

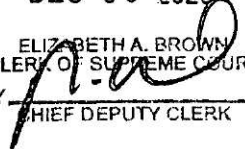
IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE: AMENDMENT THE NEVADA
ELECTRONIC FILING AND
CONVERSION RULES

ADKT NO: **615**

FILED

DEC 05 2023

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

PETITION

COMES NOW Katherine Stocks, the Director and State Court Administrator for the Administrative Office of the Courts (AOC) and petitions the Nevada Supreme Court on its administrative docket to consider the amendment of the Nevada Electronic Filing and Conversion Rules.

The proposed rule replacement is set forth in Exhibit A. In support of the petition, the petitioner asserts that the proffered amendment:

1. Is necessary to further the Court's Strategic Plan through providing greater access to Nevada courts by replacing the existing rules to enable the implementation of a statewide, AOC sponsored electronic filing (e-file) system;
2. Allows for the implementation of a modern e-file system by repealing and replacing the existing rules to conform with the advancements made in technology since the inception of the rules in 2007; and
3. Provides improved uniform guidelines for electronic filing of documents in Nevada courts.
4. Retains flexibility for courts with existing e-file systems.

Accordingly, the petitioner requests that the Nevada Supreme Court place this matter on its administrative docket, hold such hearings as it deems necessary, and consider the repeal and replacement of the Nevada Electronic Filing and Conversion Rules as set forth in Exhibit A.

Respectfully submitted



Katherine Stocks

23-39318

EXHIBIT A

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I. GENERAL PROVISIONS

Rule 1 - Citation

The Nevada Electronic Filing and Conversion Rules may be cited as NEFCR.

Rule 2 - Definitions of Words and Terms

- (a) AOC.** "AOC" means the Nevada Supreme Court, Administrative Office of the Courts.
- (b) Case Management System.** "Case Management System" ("CMS") means a court information technology system designed and used to capture, monitor, and track court content including filings, events, calendar events, and documents, and to account for all financial information in the case.
- (c) Clerk.** "Clerk" means the clerk of a court.
- (d) Confidential.** A "confidential" electronic document or other court identified or authorized confidential items electronically stored in an electronic case file means that document or information will not be accessible to the public. See NEFCR Rule 14.
- (e) Document Management System.** A "document management system" is an information technology system to store and manage court documents that is structured to allow access to documents based on index fields, such as case number, filing date, type of document, etc.
- (f) Electronic Case or Electronic Case File.** An "electronic case" or "electronic case file" is the assemblage of documents pertaining to a single case maintained by the court or clerk in electronic form, whether electronically filed or transmitted or scanned from a physical record. It is part of a case file with a single case number that contains records that are in electronic form and items that are not in electronic form. The electronic document in the official court record is deemed to be the original. See NEFCR Rule 7.
- (g) Electronic Document.** An "electronic document" includes the electronic form of pleadings, notices, motions, orders, paper exhibits, briefs, judgments, writs of execution, other papers, and includes the transmittal information submitted with the filing. Unless the context requires otherwise, the term "document" in these rules refers to an electronic document.
- (h) Electronic Filing Service Provider.** The "electronic filing service provider" or "service

provider" is the entity engaged by the AOC or a court in this State to furnish and maintain an electronic filing system.

(i) Electronic Filing System. The "electronic filing system" or "EFS" is a system implemented by the AOC or a court in this State for electronic submission, filing, and service of documents.

(j) Electronic Service. "Electronic service" is the service of a document through the EFS under NEFCR Rule 10.

(k) Electronic Signature. "Electronic signature" or "e-signature" is an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature.

(l) Filing. "Filing" is the placement of an electronic document into the official court record after submission of the document to the EFS.

(m) Filer. A "filer" is a person who submits a document to an EFS for electronic filing or service under authorization from a registered user. See NEFCR Rule 5(b)

(n) Nonconforming document. A "nonconforming document" is a document that does not follow applicable filing requirements. See NEFCR Rule 9.

(o) Public Access Terminal. A "public access terminal" is a computer terminal provided by the court or clerk for viewing publicly accessible electronic documents, registering for access to the EFS, and submitting (filing) documents in the official court record.

(p) Registered User. A "registered user" or "user" is a person or entity that has been authorized to utilize the EFS.

(q) Serve by Traditional Means. "Serve by traditional means" is the service of a document by any means authorized by statute or court rule, other than electronic service through an EFS.

(r) Submission. "Submission" is the electronic transmission of a document by a filer to the EFS. It does not include transmission via data file, email, fax, or unauthorized electronic means.

(s) Traditional Means. "Traditional means" is a procedure or requirement for the process or format as found in the Justice Court Rules of Civil Procedure (JCRCPP), the Nevada Rules of Civil Procedure (NRCPP), the Nevada Rules of Appellate Procedure (NRAP), for

nonelectronic actions or documents.

Rule 3 - Purpose, Scope, and Application of Rules

- (a) Purpose and Scope.** These rules establish statewide minimum standards governing the electronic filing and retrieval of documents in Nevada courts.
- (b) Application of Rules.** These rules must be construed liberally to secure the proper and efficient administration of the business and affairs of the court and to promote and facilitate the administration of justice by the court.
- (c) Individual Courts.** These rules apply for a court's use of any locally operated EFS. The court and AOC will establish a memorandum of understanding for the applicability of these rules to the court's locally operated EFS.

Rule 4 - Mandatory Filing

- (a)** Unless otherwise exempted, the following individuals or entities shall electronically file all case related documents:
 - (1)** Licensed Nevada attorneys;
 - (2)** Non-Nevada attorneys permitted to practice in Nevada under Supreme Court Rule 42; and
 - (3)** Interested parties required to register under Rule 5(a)(1)(D) – (I).
- (b)** Self-represented litigants who are not attorneys may elect to electronically file.

Unless otherwise exempted by court order, once a self-represented litigant elects to electronically file and serve documents through the EFS, the litigant must continue to do so for the life of the case.

Rule 5 - Registration Requirements for Users; Penalties for Misconduct

(a) Registration.

All users of an EFS must register to access the EFS. This includes:

- (1)** Licensed Nevada attorneys;
- (2)** Non-Nevada attorneys permitted to practice in Nevada under Supreme Court Rule 42;

- (3) Self-represented litigants;
- (4) Government agencies or departments (including those entities or individuals on contract);
- (5) Court approved arbitrators, mediators, coordinators, or evaluators;
- (6) Judicial officers or staff of the court;
- (7) Filers who are compensated for the preparation and submission of reports, evaluations, or documents;
- (8) Non-attorney individuals representing business entities in small claims actions under NRS chapter 73 and other actions authorized by Nevada law; and
- (9) Other individuals ordered to register by the court.

(b) Login Restrictions. A registered user's login may be used only by the user to whom it is assigned and by such agents and employees as the user may authorize. No registered user may knowingly permit his or her login to be used by anyone other than their authorized agents and employees. Attorneys and self-represented litigants who are registered users are prohibited from submitting documents on behalf of another litigant or attorney who is not the attorney of record on the case, regardless of the attorneys being part of the same firm. Each filer shall register individually pursuant to Rule 5(a).

(c) Electronic Contact Required. Registered users must provide one or more valid electronic contact methods to receive notices from the EFS. It is the user's responsibility to ensure that the EFS has correct electronic contact information.

(d) Misuse or Abuse of the EFS.

- (1) Any user attempting to damage or interfere with the EFS in any manner or attempting to alter documents or information stored on the system, has committed misuse. Any unauthorized use of the system is abuse. Misuse or abuse may result in loss of a user's registration and/or referral of the user to the Office of the Bar Counsel for the Nevada State Bar or the appropriate law enforcement or regulatory agency. Any abuse or misuse

will subject the user to any other penalty that may be imposed by the court, law, or regulation.

- (2) Any registered user who is declared a vexatious litigant by a court of this State will be considered to have misused the EFS and their registration and login will be suspended.

Rule 6. Court EFS Requirements

- (a) **A court must** (1) provide adequate advanced notice of the mandatory participation requirement; (2) allow for exceptions as stated in these rules to ensure access to justice for indigent, disabled, or self-represented litigants; (3) provide free access to and use of the EFS through a public access terminal during normal business hours; (4) provide a mechanism for waiving fees consistent with statute or court rule; and, (5) provide reasonable training and information for registered users regarding the use of the EFS
- (b) **Special Needs of Certain Users.** As a court makes available its public access terminal, it must consider the needs of indigent, self-represented, limited English proficiency, or illiterate persons and the challenges facing persons lacking access to, or skills in, the use of computers and provide reasonable accommodations within the court's ability to meet the needs of these users.
- (c) **Data Accompanying Submitted Documents.** Filing documents must include minimum data in accordance with applicable court rule.
- (d) **Filed Documents and Data.** Any entity with a duty to keep the court's record must maintain the integrity of submitted documents and data, and documents and data contained in official court records, by complying with current Federal Information Processing Standard 180-4 or its successor. Nothing in this rule prohibits a court or clerk from correcting docketing information errors, provided that a record of each change is maintained, including the date and time of the change and the person making the change.
- (e) **Electronic Acceptance of Payments.** The EFS will accept payments of filing fees, and other required financial obligations electronically, including the processing of applications to waive fees.

II. FILING AND SERVICE OF DOCUMENTS

Rule 7 - Official Court Record

- (a) **Electronic Documents.** For documents that have been electronically filed or converted, the electronic documents are the official court record, and electronic documents have the same force and effect as documents filed by traditional means. See NEFCR Rule 2(q).
- (b) **Form of Record.** The CMS will maintain the official court record of a case in electronic format or in a combination of electronic and traditional formats consistent with these rules. Documents submitted by traditional means may be converted to electronic format and made part of the electronic record. Once a document is electronically filed or converted, the electronic document is the official court record, and the court must maintain the document in electronic form. If exhibits are submitted, the clerk may maintain the exhibits by traditional means or by electronic means where appropriate.
- (c) **Retention of Original Documents After Conversion.** After a court record is converted to electronic format with sufficient quality control measures to ensure an accurate and reliable reproduction of the original, the court may determine whether to maintain a nonelectronic copy of the electronic record.
- (d) **Exceptions to Document Destruction.** The following documents may not be destroyed by the court after conversion to electronic format, unless otherwise permitted by statute, court rule, or court order:
 - (1) Original wills;
 - (2) Original deeds;
 - (3) original contracts; and
 - (4) Court exhibits (see NRS 3.305, NRS 3.307, and the Protocol for Storage, Retention, and Destruction of Evidence).

Rule 8 - Electronic Filing of Documents; Exceptions

- (a) **In General.** Court documents are to be electronically submitted and filed through an EFS in any action or proceeding unless these rules or other legal authority expressly prohibit such filing.

- (b) Exhibits and Real Objects.** Exhibits or documents that cannot be viewed comprehensibly in, or converted to, an electronic format must be filed, stored, and served by traditional means. See NEFCR Rule 2(p).

Rule 9 - Submission of Documents, Time of Filing, Confirmation, Review, and Endorsement

(a) Filing and Service Upon Submission.

- (1) In General.** Any document electronically submitted to an EFS for filing must be automatically filed, and simultaneously served under Rule 10, upon submission, except for documents that initiate a new case and documents that may require a filing fee pursuant to NRS Chapter 19. Upon receipt/acceptance of payment and approval by the clerk, the documents shall then be filed and simultaneously served through the EFS pursuant to Rule 10.
- (2) Notice to the Registered User.** Upon receipt, filing, and service of the submitted document, the EFS must notify the registered user that the document was received, filed, and served depending on what notice options the registered user chose or are available in the EFS; indicate the date and time of the document's filing; and provide all registered users receiving service under Rule 10(b) with access to the filed document. Absent confirmation of receipt, filing, and service, there is no presumption that the EFS received the document. The registered user is responsible for verifying that the EFS received the document submitted.

(b) Review by the Clerk.

- (1) In General.** After a document is filed, the clerk will review the document to determine whether it conforms to the applicable filing requirements. A document that does not conform to the applicable filing requirements is a nonconforming document. Documents that initiate a new case or that require a filing fee pursuant to NRS Chapter 19, can be reviewed to determine whether they conform with the applicable filing requirements at the time of clerk approval prior to being filed and served by the EFS.

(2) Nonconforming Documents; Notice, Striking Documents.

- (A)** If the clerk determines that a document is nonconforming, the clerk must notify the registered user of the nonconformity and allow the registered user an

opportunity to cure the nonconformity. Unless the court orders otherwise, the registered user may cure the nonconformity by submitting a conforming document. Once the conforming document is filed, the court must notify the registered user and all registered users receiving service under Rule 10(b).

(B) On motion by a party or on its own motion, the court may strike a nonconforming document. If the court strikes a nonconforming document, the EFS must notify the registered user who submitted the nonconforming document and all registered users receiving service under Rule 9(b).

(3) Local Rules. A court may adopt local rules consistent with these rules and any other applicable court rules, defining what constitutes a nonconforming document. The local rules may also specify which nonconforming documents the clerk is authorized to strike.

(c) Endorsement. Filed electronic documents must be endorsed by the clerk. The clerk's endorsement of an electronic document must contain the following: "Electronically Filed/Date and Time/Name of Clerk." This endorsement has the same force and effect as the clerk's manually affixed endorsement stamp.

(d) Time of Filing.

(1) Any document electronically submitted by 11:59 p.m. at the court's local time is deemed to be filed on that date.

(2) For any questions of timeliness, the date and time registered by the EFS when the document was electronically submitted is determinative and serves as the filing date and time for purposes of meeting any statute of limitations or other filing deadlines, regardless of whether nonconformities exist or are cured.

(3) If the court or clerk strikes a nonconforming document, questions of timeliness are determined by the date and time that the registered user resubmits the document to the electronic filing system, unless the court orders otherwise.

(e) Availability of an EFS. An EFS must allow submission of documents 24 hours per day, seven days per week, except when the EFS is down for scheduled maintenance or is experiencing technical difficulties.

Rule 10 - Electronic Service Through an EFS

- (a) Documents Subject to Service, Exceptions.** Service of documents through an EFS is limited to those documents served electronically under JCRCF 5, NRCP 5, or NRAP 25, as applicable. A summons and a complaint, petition, or other document that must be served with a summons, served under JCRCF 4 or NRCP 4, or a subpoena, served under JCRCF 45, NRCP 45, or any statute, cannot be served through an EFS.
- (b) Service on Registered Users.** When a document is electronically submitted and filed, an EFS will send notice to all registered users on the case that a document has been submitted and filed and is available for viewing on the document repository or CMS. The notice must be sent by email to the addresses furnished by the registered users under Rule 5(c). This notice is valid as effective service of the document on the registered users and has the same legal effect as service of a paper document. Unless the court files proof of service through the EFS into the docket, the party is obligated to provide proof of service.
- (c) Consent to Electronic Service Through the EFS.** Registered users of the EFS are deemed to consent to receive electronic service through the EFS. A party wishing to receive electronic service through the EFS must register with the EFS provided they are eligible to do so.
- (d) Service on Parties Not Receiving Electronic Service Through the EFS.** If a party is not receiving electronic service through the EFS, the registered user must serve each submitted document on the party by traditional means. See NEFCR Rule 2(p).
- (e) Service List.** The parties must provide the clerk with a service list indicating the parties to be served on a case. The clerk must maintain the service list, indicating which parties are to receive electronic service through the EFS and which parties are to be served by traditional means.
- (f) Time of Service, Time to Respond.**
- (1) Electronic service is complete when the EFS sends the notice required by Rule 10(b).
 - (2) The time to respond to a document served through the EFS is computed under JCRCF 6, NRCP 6, or NRAP 26, as applicable, from the date of service stated in the proof of

service, which must be the date on which the document was submitted to the EFS, except for those documents identified under Rule 9(a)(1).

- (3) Unless the court or clerk strikes a nonconforming document or the court orders otherwise, the time to respond to a nonconforming document is also calculated under Rule 10(f)(2).
- (4) If the court or clerk strikes a nonconforming document, the other parties do not need to respond to the document. The time for any response to a resubmitted document is recalculated under Rule 10(f)(2) based on the proof of service attached to the resubmitted document.

Rule 11 - Payment and Waiver of Filing Fees

- (a) **Methods of Payment.** For documents that require a fee, the filer may use an AOC approved form of payment for the payment of filing fees associated with electronic filing.
- (b) **Waiver of Filing Fees.** Anyone entitled to waiver of filing fees will not be charged fees when using an EFS. A party requesting to have court filing fees and service costs waived must comply with applicable statutes and court rules to request a waiver.
- (c) **Schedule of Fees.** The AOC shall maintain a publicly available schedule of e-filing fees on its website for those courts that have e-filing fees or of any fees required for the use of the AOC sponsored EFS. If applicable, an EFS shall provide the schedule of e-filing fees as part of the materials provided to users.

Rule 12 - Signatures and Authenticity of Documents

- (a) **Documents Signed by the Registered User Submitting the Document.** Every document electronically submitted or served is deemed to be signed by the registered user submitting the document. Each document must bear that person's name, mailing address, email address, telephone number, law firm name, and bar number, where applicable. If a statute or court rule requires a signature at a particular location on a form, the person should utilize an e-signature. If an e-signature is unavailable or impractical, the person's name may be inserted in the form of "/s/ [name]."

(b) Documents Requiring Signature of Notary Public.

- (1) Documents required by law to include the signature of a notary public may be submitted electronically, provided that the notary public applied electronic notarization as provided in NRS 240.181 to NRS 240.206, inclusive, or, if electronic notarization is unavailable or impractical, signed a printed form of the document. The printed document bearing the original signatures must be scanned and submitted for filing in a format that accurately reproduces the original signatures and contents of the document.
- (2) By submitting the document, the registered user attests that the documents and signatures are authentic.

(c) Documents Requiring Signatures of Other Persons.

- (1) When a document to be submitted electronically, such as a stipulation, requires the signatures of any other parties or persons, the party submitting the document must first obtain the signatures of the required parties or persons utilizing an e-signature. If an e-signature is unavailable or impractical signatures may be on a printed form of the document.
- (2) The printed document bearing the original signatures must be scanned and submitted in a format that accurately reproduces the original signatures and contents of the document.
- (3) By submitting the document, the registered user attests that the documents and signatures are authentic.

(d) Signature of a Judicial Officer or the Clerk. Electronically issued court documents requiring a court official's signature may be e-signatures. A court using e-signatures on court documents shall, at a minimum, adopt AOC promulgated policies and procedures to safeguard such signatures.

(e) Retention of Original Documents by Electronic Registered users.

- (1) A registered user must retain the original version of any document, attachment, or exhibit that was submitted electronically from the earlier of:

(A) any notice of entry of the withdrawal from representation of the party on

whose behalf the document was filed;

(B) any other termination of representation of the party on whose behalf the document was filed; or

(C) final resolution of the case, including any appeals.

(2) During the period that the registered user retains the original of a document, attachment, or exhibit, the court may require the registered user to produce the original document, attachment, or exhibit that was submitted electronically.

Rule 13 - Format of Documents

(a) **In General.** Electronic documents must, to the extent practicable, be formatted in accordance with the applicable rules governing formatting of paper pleadings and other documents, including page limits.

(b) **Use of Hyperlinks.** Electronic documents may contain hyperlinks to other portions of the same document and to a location on the internet that contains a source document for a citation.

(1) Hyperlinks to cited authority may not replace standard citation format. Complete citations must be included in the text of the filed document. The submitting party is responsible for the availability and functionality of any hyperlink and should consider what databases or electronic information services the court and the other parties may have access to before including hyperlinks in a document.

(2) When a party intends to make any hyperlinked material part of the official court record, the party must attach the material as an exhibit.

(3) The court neither endorses nor accepts responsibility for any product, organization, or content at any hyperlinked site or at any site to which that site may be linked.

Rule 14 - Access to Documents; Confidential Information

(a) **Electronic Access.** Except as provided in these rules, the EFS and CMS must give registered users who are parties or attorneys on a case access to electronic documents in the case to the same extent that the court provides access to paper documents. Registered users who are not parties or attorneys on that case may also have access to the electronic case.

(b) Confidential Records. The confidentiality of electronic records is the same as for paper records. If a registered user identifies a document as “confidential,” the court will verify that designation and after review may modify the designation of any document incorrectly identified as “confidential.” Once the designation as “confidential” is confirmed the document will not be accessible to the public, but will be accessible to court staff, and as authorized by law, court rule, or court order. No person in possession of a confidential electronic record may release the information to any other person unless provided by law.

(c) Identification of Confidential Documents. The registered user must identify documents made confidential by statute, court rule, or court order, and take any steps required by law, rule, or regulation to safeguard the confidential information contained therein, including but not limited to using the appropriate filing codes that signal confidentiality. The EFS must make that document available only as provided by law.

(d) Protection of Personal Information.

(1) Personal information is defined by NRS 603A.040.

(2) In general, under NRS 239B.030, the Nevada Rules for Sealing and Redacting Court Records (“SRCR”), any document submitted to an EFS must not contain any personal information, or if it does, the personal information must be redacted.

(3) If a registered user must submit an unredacted document containing personal information to an EFS, the registered user may submit documents under temporary seal with the appropriate filing code, pending court approval of the registered user's motion to seal if the EFS permits such documents to be submitted electronically. The registered user must also comply with the SRCR and any local rules regarding sealing documents. An EFS may permit registered users on a case to access and view a sealed document electronically, unless otherwise ordered by the court.

(4) A court may sanction a registered user for disclosing personal information in violation of NRS 239B.030 or the SRCR.

(5) The clerk is not required to review each paper for personal information or for the redaction of personal information.

- (c) Other Confidential Information; Temporary Sealing of Documents.** A registered user may seek to have other information or documents sealed under the SRCR by submitting documents under temporary seal pending court approval of the user's motion to seal.

Rule 15 - Technical Problems

- (a) Correction of Technical Problems.** When submission, filing, service, conversion, or any other EFS function does not occur due to technical problems, the clerk may correct the problem. Technical problems include:

- (1)** An error in the submission of the document to the EFS or in electronic service on another party;
- (2)** A failure to process the document when received by the EFS;
- (3)** An erroneous exclusion of a party from the service list;
- (4)** A technical problem experienced by the registered user with the EFS; or
- (5)** A technical problem experienced by a court employee with respect to the processing of a document.

(b) Determination of Time of Filing and Time to Respond After Technical Problems.

- (1)** Unless the technical problem prevents timely submission or filing or affects jurisdiction, the court must deem a document received on the date when the registered user can satisfactorily demonstrate that he or she attempted to submit the document to the EFS.
- (2)** When the technical problem prevents timely submission or filing or affects jurisdiction, the registered user may file a motion seeking to use the date and time on which the registered user initially attempted to submit the document to the EFS. The court may, upon satisfactory proof, enter an order permitting the document to be filed as of the date and time of the first attempt to submit it to the EFS.
- (3)** When a technical problem occurs, the time to respond to a document served through the EFS is calculated from the date on which the document is correctly served under Rule 10(b). The court may extend the time to respond to prevent any prejudice that may result from a technical problem.

Rule 16 - Ability of a Party to Challenge Accuracy or Authenticity

These rules may not be construed to prevent a party from challenging the accuracy or authenticity of a converted or electronically filed document, or the signatures appearing therein, as otherwise allowed, or required by law.