**(c) Caseflow review committee.**

(1) Purpose. The purpose of the committee shall be to review the status of all dockets to identify backlogs that require attention and to review compliance with court delay reduction standards.

(2) Procedures. The caseflow review committee shall monitor the caseflow of each department. To assist the committee in its review, each department, on or before the 15th day of the month, shall report the following information to the caseflow review committee as to the previous month:

(A) The number of joint case conference reports received during the month.

(B) A list of cases for which joint case conference reports have been received but no trial dates have been set.

(C) A list of all cases set to begin trial during the month and a report of disposition. For any cases continued, a reason given for the continuance and the number of prior trial continuances reported.

(D) A list of all cases sent to overflow trial calendar and a report of disposition or reason for non-disposition and next case action date.

(E) A report of matters (motions and trials) taken under advisement and which have been pending more than 30 days.

(F) Any other reports the committee deems useful to accomplish the purpose of the caseflow review committee.

(3) Recommendation to chief judge. When the caseflow review committee determines that an individual judge's docket has become backlogged due to inactivity, neglect, or inadequate management, it will recommend in writing to the chief judge appropriate action to bring the docket to current status. Prior to making such recommendation, a representative of the caseflow review committee must meet with the judge in question to discuss the problem. The action recommended by the caseflow review committee may include, but shall not be limited to the following remedial measures:

(A) Require the judge to attend proceedings with a judge (or judges) whose docket is current, to observe the procedures employed to move the docket.

(B) Refuse the approval of the judge's requests for the expenditure of funds not relating to items that impact the judge's productivity in disposing of cases.

(C) Require the judge to attend an educational program on docket management and develop a written plan for improvement.

(D) Curtail the judge's time away from the court.

(E) Recommend that the chief judge issue a letter of complaint to the Nevada Judicial Discipline Commission.

(4) Willful non-compliance. Should the chief judge determine that any judge's non-compliance with the delay reduction and caseload management standards is willful and not a result of caseload or extraordinary circumstances, the chief judge shall report the same to the chief justice of the supreme court for further action.

**(d) Caseload management reporting.**

(1) Complaints not served or answered within 180 days. Not less than once each month, the court administrator shall provide each department with a list of all civil cases that have not been served or answered within 180 days of the filing of the complaint. Upon receipt of the list, each judge shall determine the status of all such cases and shall, by motion with notice to the parties, set all cases lacking in prosecution for dismissal not less than monthly.

(2) Cases 12 months or older. Not less than 2 times per calendar year, the court administrator shall provide each department with a list of all civil cases 12 months or older, upon which there has been no activity since the initial pleadings. Upon receipt of the list, each judge may order a status report be filed, shall determine the status of all such cases and shall, by motion with notice to the parties, set all cases lacking in prosecution for dismissal not less than 2 times per year.

(3) Cases 36 months or older. In January and July of each year, the court administrator shall provide each department with a list of all civil cases 36 months of age or older. Upon receipt of the list, each judge may order a joint status report be filed by the parties, shall determine the status of all such cases, and shall submit a written status report to the chief judge in February and August, setting forth the status of each such case.

(4) Cases 48 months or older. In January of each year, the court administrator shall provide each department and the chief judge with a list of all cases that are 48 months of age or older. Upon receipt of the list, each judge may order a joint status report be filed by the parties, shall determine the status of all such cases and shall submit a written status report to the chief judge no later than 30 days from receipt of the report.

**Rule 1.91. Alternative Dispute Resolution Commissioner.**

(a) The district judges serving in the ~~General Jurisdiction~~~~civil/criminal~~~~d~~ Division may appoint an alternative dispute resolution (ADR) commissioner to serve at the pleasure of the court. The ADR commissioner shall have the responsibilities and powers conferred by the Nevada Arbitration Rules (NAR), the Nevada Mediation Rules (NMR), the Nevada Short Trial Rules (NSTR), the Foreclosure Mediation Rules (FMR), and such other alternative dispute resolution mechanisms contemplated by [NRS 38.250](#) as may from time to time be promulgated, including without limitation, the power to issue decisions, determinations and other rulings on matters as provided in the NAR, NMR, NSTR, and FMR, and to make findings and recommendations to the court regarding any dispositive matter such as violations of or for any other reason as provided in the NAR, NMR, NSTR, FMR, NRCP, DCR, and/or EDCR, or as otherwise provided by statute.



(b) Upon reasonable notice, the ADR commissioner may direct parties to appear for a conference with the commissioner concerning any matter related thereto. Unless otherwise directed, points and authorities need not be filed prior to a conference noticed by the commissioner. Counsel may not stipulate to vacate or continue a conference without the commissioner's consent.

(c) Any matter concerning the NAR, NMR, NSTR, and FMR may be referred by any district judge to the ADR commissioner for a hearing in order to make findings and recommendations to the court.

(d) Following the hearing on any matter, the ADR commissioner must prepare a commissioner's report and recommendations, a decision, determination or other ruling, or make findings and recommendations as provided herein. The commissioner may direct counsel to prepare the commissioner's report, including the findings and recommendations in accordance with [EDCR 7.21](#) and [7.23](#). The commissioner must file the report with the court and serve a copy of it on each party.

(1) Objections. Within 14 days after being served with a report, any party may file and serve written objections to the recommendations. Points and authorities may be filed with an objection, but are not mandatory. If points and authorities are filed, any other party may file and serve a responding points and authorities within 7 days after being served with the objections.

(2) Review. Upon receipt of an ADR commissioner's report, any objections, and any response, the court shall:

(A) Affirm, reverse, or modify the ADR commissioner's ruling without a hearing;

(B) Set the matter for a hearing; or

(C) Remand the matter to the ADR commissioner for reconsideration or further action.

**Rule 1.92. Actions for professional negligence pursuant to [NRS Chapter 41A](#).**

(a) In each action for professional negligence filed pursuant to [NRS Chapter 41A](#), the judge shall address the following issues at the Rule 16 conference:

(1) The status of discovery;

(2) The status of settlement negotiations, including the settlement conference required pursuant to [NRS 41A.081](#) and set a deadline by which the parties must have a mandatory settlement conference scheduled; and

(3) Any issues that would affect the scheduling of a trial date.

(b) After considering the issues set forth in subsection (a), the judge shall set a firm trial date based upon the age of the case and the parties' readiness to commence trial. Where possible, the trial shall be set in compliance with the statutory deadlines set forth in [NRS Chapter 41A](#); however, if a case cannot be set for trial within these deadlines because of limited judicial resources, the case may be set beyond the statutory deadlines, and the parties will be advised that any penalties relating to the scheduling shall be waived.

(c) If the parties fail to participate in a private mediation or settlement conference pursuant to NRS 41A.081 by the deadline set by the court, the judge may refer the case to the Eighth Judicial District Court Settlement Conference Program.

(d) A notice of compliance with NRS 41A.081 is required to be filed by the parties prior to but no later than the pretrial conference.

## Exhibit B: Changes to EDCR Part II

### Grounds for proposal:

The proposed changes to EDCR 2.14 are to ensure consistency between the rule and the current Foreclosure Mediation Rules. EDCR 2.14 was last amended in 2012 and was consistent with the Foreclosure Mediation Rules that were in effect at the time. The proposed changes remove inconsistencies.

The proposal to amend EDCR 2.34 makes clear that counsel have an obligation to discuss disputed issues with the same level of detail and legal support as is contained in their briefing before the court. *Guerrero v. Wharton*, No. 16-cv-01667 (D. Nev. Jan. 22, 2018). It has also been amended to codify specificity requirements first articulated in writing in *Albourn v. Koe, M.D., et al.*, Discovery Commissioner Opinion #10 (November 2001)—that the affidavit must detail the who, what, when, where, and why of the dispute resolution conference.

Regarding the proposed amendments to EDCR 2.35, practitioners read the language to allow filing stipulations or motions to extend 21 days before the close of discovery and try to re-open deadlines that have already passed. The proposed language is clarified so that the 21-day filing deadline is before the earliest discovery deadline that the parties seek to extend.

Finally, as noted earlier in the proposed amendments to Part I, the Eighth Judicial District Court determined that the establishment of a Med Mal Court would improve efficiency. The proposed changes to EDCR 2.49, 2.51, and 2.68 accommodate that court.

### Proposed changes:

**Rule 2.14. Requests for Relief ~~Petitions for Judicial Review~~ Pursuant to the Foreclosure Mediation Program.**

(a) ~~Within 10 days of submission of the mediator's statement, either party~~ A Petitioner seeking Judicial Review under authority of NRS Chapter 107 must first ~~may file a request for appropriate relief in accordance with Foreclosure Mediation Rule 20. and then serve a memorandum of points and authorities, if desired, in support of the Petition for Judicial Review within 30 days of the date of the mediator's statement.~~

(b) ~~Upon receipt of the mediator's statement and any request for relief, the court shall enter an order (1) describing the terms of any loan modification or settlement agreement. (2) dismissing the petition, or (3) detailing decisions regarding the imposition of sanctions as the court determines is appropriate. Within three (3) judicial days of filing the Petition, Petitioner must file a Request for Transmission of the Record and serve it on the Administrator of the Foreclosure Mediation Program.~~

(c) ~~The Petitioner shall promptly serve the Petition by certified mail in accordance with Foreclosure Mediation Rule 5(7)(f) and NRCP 5(b)(2)(B).~~

~~—(d) Following the filing of the Petition for Judicial Review, if the Court determines that good cause is shown for the issuance of sanctions, it may issue an order scheduling an evidentiary~~

~~hearing to show cause why the Respondent should not be sanctioned as provided for in NRS Chapter 107 and the Foreclosure Mediation Rules adopted by the Supreme Court.~~

~~—(e) The Respondent must serve an Answer and file a memorandum of points and authorities, if desired, in opposition to the Petition for Judicial Review within 10 judicial days after service of Petitioner's points and authorities.~~

~~—(f) Petitioner may serve and file reply points and authorities, if desired, not later than 5 judicial days after service of Respondent's opposition.~~

~~—(g) After Petitioner's time to reply has expired, if an evidentiary hearing has not already been scheduled, either party may serve and file a notice of hearing with Master Calendar in the Office of the County Clerk setting the Petition for hearing on a day when the Judge to whom the case is assigned is hearing civil motions, and which is not less than 5 judicial days from the date the notice is served and filed.~~

~~—(h) All memoranda of points and authorities filed in proceedings involving Petitions for Judicial Review must be in the form provided for appellate briefs in Rule 28 of the Nevada Rules of Appellate Procedure.~~

~~—(i) Upon completion of the evidentiary hearing, the court shall issue its Decision including findings of fact and conclusions of law, within 5 judicial days.~~

~~—(j) Continuances or extensions may be granted upon stipulation and order or upon motion with a finding of good cause shown.~~

~~—(k) The statement of the Mediator in connection with these proceedings is admissible without the necessity of any additional foundation or testimony of the Mediator.~~

~~—(l) (d) EDCRs 2.20+ through 2.28, inclusive, shall apply to these proceedings. the hearing of Petitions for Judicial Review.~~

#### **Rule 2.34. Discovery disputes; conferences; motions; stays.**

(a) Unless otherwise ordered, all discovery disputes (except disputes regarding any extension of deadlines set by the discovery scheduling order, or presented at a pretrial conference or at trial) must ~~first~~ be heard first by the discovery commissioner.

(b) Upon reasonable notice, the discovery commissioner may direct the parties to appear for a conference with the commissioner concerning any discovery dispute. Unless otherwise directed, points and authorities need not be filed prior to a conference noticed by the commissioner. Counsel may not stipulate to vacate or continue a conference without the discovery commissioner's consent.

(c) The discovery commissioner may shorten or extend any of the deadlines ~~times~~ provided for in Rule 2.20 ~~for on~~ any discovery ~~matter~~ motion.

(d) Discovery motions may not be filed unless an affidavit of moving counsel is attached thereto setting forth that after a discovery dispute conference or a good faith effort to confer, counsel have been unable to resolve the matter satisfactorily. A conference requires either a personal or telephone conference between or among counsel. Moving counsel must set forth in the affidavit with specificity what attempts to resolve the discovery dispute were made, what was resolved and what was not resolved, and the reasons therefor. If a personal or telephone conference was not possible, the affidavit shall set forth the reasons that the conference was not held. If the responding counsel fails to answer the discovery, the affidavit shall set forth what good faith attempts were made to obtain compliance. If, after request, responding counsel fails to participate in good faith in the conference or to answer the discovery, the court may require such counsel to pay to any other party the reasonable expenses, including attorney fees, caused by the failure.



When a party is not represented by counsel, the party shall comply with this rule. The movant must sufficiently detail in an affidavit the essential facts to enable the discovery commissioner to pass preliminary judgment on the adequacy and sincerity of the good faith discussion between the parties. It must include the name of the parties who conferred or attempted to confer, and the manner in which they communicated. The affidavit must demonstrate that counsel discussed their disputed issues with the same level of detail and legal support as is contained in their briefing before the court.

(e) The discovery commissioner may stay any disputed discovery proceeding pending resolution by the district court judge.

(f) Following the hearing of any discovery motion or other contested matter, heard by or submitted to the discovery commissioner, the discovery commissioner must prepare and file a report with the discovery commissioner's recommendations for a resolution of each unresolved dispute. The discovery commissioner may direct counsel to prepare the report in accordance with Rules 7.21 and 7.23. The discovery commissioner must file the report with the court and serve a copy of it on each party.

(1) Objections. Within 14 days after being served with a report, any party may file and serve written objections to the recommendations. Points and authorities may be filed with an objection but are not mandatory. If points and authorities are filed, any other party may file and serve responding points and authorities within 7 days after being served with the objections.

(2) Review. Upon receipt of a discovery commissioner's report, any objections, and any response, the court shall:

(A) Affirm and adopt, reverse, or modify the discovery commissioner's ruling without a hearing;

(B) Set the matter for a hearing; or

(C) Remand the matter to the discovery commissioner for reconsideration or further action.

(g) Papers or other materials submitted for the discovery commissioner's *in camera* inspection must be accompanied by a captioned cover sheet complying with Rule 7.20 that indicates that it is being submitted *in camera*. All *in camera* submissions must also contain an index of the specific items submitted. A copy of the index must be furnished to all other parties. The party submitting the materials *in camera* must provide one Bates stamped copy of the materials without redactions and one identically Bates stamped set of materials with proposed redactions. ~~If the *in camera* materials consist of documents, counsel must provide to the commissioner an envelope of sufficient size into which the *in camera* papers can be sealed without being folded.~~

(h) If when counsel meet and confer pursuant to NRCP 16.1, they discover that the parties would benefit from participating in a settlement conference, that information along with 5 dates consistent with the settlement program on which it can be held should be included in the case conference report prepared pursuant to NRCP 16.1(c). The discovery commissioner will then pass said information on to the department managing the settlement conference program, and the department will contact counsel to schedule the case~~get the case so scheduled~~.

#### **Rule 2.35. Extension of discovery deadlines.**

(a) Stipulations or motions to extend any date set by the discovery scheduling order must be in writing and supported by a showing of good cause for the extension and be filed no later than 21 days before the earliest discovery deadline the party(ies) are seeking to extend~~discovery out-off date or any extension thereof~~. A request made beyond the period specified above shall not be

granted unless the moving party, attorney or other person demonstrates that the failure to act was the result of excusable neglect.

(1) All stipulations to extend any discovery scheduling order deadline shall be submitted to the assigned judge and shall include on the last page thereof the words "IT IS SO ORDERED" with a date and signature block for the judge's signature.

(2) A motion to extend any discovery scheduling order deadline shall be set in accordance with Rule 2.20.

(b) Every motion or stipulation to extend or reopen discovery shall include:

(1) A statement specifying the discovery completed;

(2) A specific description of the discovery that remains to be completed;

(3) The reasons why the discovery remaining was not completed within the time limits set by the discovery order;

(4) A proposed schedule for completing all remaining discovery;

(5) The current trial date; and

(6) Immediately below the title of such motion or stipulation a statement indicating whether it is the first, second, third, etc., requested extension, e.g.:

#### STIPULATION FOR EXTENSION OF TIME TO COMPLETE DISCOVERY (FIRST REQUEST)

(c) The court may set aside any extension obtained in contravention of this rule.

#### **Rule 2.49. Assignment of matters to specialty dockets.**

(a) "Specialty dockets" shall include:

(1) Matters in which the primary claims or issues are based on, or will require decision under [NRS 40.600](#) et seq.;

(2) "Business matters" as defined under [EDCR 1.61](#); and

(3) "Med Mal Court matters" as defined pursuant to [EDCR 1.66](#) and

(4) Any other specialty dockets that may be established by the chief judge to handle complex matters.

(b) Assignment of specialty dockets.

(1) Unless otherwise provided in these rules, specialty dockets shall be divided among those civil judges designated by the chief judge to hear the particular specialty docket.

(2) Any party in a case may file a request in the pleadings or noticed motion that a case be assigned to a specialty docket. A request may be made by a plaintiff or petitioner in the caption of the initial complaint or petition by identifying the category that provides the basis for assignment to a specialty docket. If the request is made in the caption of the initial complaint or petition, the matter will be automatically assigned to a specialty docket by the clerk's office. If the request is made by a party in the caption of its initial appearance or response, other than by the plaintiff/petitioner, then the case shall be randomly assigned to those civil judges designated by the chief judge to hear the particular specialty docket for determination as to whether the case should be handled on the specialty docket.

(3) A civil judge to whom a matter is assigned may refer the matter to a specialty docket for determination as to whether the matter should be handled on the specialty docket. Upon referral, the case shall be randomly assigned to those civil judges designated by the chief judge to

hear the particular specialty docket for determination as to whether the case should be handled on the specialty docket.

(4) The assigned judge shall decide whether a case should be handled on the specialty docket, and that decision shall not be appealable nor reviewable by way of writ. Any matter not deemed appropriate to be handled on the specialty docket shall be randomly reassigned if it was originally assigned to the specialty docket. If a case was submitted to the assigned judge to determine whether it should be handled on the specialty docket and the assigned judge rules that it is not, that case will be remanded to the department of origin.

(c) Notice of related cases.

(1) In any business or complex matter or Med Mal Court matter, any party, or counsel for any party, who is on notice that such action is related to another action on file (including any active or inactive civil, criminal, domestic, probate, guardianship, or bankruptcy action filed in any state or federal court) shall, within 2120 days of first appearing, or obtaining notice of the other action(s), file and serve in each action currently pending in the Eighth Judicial District a notice of related cases. This notice shall set forth the title, case number, and court in which the possibly related action is or was filed, together with a brief statement of the relationship between the actions.

(2) An action may be considered to be related to another action when:

(i) Both actions involve the same party or parties and are based on the same or similar claim; and/or

(ii) Both actions involve the same property, transaction, or event.

#### **Rule 2.51. Settlement conferences.**

(a) At the request of any party or on its own motion, the court may order the parties to participate in a settlement conference.

(b) Unless otherwise ordered by the settlement judge, at least 24 hours before any scheduled settlement conference, each party must submit to the settlement judge a confidential settlement conference brief that is no more than 5 pages in length and addresses each of the following issues:

(1) A brief factual statement regarding the matter;

(2) The procedural posture of the case including any scheduled trial dates;

(3) The strengths and weaknesses of each parties' claims;

(4) The settlement negotiations that have transpired and whether the parties have engaged in any prior mediations or settlement conferences and the identity of the mediator or prior settlement judge;

(5) The dates and amounts of any demands and offers and their expiration date(s);

(6) Any requirements of a settlement agreement other than a release of all claims for the matter and a dismissal of all claims;

(7) Any unusual legal issues in the matter;

(8) The identity of the individual with full settlement authority who will be attending the settlement conference on behalf of the party; and

(9) Any insurance coverage issues that might affect the resolution of the matter.

(10) If the case involves any primary claims or claims in the alternative arising from NRS 41A, the settlement conference brief may be up to 20 pages in length and must also include:

i. Whether the physician(s) have given consent; and

ii. Computation of damages factoring NRS 42.021.



**Rule 2.68. Final pre-trial conference.**

(a) At the request of court or counsel, the court may conduct a pre-trial conference. Such conference may be held three weeks prior to trial or at any other time convenient to the court and counsel.

(b) At the pre-trial conference, the court may consider the following subjects:

- (1) Prospects of settlement.
- (2) Use of depositions at trial in lieu of live testimony.
- (3) Time required for trial.
- (4) Alternate methods of dispute resolution.
- (5) Readiness of case for trial.
- (6) Any other matters.

(c) The pre-trial conference must be attended by designated trial counsel who are knowledgeable and prepared for such conference. Should the designated trial counsel fail to appear at the pre-trial conference or to comply with this rule, an ex parte hearing may be held and judgment of dismissal or default or other appropriate judgment entered or other sanctions imposed.

(d) If the case involves any primary claims or claims in the alternative arising from NRS 41A, a final pretrial conference is mandatory and may also include the following subjects in addition to those in paragraph (b):

(1) Order of Witnesses;

(2) Exhibit List for Trial; and

(3) Any other matters.

## **Exhibit C: Changes to EDCR Part IV**

### **Grounds for proposal:**

The proposed changes to EDCR Part IV broadly increase functionality and efficiency and reflect certain current practices of the Eighth Judicial District Court.

The proposed amendment to EDCR 4.02 reflects the current practice of the chief judge appointing one or more district court judges to fill the role of probate judge. The proposed change to EDCR 4.04 clarifies that both the chief judge and the probate judge have authority over the probate commissioner's powers and duties.

EDCR 4.05's proposed amendments clarify the report-and-recommendation process and make that process more consistent with the processes in discovery. The amendments bring timing conventions consistent with elsewhere in the rules and incorporate electronic filing and service, rather than the prior process of sending a signed, unfiled report and recommendation to a party to effectuate filing.

The proposed amendments in EDCR 4.06 bring timing conventions consistent with the other rules and make additional points and authorities mandatory. The amendment also strikes the requirement for a hard copy of the objection to be delivered to the probate judge. The changes proposed to EDCR 4.07 clarify the probate judge's options when reviewing an objection to a report and recommendation, which more closely tracks the language in EDCR 2.34 relative to a discovery commissioner report and recommendation.

The proposed change to EDCR 4.08 is designed to address confusion that has arisen after a request pursuant to this rule has been filed. The current rule is ambiguous as to whether the probate judge or probate commissioner has jurisdiction of a case at the resolution of a matter removed to the probate judge where the probate judge has not entered an express order on that issue. The change makes the default that the case is to be returned to the probate commissioner following resolution of a contested matter, but the judge has the option of retaining the case going forward. The proposed changes to sections (b) and (c) are to incorporate procedures previously adopted by Eighth Judicial District Court administrative order.

The proposed changes to EDCR 4.10 are intended to give the probate commissioner discretion in setting the probate calendar, subject to approval of the chief judge. The changes also address coordination with the probate judge(s) to cover probate calendar in the event the commissioner is unavailable.

The addition of proposed EDCR 4.12 is intended to do three things. First, it removes the language from current EDCR 4.10 regarding the caption on papers filed. The language is out of place in EDCR 4.10, as that rule applies to the calendar, not filed documents. Second, the rule supersedes EDCR 2.20 as to the general "Hearing Requested" requirements for civil motions or petitions. Probate does not have a "chambers" calendar. All matters are on the hearing calendar, and are either put on the approved list or set for hearing, as described in EDCR 4.13. The change requires that petitions include the "Hearing Requested" language to trigger the clerk's office to set

the matter for hearing, but reflects the realities of the probate calendar. Finally, the proposal grants the probate commissioner discretion to enter orders shortening or extending time and governing procedural matters in probate. Recognizing that the probate commissioner is limited in signing certain orders, for efficient performance of duties, the probate commissioner should still have the power to enter procedural orders relating to the commissioner's own calendar, including setting orders shortening or extending time or setting a briefing schedule.

Proposed changes to EDCR 4.13 allow for a recommendation that a petition or motion be denied prior to the hearing.

EDCR 4.14's proposed amendments bring the rule current with the Nevada Electronic Filing and Conversion Rules and the electronic filing of orders, as opposed to delivery of hard originals for physical signing. The amendments also account for hearings on days other than Fridays and removes gendered pronouns.

EDCR 4.17 has been amended to allow the probate commissioner discretion to direct the parties to develop a discovery plan. Proposed changes to EDCR 4.18 make the rule more consistent with EDCR 2.34. The change also updates the conventions regarding the counting of days and removes gendered pronouns.

Finally, the proposed change to EDCR 4.20 reduces the number of matters being repeatedly continued. The limiting of continuances encourages parties to correct their petitions.

*Proposed changes:*

**Rule 4.02. Probate judge.** ~~The chief judge for the Eighth Judicial District Court of Nevada shall be designated as the probate judge. The chief judge may, however, in the chief judge's discretion, shall~~ appoint one or more district court judge(s) to serve as the probate judge(s) ~~forth the Eighth Judicial District Court of Nevada, in the chief judge's stead.~~ The chief judge shall also have the discretion to ~~allocate designate one or more additional district court judges as alternate probate judge(s) to hear~~ probate matters among the several probate judge(s). ~~in In the event that the a probate judge is preempted, disqualified from hearing a matter, or if the probate judge is otherwise unable to accommodate a matter for any good cause, the chief judge shall assign the matter to another probate judge, or, if none, to any district judge, in the discretion of the probate judge.~~

**Rule 4.04. Authority of the probate commissioner.**

(a) The probate commissioner shall have the following authority on those matters heard before the probate commissioner:

- (1) To receive oral, documentary, and tangible evidence and to establish a record;
- (2) To make findings of fact, recommended conclusions of law, and recommendations for the provisions and enforcement of any order; and
- (3) To exercise any other power or duty contained in an order issued by the chief judge or a probate judge, as applicable.



(b) The probate commissioner may recommend a district court judge to make an immediate determination of appropriate sanctions for contemptuous behavior, issue a bench warrant, quash a warrant, or release persons arrested thereon.

(c) The probate commissioner may perform the duties of any other duly appointed master or commissioner as the administration of justice may require and as authorized under [Rule 53\(c\)](#) of the Nevada Rules of Civil Procedure.

(d) The probate commissioner may make appropriate sanctions for a party's failure to comply with the applicable statutes or rules of the court.

#### **Rule 4.05. Probate commissioner's reports and recommendations.**

(a) ~~Except as otherwise provided in these rules, w~~Within a reasonable time ~~following the hearing of any motion, petition, or other~~ ~~after the evidence presented is closed in a~~ contested matter that is heard by ~~or submitted to~~ the probate commissioner, the probate commissioner shall ~~prepare and file a~~ ~~his or her~~ report setting forth written findings of fact, recommended conclusions of law, and recommended form of order ~~for resolution of the matter, which shall also be served on the parties entitled to notice.~~

(b) The probate commissioner may direct counsel for a party to prepare the report ~~in accordance with Rules 7.21 and 7.23~~, which shall be delivered to the probate commissioner no later than ~~14 10 judicial~~ days after the probate commissioner so directs, unless the probate commissioner shall designate some other time period. In contested proceedings, such attorney shall serve a copy of the proposed report upon counsel for all parties who have appeared at the hearing and are affected by the report, unless otherwise directed by the probate commissioner, and submit proof of such service to the probate commissioner with the proposed report. Except when the probate commissioner believes it is appropriate to immediately enter the report, the probate commissioner will wait ~~7 5 judicial~~ days before entering the report to enable the submission of a competing report by counsel for another party.

(c) Promptly upon the probate commissioner's execution of ~~a the proposed~~ report, the ~~probate commissioner~~ ~~attorney charged with drafting the report~~ shall ~~file the report with the court and~~ serve a copy of the report on all parties. ~~If the probate commissioner drafts the report, the probate commissioner may effect service or~~ direct one of the parties to perfect service of the same. ~~Service of the report is deemed complete upon submission or sending if the report is served by electronic service pursuant to NEFCR and Part VIII of these rules, or received 3 judicial days after mailing to a party or a party's attorney if served by mail, or on the day a copy of the report is hand-delivered to a party or a party's attorney as demonstrated by an executed receipt.~~

(d) The parties may stipulate to immediate entry of an order on the probate commissioner's recommendation.

#### **Rule 4.06. Objections to probate commissioner's reports and recommendations.**

(a) Within ~~14 10 judicial~~ days after being served with a ~~copy of the~~ report, any party may file with the clerk of the court and serve on ~~all interested the probate judge and the other~~ parties a written request for judicial review of the matter by the probate judge, together with specific written objections to the recommendations set forth in the probate commissioner's report and ~~any additional memorandum of points and authorities setting forth the factual and legal basis for said objection. Such judicial review will be subject to review by the probate judge. A courtesy copy of the written request or objection shall be delivered to the probate judge at the time of service on all other parties.~~

(b) Upon filing of a timely request for judicial review, the matter will be transferred to the probate judge and be placed by the clerk of the court for hearing before the probate judge. Unless otherwise ordered by the probate judge, the hearing shall be set on the next available probate calendar but no less than ~~28~~ 20 days from the date of filing the request.

(c) Within ~~14~~ 10 judicial days after the service of the written objections, the opposing party may file an opposition thereto, together with a memorandum of points and authorities, if any, stating reasons showing why the relief requested should be denied. A moving party may file a reply memorandum of points and authorities not later than ~~7~~ 5 judicial days before the matter is set for hearing.

(d) Failure to file and serve such request and written objections within the ~~14~~ 10-day period will result in the automatic affirmance of the probate commissioner's recommendation by the probate judge.

**Rule 4.07. Judicial review by probate judge of probate commissioner's reports and recommendations.**

(a) Judicial review of a final recommendation of the probate commissioner will be confined to the record, together with the specific written objections.

(b) On judicial review of cases concerning alleged irregularities in procedure of a contested probate matter heard by the probate commissioner that are not shown in the record, the probate judge may receive evidence concerning the alleged irregularities, including allegations of ex parte communications between the probate commissioner and a party or any other irregularities that would tend to diminish the public's confidence in the court's independence, impartiality, and/or integrity.

(c) Upon receipt of a probate commissioner's report, request for judicial review, and any response and reply, the probate judge shall:

(1) Affirm, reverse, or modify the probate commissioner's ruling, with or without oral argument in accordance with Rule 2.23; or

(2) Remand the matter to the probate commissioner for reconsideration or further action.

(d) Pending the probate judge's review of any objection to the probate commissioner's report, parties shall refrain from taking any action inconsistent with the probate commissioner's recommendations, unless otherwise ordered by the probate judge. The probate judge may affirmatively enforce the probate commissioner's recommendation pending the probate judge's review.

**Rule 4.08. Transfer to the probate judge; injunctions and restraining orders.**

(a) In any matter referred to the probate commissioner, each party is entitled, as a matter of right, to have any contested matter heard before the probate judge provided that the probate commissioner has not made any ruling on such contested matter or commenced hearing such contested matter. A party wishing to exercise such right shall make the request to the probate commissioner in writing or orally prior to commencing the hearing on any contested matter. The probate commissioner shall place the matter on the probate judge's calendar for hearing before the probate judge at the probate judge's next available hearing date. The probate judge may, upon resolution of the contested matter, ~~return the case to the probate commissioner's calendar or~~ enter an order retaining the case at the discretion of the probate judge. If the probate judge does not enter an order retaining the case, then the case shall be returned to the probate commissioner's calendar.



(b) A request to transfer a matter to the probate judge shall be filed with the clerk and emailed to the inbox for the probate department and the department assigned to the matter no later than 4:00 p.m. on the Friday prior to the week the matter is to be heard. The request to transfer shall specifically identify the following, with the appropriate box marked:

☐ Schedule Evidentiary Hearing—discovery completed

☐ Schedule Evidentiary Hearing—discovery plan needed

☐ Schedule Oral Argument on matter of law—fully briefed

☐ Schedule Oral Argument on matter of law—briefing schedule needed

After receiving the Request to Transfer, the probate commissioner shall remove the matter from the probate calendar, and the assigned department shall calendar the matter for hearing on the next available hearing date and specifically set forth the scope of the hearing. The scope of the hearing will indicate whether the hearing is to set an evidentiary hearing, discovery plan, oral argument on any matter fully briefed, or briefing schedule. Parties are encouraged to submit a stipulation and order with agreed upon discovery plan, or briefing schedules by 4:00 p.m. on the Friday prior to the week the matter is to be heard. Any stipulation and order submitted shall vacate the pending hearing date and leave space for the department to include a new hearing date for the evidentiary hearing or oral argument.

(c) A petition for relief pursuant to NRCp 65 must be heard and considered by the assigned probate judge, not the probate commissioner. Master calendar shall set all applications for injunctions or restraining orders in probate matters on the assigned probate judge's calendar. Subject to Rule 4.08(a), all other proceedings in the case will be heard by the probate commissioner.

**Rule 4.10. Calendars.** ~~Subject to change by order of the chief judge, t~~

(a) ~~The probate commissioner will hear the probate calendar will be heard every Friday at 9:30 a.m. If a legal holiday falls on a Friday, the probate calendar for that week will be heard at such day and time as set designated by the probate judge or probate commissioner, as approved by the probate chief judge. The probate commissioner will hear evidentiary hearings on such day and time as designated by the probate commissioner. The probate judge(s) shall hear probate matters at such days and times as designated by such probate judge in accordance with Part I of these Rules. The probate judge(s) and the probate commissioner will provide the clerk's office with a schedule of days and times in which to set probate petitions, motions, returns of sale, evidentiary hearings, and trials. A motion noticed for hearing on the wrong day or time may, at the discretion of the probate commissioner or probate judge, be set over to the next appropriate day or vacated to be properly noticed. All papers filed before the probate commissioner shall indicate "PCI" in the department designation (e.g., Department No. PCI) and the hearing date noticed (e.g., Hearing date: mm/dd/yy).~~

(b) In the event that the probate commissioner plans to be absent on a judicial day, the probate commissioner must reset the time for the hearing of the probate calendar or arrange for a probate judge to handle the probate commissioner's calendar, and shall coordinate planned absences with the probate judge(s) to assure that adequate judicial coverage is maintained.



**Rule 4.12. Petitions, applications, and motions; calendaring; orders shortening or extending time.**

(a) All pleadings and papers filed before the probate commissioner shall comply with Rule 7.20 and shall indicate, for the department number, "PC-1" followed by the department number of the assigned probate judge, if known, in parentheses (e.g., Department No.: PC-1 (26)).

(b) Except as otherwise provided by these rules as to ex parte petitions, motions, and applications, all petitions, motions, and applications filed before the probate commissioner must include the designation "Hearing Requested" in the caption of the first page of the document directly below the Case Number and Department Number. The clerk shall set the matter for hearing and the matter shall be processed in accordance with Rule 4.13. If the probate commissioner determines that an ex parte filing necessitates a hearing, the probate commissioner shall set the matter for hearing and the matter shall be processed in accordance with Rule 4.13.

(c) The probate commissioner shall have broad discretion in managing the probate calendar, and may set, shorten, or extend the time set for hearing on any matter before the probate commissioner in accordance with Rules 2.25 and 2.26. The probate commissioner may also enter appropriate procedural orders, including briefing schedules and discovery orders, pertaining to matters on the probate calendar.

**Rule 4.13. List of approved, deficient and heard matters.**

(a) Under the supervision of the probate judge(s), the probate commissioner must prepare a list of probate matters that are scheduled for hearing. Such list shall be finalized and posted on the probate court's official website prior to 4:00 p.m. on the day prior to hearing.

(b) The list shall designate each matter as being "approved", denied, or requiring a hearing, ~~which shall be that is~~ designated as "court's discretion." The list shall also indicate whether the hearing has been continued and the new hearing date.

(c) In addition to the above, the list may, in the discretion of the probate commissioner, identify those cases scheduled for hearing that are deficient for hearing or determination and the basis for such deficiency to allow parties to correct such deficiencies prior to 12:00 p.m. on the day prior to hearing. The probate commissioner may then designate such matters as "approved", denied, or as requiring a hearing.

**Rule 4.14. Approved matters.**

(a) Any matter designated as "approved" on the list described in Rule 4.13 may be heard without an appearance by the parties and/or their counsel. In order to be approved, the following shall be strictly observed:

- (1) All petitions must be verified.
- (2) The petitions filed must be without objection.
- (3) Death certificates, where applicable, must be attached to the initial petition as an exhibit.

(4) Where a bond is required, the petition must set forth with particularity the personal property of the estate together with the estimated amount of annual income from all sources.

(b) The original proposed order, ~~together with any copies to be conformed, shall be delivered~~ may be emailed to the probate ~~commissioner~~ department's inbox no earlier than 7 days prior to the hearing and no later than 14 days after being notified of the court's decision pursuant to Rule 7.21. ~~not later than 4:00 p.m. on Tuesday of the week the matter is to be heard. For failure to comply with this rule, the probate commissioner may, in the probate commissioner's discretion, continue~~

~~the hearing for 1 week from the noticed hearing date or vacate the hearing to enable compliance with this rule.~~

(c) Proof of service through an affidavit of mailing or certificate of mailing must be filed contemporaneously or immediately after the actual mailing has taken place. All proof of service and proof of publication must be filed no later than 12:00 p.m. on the day prior to the hearing of Thursday of the week the matter is to be heard.

(d) At the time of the hearing, the probate commissioner shall read the docket of all cases and matters scheduled for hearing that have been designated as “approved” and inquire as to whether there are any persons present wishing to object to such approved matters. If no objections are so made, the probate commissioner will recommend approval to the probate judge without further hearing on such matters. If, however, any person appears and indicates a desire to contest or object to the relief requested, the probate commissioner may take the following actions:

(1) If the petitioning party and such party’s counsel are not present, the probate commissioner will ordinarily continue the matter to the next appropriate probate calendar date, if necessary, to allow all interested parties to be noticed of the objection. The probate commissioner may also direct the objecting or contesting party to file a written objection to the petition prior to the continued hearing date and may thereupon grant or otherwise act upon the petition if such written objection is not so timely filed.

(2) If the petitioning party or ~~his or her~~ such party’s counsel is present, the probate commissioner may elect to hear the matter at such time to determine whether the matter is the proper subject of objection, whether the matter may in fact be ruled on at such time, or whether a continuance of the matter is appropriate. Subject to the provisions of Rule 4.08, the probate commissioner may, as appropriate, thereupon hear the matter, continue the matter, impose a briefing schedule, set a discovery schedule as set forth under Rule 4.17, direct the parties to a settlement conference as set forth under Rule 4.19, and/or otherwise process the matter.

#### **Rule 4.17. Discovery in contested/litigated matters.**

(a) In contested matters before the probate commissioner involving disputed issues of material fact, the probate commissioner shall set an evidentiary hearing date and a discovery schedule after receiving input from the attorneys for the parties and any unrepresented parties. Such settings shall be made at the time of the hearing on the initial petition commencing the litigation or at the request of any party thereto. The probate commissioner may direct the parties to meet and confer for the purpose of developing a discovery plan, subject to the probate commissioner’s approval. In matters that have been transferred to the probate judge pursuant to Rule 4.08, the probate judge may set the hearing date and a discovery schedule under this rule on its own initiative or at the request of any party.

(b) The probate commissioner or the probate judge may, as appropriate, limit the time to:

- (1) Complete discovery obligations;
- (2) Join other parties and to amend the pleadings; and
- (3) File and hear dispositive motions.

(c) The probate commissioner or the probate judge, where appropriate, may set any additional deadlines provided for under NRCP 16 and 16.1 as deemed necessary or appropriate based on the nature and scope of the contested issues to be determined at the evidentiary hearing.

**Rule 4.18. Discovery disputes.**

(a) In contested matters before the probate commissioner, all discovery disputes must first be heard by the probate commissioner, ~~his or her~~ the probate commissioner's designee, or a special master approved by the parties, unless otherwise ordered by the probate judge.

(1) Upon reasonable notice, the probate commissioner may direct the parties to appear for a conference with the probate commissioner concerning any discovery dispute. Unless otherwise directed, points and authorities need not be filed prior to a conference noticed by the probate commissioner. Counsel may not stipulate to vacate or continue a conference without the probate commissioner's consent.

(2) The probate commissioner may shorten or extend any of the times provided for in Rule 2.20 on any discovery motion.

(3) Discovery motions may not be filed unless an affidavit of moving counsel is attached thereto setting forth that after a discovery dispute conference or a good faith effort to confer, counsel have been unable to resolve the matter satisfactorily. A conference requires either a personal or telephone conference between or among counsel ~~as provided in Rule 2.34~~. Moving counsel must set forth in the affidavit with specificity what attempts to resolve the discovery dispute were made, what was resolved and what was not resolved, and the reasons therefor. If a personal or telephone conference was not possible, the affidavit shall set forth the reasons. If the responding counsel fails to answer the discovery, the affidavit shall set forth what good faith attempts were made to obtain compliance. If, after request, responding counsel fails to participate in good faith in the conference or to answer the discovery, the court may require such counsel to pay to any other party the reasonable expenses, including attorney fees, caused by the failure. When a party is not represented by counsel, the party shall comply with this rule. The movant must detail in an affidavit the essential facts sufficiently to enable the probate commissioner to pass preliminary judgment on the adequacy and sincerity of the good faith discussion between the parties. It must include the name of the parties who conferred or attempted to confer, and the manner in which they communicated.

(4) The probate commissioner may stay any disputed discovery proceeding pending resolution by the probate judge.

(5) Following the hearing of any discovery motion, the probate commissioner must prepare and file a report with ~~a~~ the probate commissioner's recommendations for a resolution of each unresolved dispute ~~the court's order~~ in accordance with Rule 4.05. The probate commissioner may direct counsel to prepare the report in accordance with Rules 7.21 and 7.23. The probate commissioner must file the report with the court and serve a copy of it on each party. Within 10 judicial ~~14~~ days after being served with a copy of the report, any party may file with the clerk of court and serve on the other parties a written request for judicial review of the matter by the probate judge in accordance with Rule 4.06.

(6) Papers or other materials submitted for the probate commissioner's in camera inspection must be accompanied by a captioned cover sheet complying with Rule 7.20 ~~which~~ that indicates that it is being submitted in camera. All in camera submissions must also contain an index of the specific items submitted. A copy of the index must be furnished to all other parties. The party submitting the materials in camera must provide one copy of the materials without redactions and one set of materials with proposed redactions. If the in camera materials consist of documents, counsel must provide to the probate commissioner an envelope of sufficient size into which the in camera papers can be sealed without being folded.



(b) In contested matters before the probate judge, all discovery disputes must first be heard by the discovery commissioner, and the parties shall resolve such disputes in accordance with Rule 2.34 unless otherwise ordered.

**Rule 4.20. Continuances.**

(a) For good cause, the probate commissioner has the discretion to vacate or continue matters.

(b) At the call of the calendar, if a matter is not ready for hearing or approved, it may be continued from week to week for not more than 4 weeks. After the ~~fourth~~ second continuance, it will be ordered off calendar unless a motion for further continuance is granted by the court. If a continuance is requested, the probate commissioner must be notified not later than 4:00 p.m. on Wednesday of the week the matter is to be heard. A later request will be considered only by the court upon a showing of good cause.

(c) At the call of the calendar, if objection or exception is taken to any matter on the approved list, and petitioner or petitioner's counsel is not present, the court shall continue the matter and provide notice thereof to petitioner or petitioner's counsel in any case wherein the court may effect a substantial change in the relief prayed for unless the probate commissioner determines that the objection is not meritorious or otherwise not grounded in applicable law.

(d) If an objecting party fails to file a written objection to a matter set for hearing or files and serves a written objection to a petition later than 4:00 p.m. on the Wednesday of the week the matter is to be heard, the non-objecting party may, as a matter of right, request to continue the matter for 1 week to allow the non-objecting party to file a written response to the objection. If a continuance is requested in the manner so provided herein, the probate commissioner must grant such continuance unless it would be manifestly unjust to do so.

## Exhibit D: Changes to EDCR Part V

### Grounds for proposal:

The District Court judges have authority to order something that is different from the recommendations of a hearing master, short of a clearly erroneous finding. The proposed amendment to EDCR 5.208 clarifies that.

Under EDCR 5.101(b), family law matters are no longer subject to EDCR Part II. EDCR 2.40 specifically requires a party filing a motion to compel further answers or responses to written discovery to include in full the interrogatory or request and the answer or answers thereto in the body of the motion. This rule serves to place the parties and the court on equal footing and notice regarding the exact nature of the discovery dispute instead of vague generalities. Without this rule, motions often recite that the discovery is attached to the motion and the parties are disputing about marital waste, for instance, but the movant does not identify the exact discovery request or response that was deficient. As proposed, Rule 5.402(g) incorporates the requirement from EDCR 2.40.

Second, EDCR 5.402 as amended in 2022 allows parties to “meet and confer” regarding discovery disputes via email. Email exchanges seldom exhibit the kind of problem solving required of the dispute resolution process that is designed to be an alternative to court intervention. *Nevada Power v. Monsanto*, 151 F.R.D. 118, 120 (D. Nev. 1993). Email exchanges are generally exhibitions of positional warfare with few attempts to resolve the dispute. As amended, Rule 5.402(d) makes clear that an email exchange is not sufficient.

Third, counsel involved in discovery disputes often engage in a dispute resolution conference either as an exercise to “check the box” to they can file a motion or without disclosing to the other side their entire position. Thus, counsel may first understand the movant’s position only after the motion is filed. By requiring counsel to discuss disputed issues with the same level of detail and legal support as is contained in their briefing before the court, the court will enforce the true design of Rules 2.34 and 5.402—for counsel to police their own discovery activity without court intervention. *Cardoza v. Bloomin’ Brands, Inc.*, 141 F. Supp. 3d 1137, 1145 (D. Nev. 2015).

The proposal to amend EDCR 5.402 is consistent with the earlier proposal to amend EDCR 2.34 and again, makes clear that counsel have an obligation to discuss disputed issues with the same level of detail and legal support as is contained in their briefing before the court. *Guerrero v. Wharton*, No. 16-cv-01667 (D. Nev. Jan. 22, 2018). Both rules are amended to codify specificity requirements first articulated in writing in *Albourn v. Koe, M.D., et al.*, Discovery Commissioner Opinion #10 (November 2001)—that the affidavit must detail the who, what, when, where, and why of the dispute resolution conference.

Proposed changes:

**Rule 5.208. Family ~~D~~ivision hearing masters.**

(a) Except as provided otherwise by rule, statute, or court order, this rule governs matters heard by a ~~F~~amily ~~division~~-Division hearing master.

(b) The appointment and proceedings of a hearing master shall be in accordance with the provisions of NRCP 53.

(c) A hearing master shall prepare a master's report and recommendations that shall be furnished to each party at the conclusion of the proceedings in court; if not served in court, the report and recommendations shall be served upon each party pursuant to the NRCP.

(d) Within 14 days of service of the report and recommendations, either party may file a written objection. If a written objection is filed pursuant to this rule, the objection must be properly noticed with a hearing date set with the district court judge and served upon all interested parties, as prescribed in EDCR 5 for motions. The court ~~may~~ shall affirm the master's findings of fact unless clearly erroneous.

(e) In the absence of a timely objection, the findings and recommendations of the master shall be affirmed and become an order of the court.

**Rule 5.402. Discovery disputes, conferences, motions, stays.**

(a) Unless otherwise ordered, all discovery disputes (except disputes presented at a pretrial conference or at trial) must ~~first~~ be heard first by the discovery ~~commissioner~~ hearing master.

(b) Upon reasonable notice, the discovery ~~commissioner~~ hearing master may direct the parties to appear for a conference with the ~~discovery commissioner~~ hearing master concerning any discovery dispute. Unless otherwise directed, points and authorities need not be filed prior to a conference noticed by the ~~discovery commissioner~~ hearing master. Counsel may not stipulate to vacate or continue a conference without the ~~discovery commissioner's~~ hearing master's consent.

(c) The ~~discovery commissioner~~ hearing master may shorten or extend any of the ~~deadlines~~ times for the filing of any discovery motion.

(d) A discovery motion must set forth by separate affidavit of moving counsel ~~certify~~ that after a discovery dispute conference or a good faith effort to confer, the parties were unable to resolve the matter satisfactorily, detailing with specificity what attempts to resolve the dispute were made, what was resolved and what was not resolved, and the reasons therefor ~~why~~. A conference requires a personal, telephonic, ~~video~~, or videoconference ~~email conference~~ between or among the parties; if such conference was not possible, the motion shall set forth the reasons that the conference was not held. ~~Such a motion must be supported by affidavit.~~ The movant must sufficiently detail in an affidavit the essential facts to enable the discovery commissioner to pass preliminary judgment on the adequacy and sincerity of the good faith discussion between the parties. It must include the name of the parties who conferred or attempted to confer, and the manner in which they communicated. The affidavit must demonstrate that counsel discussed their disputed issues with the same level of detail and legal support as is contained in their briefing before the court.

(e) If the responding party failed to answer discovery, the motion shall set forth what good faith attempts were made to obtain compliance. If, after request, the responding party fails to participate in good faith in the conference or to answer the discovery, the court may require such party to pay to any other party the reasonable expenses, including attorney fees, caused by the failure.

(f) The ~~discovery commissioner~~ hearing master may stay any disputed discovery proceeding pending resolution by the court.



(g) Responding to discovery requests. Answers to interrogatories must set forth each question in full before each answer. Each objection to an interrogatory, a request for admission, or a demand for production of documents and each application for a protective order must include a verbatim statement of the interrogatory, question, request or demand, together with the basis for the objection. A request or motion to compel further answer to any written discovery must set forth in full the interrogatory or request and the answer or answers thereto.

(h) Following the hearing of any discovery motion, or other contested matter heard by or submitted to a discovery ~~commissioner~~ ~~hearing master~~, the discovery ~~commissioner~~ ~~hearing master~~ must prepare a report with ~~the discovery hearing master's~~ recommendations for a resolution of each unresolved dispute.

(1) The discovery ~~commissioner~~ ~~hearing master~~ may direct counsel to prepare the report.

(2) The discovery ~~commissioner~~ ~~hearing master~~ must file the report with the court and serve a copy of it on each party.

(3) If the discovery ~~commissioner~~ ~~hearing master~~ determines that the exigencies of the case do not permit application of the time frames set out in NRCP 16.3, the following time frames will apply instead. Within 7 calendar days after being served with the report, any party may file and serve written objections to the recommendations. Written authorities may be filed with an objection but are not mandatory. If written authorities are filed, any other party may file and serve responding authorities within 7 days after being served with the objections.

(4) Upon receipt of a discovery ~~commissioner's~~ ~~hearing master's~~ report, any objections, and any response, the court may:

(A) ~~Affirm and a~~ Adopt, reverse, or modify the discovery ~~commissioner's~~ ~~hearing master's~~ ruling without a hearing;

(B) Set the matter for a hearing; or

(C) Remand the matter to the discovery ~~commissioner~~ ~~hearing master~~ for reconsideration or further action.

(i) Papers or other materials submitted for the discovery ~~commissioner's~~ ~~hearing master's~~ ~~in camera~~ inspection must be accompanied by a captioned cover sheet that indicates it is being submitted *in camera*. All *in camera* submissions must also contain an index of the specific items submitted. A copy of the index must be furnished to all other parties. The party submitting the materials *in camera* must provide one Bates stamped copy of the materials without redactions and one identically Bates stamped set of materials with proposed redactions.

## Exhibit E: Changes to EDCR VII

### Grounds for proposal:

The current limitations of EDCR 7.70 are too confining and do not provide the judge or the attorneys with an effective means of selection. This proposal cures that issue.

### Proposed changes:

**Rule 7.70. Voir dire examination.** Proposed voir dire questions by the parties or their attorney(s) must be submitted to the court, no later than the Calendar Call/Final Pretrial Conference in accordance with EDCR 2.68-2.69 unless otherwise directed by the court. The judge must conduct the initial voir dire examination of the jurors. Except as required by Rule 2.68, proposed voir dire questions by the parties or their attorneys must be submitted to the court in chambers not later than 4:00 p.m. on the judicial day before the day the trial begins. Upon request of counsel, the trial judge must then may permit counsel to supplement the judge's examination by oral and direct questioning of any of the prospective jurors subject to governing law. The scope of such additional questions or supplemental examination must be within reasonable limits prescribed by the trial judge in the judge's sound discretion.

The following areas of inquiry are not properly within the scope of voir dire examination by counsel:

- (a) Questions already asked and answered.
- ~~—(b) Questions touching on anticipated instructions on the law.~~
- (e**b**) Questions touching on the verdict a juror would return when based upon hypothetical facts.
- (d**c**) Questions that are in substance arguments of the case.

## **Exhibit F: Addition of EDCR Part IX**

### **Grounds for proposal:**

The addition of these new rules solves a current gap in the EDCR, as the rules do not currently address eviction appeals nor lower court appeals that are non-criminal.

### **Proposed changes:**

#### **PART IX. LOWER COURT APPEALS**

##### **Rule 9.1 Notice of Appeal and Bond**

The notice of appeal and any bond shall be filed with the justice or municipal court in compliance with the rules of the particular court and applicable law.

(a) The notice of appeal shall:

- 1) 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";
- 2) designate the judgment, order or part thereof being appealed; and
- 3) name the court to which the appeal is taken.

##### **Rule 9.2 Serving the Notice of Appeal.**

The appellant shall serve the notice of appeal on all parties to the action in the justice or municipal court. Service on a party represented by counsel shall be made on counsel. If a party is not represented by counsel, appellant shall serve the notice of appeal on the party at the party's last known address. The appellant must note, on each copy, the date when the notice of appeal was filed. The notice of appeal filed with the justice or municipal court clerk shall contain an acknowledgment of service or proof of service.

##### **Rule 9.3 Payment of Fees.**

Except where provided by statute, upon filing a notice of appeal, the appellant must pay the justice or municipal court clerk the district court filing fee and any fees charged by the lower court. Except for amended notices of appeal, the district court filing fee is \$47.00 for each notice of appeal filed.

##### **Rule 9.4 Bonds.**

(a) When Bond Required. In a civil case, the appellant shall file a bond for costs on appeal in the justice or municipal court with the notice of appeal.

(b) Amount of Appeal Cost Bond. In civil appeals, the bond shall be in the sum of \$250. If the appeal is withdrawn, dismissed or the judgment affirmed, any outstanding court fees owed to the district court may be satisfied from the bond, with the remainder to be returned to the justice or municipal court for disbursement in accordance with the rules of the particular court and applicable law.

(c) Supersedeas Bond; When Required. Whenever an appellant desires a stay on appeal, with the exception of summary evictions, in addition to the bond for costs, 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 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.

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 4, 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.

#### **Rule 9.5 Stay Pending Appeal.**

In summary eviction appeals, the execution of the order of eviction is automatically stayed upon filing of the notice of appeal and posting of the appeal cost bond. For all other civil appeals, an order from either the lower court or district court must be obtained, unless a supersedeas bond is posted.

(a) Initial Motion in the Justice or Municipal Court. A party must ordinarily move first in the lower court for the following relief:

- 1) a stay of the judgment or order of, or proceedings in, a justice court or municipal court, pending appeal to the district court.
- 2) approval of a supersedeas bond; or
- 3) an order suspending, modifying, restoring or granting an injunction while an appeal is pending.

(b) Motion in the District Court; Conditions on Relief. A motion for the relief mentioned in Rule 5(a)(1) may be made to the district court.

- 1) The motion shall:



- (i) show that moving first in the lower court would be impracticable; or
- (ii) state that, a motion having been made, the lower court denied the motion or failed to afford the relief requested and state any reasons given by the lower court for its action.

2) The motion shall also include:

- (i) the reasons for granting the relief requested and the facts relied on;
- (ii) originals or copies of affidavits or other sworn statements supporting facts subject to dispute; and
- (iii) relevant parts of the record.

(3) The moving party must give reasonable notice of the motion to all parties.

(4) The court may condition relief on a party's filing a bond or other appropriate security in the lower court.

#### **Rule 9.6 Court Clerk's Duty to Forward the Record**

Upon the filing of the notice of appeal, the justice or municipal court clerk shall immediately forward to the clerk of the district court the required filing fee and the appeal cost bond, together with the record.

(a) The record consists of any papers and exhibits filed in the justice or municipal court, the court minutes, and docket entries made by the clerk including but not limited to:

- 1) the notice of appeal;
- 2) any docket entries;
- 3) any court minutes;
- 4) any orders.

(b) Except in non-small claims civil appeals from justice court, transcripts are not required and will not be prepared except at the request of a party or the district court hearing the appeal.

(c) In Summary Eviction Appeals, transcripts are not required; however, the justice or municipal court shall make available any electronic recording of proceedings without transcription upon request by the district court.

#### **Rule 9.7 Use of the E-Filing System.**

All parties are required to register with the court's electronic filing system. All filings must be electronically filed in accordance with Part VIII of the Eighth Judicial District Court Rules.

#### **Rule 9.8 Briefing and Oral Argument.**

(a) Opening Brief. Within 7 calendar days of the filing of the notice of appeal, the appealing party may file an opening brief with the district court including:

- 1) The basis for the appeal
- 2) A statement of the relevant facts
- 3) A statement of the procedural history of the case
- 4) The argument on appeal which must contain any law in support of the appeal
- 5) A short conclusion stating the precise relief sought.



(b) Answering Brief. Within 7 calendar days of the filing and service of the opening brief, the responding party may file an answering brief with the district court, including:

- 1) A statement of the relevant facts
- 2) A statement of the procedural history of the case
- 3) The argument opposing the appeal which must contain any law in support of the answering brief
- 4) A short conclusion

Briefs must not exceed ten (10) pages, excluding exhibits. Briefs may not include any documents that were not provided to the municipal or justice court. No reply will be permitted except with the approval of the district court judge hearing the appeal.

(c) Oral Argument. Unless otherwise ordered by the district court, oral argument shall not be scheduled.

#### Rule 9.9 Service

A party or a person representing a party must, at the time of filing a paper, serve a copy on the other parties to the appeal pursuant to NRCP 5 and EDCR 8.02. Service on a party represented by counsel must be made on the party's counsel.

#### Rule 9.10 Dismissal of Appeal

If the appellant fails to timely file an opening brief, or to post the bond as required by Rule (4) or the payment of filing fees as required by Rule (3), 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.

- (a) 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 district 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.
- (b) 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.
- (c) 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.

#### **Rule 9.11 Representation of Entity**

An entity cannot represent itself and must have counsel.

#### **Rule 9.12 Extension of Time**

(a) Every motion or stipulation to extend time shall inform the court of any previous extensions granted and state the reasons for the extension requested. A request for extension made after the expiration of the specified period shall not be granted unless the moving party, attorney or other person demonstrates that the failure to act was the result of excusable neglect. Immediately below the title of such motion or stipulation there shall also be included a statement indicating whether it is the first second, third, etc., requested extension.

(b) Ex parte motions for extension of time will not ordinarily be granted. When, however, a certificate of counsel shows good cause for the extension and a satisfactory explanation why the extension could not be obtained by stipulation or on notice, the court may grant, ex parte, an emergency extension for only such a limited period as may be necessary to enable the moving party to apply for a further extension by stipulation or upon notice, with the time for hearing shortened by the court.

#### **Rule 9.13 Withdrawal of appeal.**

If an appealing party no longer wants to pursue an appeal after the notice of appeal is filed, but before the respondent files any briefing, a notice of withdrawal of appeal must be filed with the district court and the appeal cost bond will be returned to the posting party. If the respondent has filed a motion or brief, the appellant must obtain the consent of respondent and submit a stipulation and order to dismiss the appeal that is signed by the respondent(s) and that addresses the status of the bond, whether to be returned to the appellant or if it is awarded to respondent for any incurred costs.

#### **Rule 9.14 Return of Bond**

After the district court dismisses an appeal or affirms the decision of the justice or municipal court the appeal cost bond, will be returned to the justice or municipal court for disbursement in accordance with the rules of the particular court and applicable law. Upon the issuance of remittur returning jurisdiction to the justice or municipal court, any supersedeas bond posted shall be awarded to the respondent by the justice or municipal court.

#### **Rule 9.15 Remand.**

When the district court remands an appeal back to the justice or municipal court for additional findings or clarification, the appeal shall remain open and appeal cost bond posted shall be held by the district court until:

- (a) a response is provided by the justice or municipal court;
- (b) the lower court matter is dismissed and/or closed; or
- (c) the appeal is withdrawn by the appellant, whichever occurs first.

The district court shall issue a supplemental order to address the award or return of the appeal cost bond and closure of the district court appeal case if the lower court matter is dismissed and/or closed, or if the appeal is withdrawn by the appellant after issuance of remand.

**Rule 9.16 Sealing of the Record**

(a) In summary eviction appeals, if the district court reverses the decision of the justice or municipal court, the record shall be automatically sealed by the district court pursuant to NRS 40.2545.

(b) In all other civil appeals, the record will not be sealed unless there is stipulation by the parties, or upon a motion granted by the district court.