

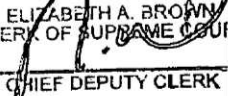
IN THE SUPREME COURT OF THE STATE OF NEVADA

FILED

IN RE: REPEAL AND REPLACEMENT OF
THE NEVADA ELECTRONIC FILING AND
CONVERSION RULES

ADKT No. 0615

JAN 24 2024

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

CLERK OF COURT FOR THE EIGHTH JUDICIAL DISTRICT COURT'S
COMMENTS TO THE PETITION TO AMEND
THE NEVADA ELECTRONIC FILING AND CONVERSION RULES

Steven D. Grierson, Court Executive Officer and Clerk of Court for the Eighth Judicial District Court (EJDC), submits the following comments regarding the Administrative Office of the Court's (AOC) proposed amendments to the Nevada Electronic Filing and Conversion Rules (NEFCR). The EJDC's proposed changes to the AOC's proposed NEFCR 9 are also attached hereto as Exhibit A.

Existing NEFCR 8 contains an "automatic acceptance" provision, which requires that "any documents electronically submitted to an EFS for filing must be automatically filed, and simultaneously served..." NEFCR 8(a)(1). The Rule also provides that upon determination of a nonconforming document, the clerk is responsible for notifying the filer of that nonconformity and, if cured, of replacing the nonconforming document with a conforming document. NEFCR 8(b)(2)(A). The EJDC is currently compliant with that existing provision and has procedures in place to ensure that these responsibilities are properly carried out.

The AOC's proposed changes exempt certain documents from automatic acceptance: documents that initiate a case and documents that require a filing fee. While this proposed change is appreciated, the EJDC's amendments aim to (1) clarify that unsigned documents requiring a judge's signature also be exempted from being automatically accepted and filed;

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2 (2) provide clarity as to the clerk's process in regards to the documents that are exempted from
3 automatic acceptance; and (3) set a deadline for the user's opportunity to cure a document.

4 As a brief background, following the passage of the automatic acceptance provision of
5 NEFCR 8(a)(1), the clerk saw a deluge of self-represented litigants submitting documents that
6 did not meet the applicable filing requirements. Additionally, because initiating documents were
7 automatically accepted, there was an unintended consequence of substantial reductions in court
8 fee revenue. The EJDC experienced a substantial increase in accounts receivable and additional
9 duties related to the collection of those amounts. As a result, the EJDC entered Administrative
10 Order 19-05 to address some of these issues. Thereafter, the Eighth Judicial District Court Rule
11 (EDCR) 8.03 was amended to maintain conformity with the NEFCR.

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13 EDCR 8.03(d) directs the clerk *shall not* file unsigned orders; subsection (b) provides
14 guidance on treating nonconforming documents that initiate civil actions; and subsection (a)
15 allows a 7-day opportunity to cure nonconforming documents. *See* EDCR 8.03 (emphasis
16 added).

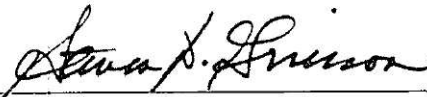
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18 The EJDC's proposed changes to the NEFCR will clarify and strengthen clerical
19 procedures, thus making the office of the clerk of court more efficient. Unsigned orders entered
20 on case dockets create confusion and opportunities for fraud, making self-represented parties
21 more vulnerable. Excluding unsigned orders from automatic filing eliminates those risks.
22 Additionally, laying out a process to return unfiled initiating case documents via email will allow
23 the clerk to communicate more immediately with users regarding correcting nonconforming
24 documents. Lastly, establishing a 14-day deadline gives a date certain for curing so that matters
25 do not continue to languish.

26 Finally, EJDC respectfully requests that should this Court adopt the EJDC's and/or the
27 AOC's proposed amendments regarding automatic acceptance, that the effective date be
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2 extended up to 12 months from the date of the order. The steps required to unwind the technical
3 logistics within the EJDC's EFS and institute new ones will require substantial time and effort.

4 Based on the foregoing, it is respectfully requested that the Nevada Supreme Court
5 consider the EJDC's proposed amendments to NEFCR as set forth in Exhibit A, and allow for a
6 grace period of up to 12 months before effectuating any changes.
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9 Respectfully submitted,

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12 Steven D. Grierson
13 Clerk of Court
14 Eighth Judicial District Court
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EXHIBIT A
TO CLERK OF COURT FOR THE EIGHTH JUDICIAL DISTRICT COURT'S
COMMENTS TO THE PETITION TO AMEND
THE NEVADA ELECTRONIC FILING AND CONVERSION RULES

The following redline represents the EJDC's Clerk of Court's proposed changes to the AOC's proposed NEFCR 9:

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, unsigned documents requiring a judge's signature, 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. All unsigned documents requiring a judge's signature are nonconforming and shall not be filed. Documents that initiate a new case or that require a filing fee pursuant to NRS Chapter 19, may ~~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 after it has been automatically filed, 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 ordered by the court, allow the registered user to may~~ cure the nonconformity within 14 days by submitting a conforming document. Once the conforming document is filed, the ~~clerk court~~ must notify the registered user and all registered users receiving service under Rule 10(b).

~~(B)~~ If the clerk determines upon review under Rule 9(b)(1), a nonconforming document initiates a new case and/or requires a filing fee pursuant to NRS Chapter 19, the clerk shall return the document to the registered user as unfiled and notify the registered user of the nonconformity and 14-day opportunity to cure the nonconformity. The 14-day period shall commence upon the transmission of the notification. The notification provided by the clerk pursuant to this subsection may be provided via email through the EFS. The registered user may cure the nonconformity by submitting a conforming document within the 14 days. If a conforming document is not filed within the 14 days, any subsequent submissions for filing will be treated as new filings and not curative ones.

~~(B)(C)~~ 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 ~~109~~(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.