

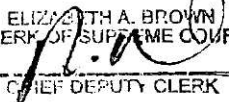
IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF AMENDMENT
OF SUPREME COURT RULES PART
IX-B, (A) RULES GOVERNING
APPEARANCE BY TELEPHONIC
TRANSMISSION EQUIPMENT FOR
CIVIL AND FAMILY COURT
PROCEEDINGS.

ADKT 0613

FILED

NOV 09 2023

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

PETITION

COMES NOW the Honorable Douglas W. Herndon, Justice, the Honorable Ron D. Parraguirre, Justice, and the Honorable Patricia Lee, Justice, of the Nevada Supreme Court and co-chairpersons of the Commission to Study Best Practices for Virtual Advocacy in Nevada's Courts (Commission) and petition the Nevada Supreme Court on its administrative docket to amend Supreme Court Rules (SCR) Part IX-B (A) Rules Governing Appearance by Telephonic Transmission Equipment for Civil and Family Court Proceedings Rule 4. regarding appearances by telephonic transmission equipment.

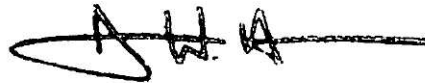
The proposed rule amendment is set forth in Exhibit A. In support of the petition, petitioners assert that the proffered amendment is necessary to create cohesion between the Supreme Court Rules and the newly developed "Preamble for Rules of Virtual Advocacy" and supporting "Presumptive Appearance Case Type" lists

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created by the members of the Commission. The amendment will also ensure that new technologies and best practices will be incorporated into the Supreme Court Rules.

Accordingly, the Commission requests that the Nevada Supreme Court place this matter on its administrative docket and hold such public hearings as it deems necessary to consider the amendment of SCR Part IX-B (A) Rules Governing Appearance by Telephonic Transmission Equipment for Civil and Family Court Proceedings Rule 4 as set forth in Exhibit A.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. W. Herndon', with a long horizontal stroke extending to the right.

Douglas W. Herndon, Justice
Supreme Court

A handwritten signature in black ink, appearing to read 'Patricia Lee', with a large, stylized 'P' and 'L'.

Patricia Lee, Justice
Supreme Court

A handwritten signature in black ink, appearing to read 'Ron Parraguirre', with a large, stylized 'R' and 'P'.

Ron D. Parraguirre, Justice
Supreme Court

SUPREME COURT RULES
PART IX-B
(A) RULES GOVERNING APPEARANCE BY TELEPHONIC TRANSMISSION
EQUIPMENT FOR CIVIL AND FAMILY COURT PROCEEDINGS RULE 4

EXHIBIT A

Rule 4. ~~[Appearance by telephonic transmission equipment.]~~ Remote Appearances.

1. ~~[Circumstances in which appearance by telephonic transmission equipment shall be allowed.]~~ A remote appearance is defined as a court appearance made by a party using a device capable of real-time simultaneous audio and video capabilities. Except as provided in ~~[Rule 4(3)]~~ Rule 4(2) and Rule 4(4), parties shall be allowed to appear remotely before a judicial officer or judge, master, commissioner, or special master in accordance with the Rules of Virtual Advocacy promulgated by the Commission to Study Best Practices for Virtual Advocacy and as amended thereafter. ~~[using telephonic transmission equipment in the following matters:~~

~~(a) Case management conferences, provided the party has made a good faith effort to meet and confer and has timely served and filed a case management statement before the conference date;~~

~~(b) Trial setting conferences;~~

~~(c) Hearings on law and motion, except motions in limine;~~

~~(d) Hearings on discovery motions, except where the hearing master determines that it is necessary for parties or attorneys to meet personally regarding discovery disputes or scheduling matters;~~

~~(e) Status conferences, including conferences to review the status of an arbitration or a mediation;~~

~~(f) Hearings to review the dismissal of an action;~~

~~(g) Any other hearing that is scheduled for not more than 15 minutes; and~~

~~(h) Any matters stipulated to by the parties and approved by the court.~~

~~2. All other matters require personal appearances or appearances by use of simultaneous audiovisual transmission equipment.]~~

~~[(3)]2. Court discretion to modify rule. In accordance with the Rules of Virtual Advocacy 3(q), if a party's internet connection is poor and the court is unable to view, hear, or understand an attorney or litigant, the court reserves the right to hear from the party telephonically, continue the matter, or take the matter off-calendar, or pursue any other remedy that the court deems appropriate.~~

~~[(a) Applicable cases. In exercising its discretion under this provision, the court should consider the general policy favoring telephonic transmission equipment.~~

~~(b) Court may require personal appearances. Upon a showing of good cause either by motion of a party or upon its own motion, the court may require a party or witness to appear in person at a proceeding listed in Rule 4(1) if the court determines on a hearing by hearing basis that a personal appearance would materially assist in the resolution of the particular proceeding or that the quality of the telephonic transmission equipment is inadequate.]~~

~~[4. Need for personal appearance. If at any time during a proceeding conducted by telephonic transmission equipment, the court determines that a personal appearance is necessary, the court~~

~~may continue the matter and require a personal appearance by a party or witness.]~~

[5]3. Notice by party. ~~[(a)]~~A party ~~[choosing]~~ may request to appear remotely for a presumptively in-person hearing as defined by the “Presumptive Appearance Case Type” lists, Exhibits A-D to the Rules of Virtual Advocacy, but must follow the procedures for making such a request as set forth within the Rules of Virtual Advocacy, and:

(a) A party must provide notice to all parties and the court as soon as practicable but at least 48 hours prior to the applicable hearing or trial that sets forth good cause for the party, attorney or witness to appear remotely, and

(b) A party must give notice ~~[by telephonic transmission equipment at a proceeding under this rule must either:~~

~~(1) Place the phrase “Telephonic Transmission Equipment Appearance” below the title of the moving, opposing, or reply papers; or~~

~~(2) At least 5 court days before the appearance, notify the court and all other parties of the party’s intent to appear by telephonic transmission equipment. If the notice is oral, it must be given either in person or by telephonic transmission equipment. If the notice is in writing, it must be given by filing a “Notice of Intent to Appear by Telephonic Transmission Equipment” with the court at least 5 court days before the appearance and by serving the notice at the same time on all other parties]~~by personal delivery, fax transmission, express mail, electronic mail, text message or by electronic service through the court’s online docketing system (if available), or other means reasonably calculated to ensure delivery to the parties ~~[no later than the close of the next business day]~~ and the court. Copies of any exhibits that a party

participating [~~telephonically~~]remotely intends to present at the hearing shall be delivered to the court and all parties either by personal delivery, fax transmission or electronic mail by at least noon on the court day prior to any such proceeding.

(c) A party may object to the virtual appearance by filing a written objection or may object orally at the relevant hearing.

~~[(b) If after receiving notice from another party as provided under Rule 4(5)(a) a party that has not given notice also decides to appear by telephonic transmission equipment, the party may do so by notifying the court and all other parties that have appeared in the action, no later than noon on the court day before the appearance, of its intent to appear by telephonic transmission equipment. Copies of any exhibits that the party intends to present at the hearing shall be delivered to the court and all parties by at least noon on the court day prior to the scheduled hearing.~~

~~(c) If a party that has given notice that it intends to appear by telephonic transmission equipment under Rule 4(5)(a) subsequently chooses to appear in person, the party must so notify the court and all other parties that have appeared in the action by telephonic transmission equipment at least 2 court days before the appearance.]~~

(d) The court, on a showing of good cause and at its discretion, may permit a party to appear by video or telephonic transmission equipment at a proceeding even if a party has not given the notice required under [~~Rule 4(5)(a) or (b)~~]Rule 4(3)(a) or (b) and may permit a party to appear [~~in person even if the party has previously given the notice required in Rule 4(5)(e), provided that the party agrees to pay the applicable~~

~~cancellation fee to the court or third party provider of the telephonic transmission equipment]~~virtually when exigent circumstances exist.

(e) A party wishing to appear in person as opposed to remotely for a presumptively virtual appearance may do so without giving notice.

[6]4. Notice by court. After a party has requested a **[telephonic transmission equipment]**~~remote~~ appearance **[under Rule 4(5);]** in accordance with the Rules of Virtual Advocacy, if the court rejects the request and requires the personal appearance of the party, the court must give reasonable notice to all parties before the hearing and may continue the hearing if necessary to accommodate the personal appearance. ~~[The court may direct the court clerk a court appointed vendor, a party, or an attorney to provide the notification.]~~

~~[7. Private vendor; charges for service. A court may provide telephonic transmission equipment for court appearances by entering into a contract with a private vendor. The contract may provide that the vendor may charge the party appearing by telephonic transmission equipment a reasonable fee, specified in the contract, for its services. The court or the vendor may impose a cancellation fee to a party that orders services and thereafter cancels them on less than 48 hours' notice. A court, by local rule, may designate a particular conference call provider that must be used for telephonic transmission equipment appearances.]~~

[8]5. Audibility and procedure.

(a) The court must ensure that the statements of participants are audible to all other participants and the court staff and that the statements made by a participant are identified as being made by that participant.

(b) Upon convening a **[telephonic]**~~remote~~ proceeding, the judge shall:

(1) Recite the date, time, case name, case number, names and locations of parties and counsel, and the type of hearing;

(2) Ascertain that all statements of all parties are audible to all participants; and

(3) Give instructions on how the hearing is to be conducted, including notice that in order to preserve the record, speakers must identify themselves each time they speak.

[9]6. Reporting. All proceedings involving ~~**[telephonic transmission equipment]**~~ remote appearances must be reported to the same extent and in the same manner as if the participants had appeared in person.

[10]7. Information on ~~**[telephonic transmission equipment]**~~ remote appearances. The court must publish a notice providing parties with the particular information necessary for them to appear ~~**[by telephonic transmission equipment]**~~ remotely at proceedings in that court under this rule.

[11]8. Public access. The right of public access to court proceedings must be preserved in accordance with law.