

January 24, 2024

Via E-Mail: nvsclerk@nvcourts.nv.gov

Elizabeth A. Brown
Clerk of the Supreme Court
201 South Carson Street
Carson City, NV 89701

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JAN 26 2024

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

Re: ADKT No. 615
***In the Matter of the Amendment to the Nevada Electronic Filing and
Conversion Rules.***

To the Honorable Justices of the Nevada Supreme Court and Ms. Brown,

Overall the Nevada Coalition of Legal Service Providers is in support of the Administrative Office of the Courts proposed rule replacement. The implementation of a statewide, modern electronic filing system will enhance access to Nevada courts which enhances access to justice for all Nevadans. We would request the Court consider several small changes that we believe are consistent with the mission of enhancing access to the courts. We recommend three changes to proposed Rule 14.

First, we recommend amending proposed Rule 14(a):

(a) Electronic Access. Except as provided in these rules, the EFS and , CMS, and the court must give 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. Judicial districts that are not in compliance with Rule 14(a) must submit an annual report to the AOC on the state of access to electronic documents as well as a detailed compliance plan. The AOC will monitor the implementation of the compliance plan.

Proposed Rule 14(a) is very similar to the current Rule 14(a). The significant change is shifting responsibility to provide registered users with electronic documents from "a court" to both the Case Management System (CMS) and the Electronic Filing System (EFS). The court has ultimate responsibility for ensuring access to electronic documents. It is not clear if the CMS and the EFS are systems within the court or vendors contracted to provide the electronic framework for electronic filing. In addition some judicial districts have never been in compliance with the current Rule. For example, in the 8th Judicial District registered pro se litigants do not have access to electronic documents and must go to the clerk's office in person, request, and pay for paper copies of their court case. This creates a significant access to justice issue. In this proposed rule the Court should address this shortcoming by implementing a reporting requirement that monitors implementation.

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Second, we recommend amending proposed Rule 14(b):

- (b) 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, the parties, and their attorneys 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.

This language will clarify that all parties and their attorneys should have access to all confidential documents when authorized by law, court rule, or court order, including in the appellate courts. The Pro Bono Project at Legal Aid Center of Southern Nevada has been hampered in placing appeals with pro bono counsel because counsel cannot access confidential records in the district court even after they have filed Notices of Appearance in the Supreme Court. Without this amendment, pro se litigants run the risk of losing access to the appellate courts because pro bono counsel will simply not take on their cases.

Third, we recommend amending proposed rule Rule 14(d)(5):

- (c) The clerk is not required to review each paper for personal information or for the redaction of personal information. No affirmation shall be required under NRS 239B.030(6).

Proposed Rule 14(d)(5) sufficiently covers how an EFS should handle documents containing personal information. However, local rules often require filers to submit an affirmation pursuant to NRS 239B.030(6) regarding whether personal information is contained in the document. Local rules vary as to the need for this affirmation and how it should be submitted; the rules of one district are often at direct odds with the rules of another. The Nevada Supreme Court's efforts to establish statewide forms and electronic filing would be enhanced by explicitly eliminating the requirement of an affirmation on any document electronically filed, since Rule 14(d) already provides guidance.

Thank you for your consideration.

/ss/ Jonathan Norman
Jonathan Norman, Esq.
Statewide Advocacy
NV Coalition of Legal Service Providers
JNorman@lacs.nv.org / (702) 386-1490

/ss/ Stephanie McDonald
Stephanie McDonald, Esq.
Director Directing Attorney
Family Law Self-Help Center
702-455-1500