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ELKO CO DISTRICT COURT

CLERK \_\_\_\_\_ DEPUTY                     

IN THE FOURTH JUDICIAL DISTRICT COURT  
OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF ELKO

IN THE MATTER OF  
The Fourth Judicial District  
Court's Response to Coronavirus  
Disease (COVID-19)

**ADMINISTRATIVE ORDER:**  
20:02

On March 12, 2020, Governor Steve Sisolak issued a Declaration of Emergency in response to the COVID-19 pandemic. The next day, March 13, 2020, the President of the United States declared a nationwide emergency pursuant to Section 501(6) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5207. To mitigate the spread of this deadly virus, the Centers for Disease Control recommends putting as much distance between people as possible, and Governor Sisolak has directed Nevadans to stay home except to seek or provide essential services.

Article 3, section 1 of the Nevada Constitution provides that, "The powers of the Government of the State of Nevada shall be divided into three separate departments—the Legislative,—the Executive, and the Judicial; and no persons charged with the exercise of powers properly belonging to one of these departments shall exercise any functions, appertaining to either of the others, except in the cases expressly directed or permitted in this constitution." "In addition to the constitutionally expressed powers and functions of each Department, (the Legislative, the Executive, and the Judicial) each possesses inherent and incidental powers that are properly termed *ministerial*. Ministerial functions are methods of implementation to accomplish or put into effect the basic

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1 function of each Department.” *Galloway v. Truesdell*, 83 Nev. 13, 21, 422 P.2d 237, 243 (1967).

2       Following the March 12, 2020 Declaration of Emergency, this Court exercised its ministerial  
3 judicial power and entered, on an emergency basis, Administrative Order No. 1. This Order changed  
4 court procedures so as to minimize person-to-person contact and mitigate the risk associated with  
5 COVID-19 pandemic, while continuing to provide essential court services. The Order specifies that  
6 it “shall be reviewed no later than every 30 days and shall continue until modified or rescinded by  
7 subsequent order.”

8       On March 31, 2020, Governor Sisolak entered Declaration of Emergency Directive 010,  
9 which directs Nevadans to stay home except to seek or provide essential services. Directive 010  
10 extends the declared emergency through April 30, 2020. Consistent with this Directive and its  
11 original Order, the Court has reviewed Administrative Order No. 1 and, after consultation with Chief  
12 Justice of the Nevada Supreme Court, orders as follows:

- 13       1.     Continuity. Administrative Order No. 1 shall remain in effect, with the additional  
14             provisions noted below.
- 15       2.     Jury Trials Suspended. All jury trials, civil and criminal, are suspended until 30 days  
16             after this order is lifted. They will be rescheduled as the court calendar allows, with  
17             priority given to in-custody defendants who have invoked their speedy trial rights. No  
18             summonsed prospective jurors are to appear. Any currently ongoing jury trial will  
19             finish.
- 20       3.     Hearings.
  - 21             a.     All non-essential district court hearings shall be conducted by video or  
22                     telephonic means, decided on the papers, or continued, unless otherwise  
23                     directed by a district court judge. Notices of hearing shall include the  
24                     information needed for the parties and any other interested person to  
25                     participate remotely.
  - 26             b.     Essential case types and hearings will continue to be heard. These may be

1 conducted through in-person appearances, although appearance by alternative  
2 means under Nevada Supreme Court Rule Part IX is encouraged when  
3 possible. Essential case types and hearings include the following:

- 4 1. In-custody criminal arraignments, sentencings, bail motions, and  
5 probation revocation hearings;
- 6 2. Civil commitment cases;
- 7 3. Guardianship matters except for compliance-related hearings which  
8 include annual accountings. Given the vulnerability of the  
9 guardianship populations, all protected persons shall appear by  
10 alternative means;
- 11 4. Domestic temporary or extended protection orders;
- 12 5. Juvenile delinquency matters;
- 13 6. Abuse and neglect preliminary protective hearings;
- 14 7. High-risk protective orders;
- 15 8. Civil temporary restraining orders and preliminary/permanent  
16 injunctive relief hearings;
- 17 9. Probate petitions for orders of cremation;
- 18 10. Emergency child custody motions that cannot reasonably be resolved  
19 by telephonic or audiovisual hearing;
- 20 11. Other than jury trials, case-by-case exceptions may be ordered at the  
21 discretion of the district court judge.

22 Rules 3 of SCR IX-A (A) and (B) are modified to eliminate their exclusion of juvenile proceedings  
23 from the Supreme Court Rules governing telephonic and audiovisual proceedings.

- 24 4. Filing. Face-to-face contact between the clerk's office and the public needs to be minimized.  
25 Pleadings and papers to be filed should be mailed to the court clerk with a self-addressed  
26 stamped envelope for the return of file-stamped copies. If there is a time issue—deadline

1 imposed by statute, rule, or order—the document may be dropped off at the filing deposit  
2 box just outside the clerk’s office with a self-addressed stamped envelope for the return of  
3 file-stamped copies.

4 5. Courthouse restrictions. The Centers for Disease Control (CDC) has advised that the best  
5 way to prevent illness is to avoid exposure. Consistent with CDC guidelines, courthouse  
6 security shall post a notice at the entrance of all district court facilities advising the following  
7 people that they may not enter the court facility:

- 8 a. Persons who in the last 14 days have traveled outside the United States;
- 9 b. Persons who reside or have close contact with someone who has traveled outside the  
10 United States within the last 14 days;
- 11 c. Persons who have been asked to self-quarantine by any doctor, hospital, or health  
12 agency;
- 13 d. Persons who have been diagnosed with COVID-19 or who have had contact in the  
14 past 14 days with anyone who has been diagnosed with COVID-19; or
- 15 e. Persons with unexplained fever, cough, or shortness of breath.

16 Anyone attempting to enter in violation of these protocols will be denied entry.

17 A person who cannot appear in court because of these restrictions may call the assigned  
18 court for help rescheduling the court appearance, arranging for appearance by alternative means, or  
19 obtaining other information needed, based on the circumstances of the appearance.

#### 20 CIVIL CASES

21 6. Issuance of Summons. A party or lawyer seeking to have the Clerk of the Court issue a  
22 summons order under NRCP 4(b) shall mail the summons to the Clerk who will issue the  
23 summons and return a copy of it either by mail in a stamped, self-addressed envelope  
24 included for that purpose or by leaving it in the Clerk’s deposit box.

25 7. Service of Summons. The court recognizes that accomplishing personal service of process  
26 may pose significant challenges at this time given the closure of non-essential businesses and

1 stay-home directives. Properly documented service issues related to the COVID-19 pandemic  
2 constitute “good cause” for the extension of time for service pursuant to NRCP 4(e), whether  
3 the motion is made before or after the 120 day service period.

4 8. Extensions of time deadlines. Pursuant to NRCP 6(b), the court recognizes the COVID-19  
5 emergency as constituting “good cause” and “excusable neglect” warranting the extension  
6 of time in non-essential civil and civil-domestic case types. This does not apply to the time  
7 deadlines that must not be extended under NRCP 6(b)(2) (motions under NRCP 50(b), 52  
8 (b), 59, and 60 and motion made after NRCP 54 (d)(2) time has expired).

9 9. Rule 16.1, 16.2, and 16.205 early case conferences. NRCP 16.1, 16.2, and 16.205 early case  
10 conferences should continue to take place but are to be conducted by telephone,  
11 teleconference, videoconference or other remote means. During the next 60 days, if an early  
12 case conference cannot be accomplished by alternate means, it shall be rescheduled. No early  
13 case conference shall be conducted in person during the COVID-19 emergency. On  
14 stipulation or order of the court, the deadlines for initial disclosures, supplements and other  
15 written discovery may be extended. If not stayed, such discovery shall be exchanged by mail  
16 or through electronic means.

17 10. Rule 16 conferences. NRCP 16 pretrial scheduling conferences will still take place when  
18 possible. Rule 16 conferences are to be conducted by telephonic means or, if they cannot be  
19 conducted remotely, rescheduled at the direction of the assigned district court judge.

20 11. NRCP 25(a)(1). The COVID-19 pandemic poses special challenges for dealing with the  
21 death of a party and the timely substitution of a successor or representative. To alleviate  
22 those challenges, consistent with NRCP 1, NRCP 25(a)(1) is tolled during the period this  
23 order is in effect.

24 12. Depositions through remote electronic means. During the period of the COVID-19  
25 emergency, no in-person depositions shall proceed except on stipulation or order obtained  
26 on motion demonstrating cause therefor. Depositions by remote means may proceed as

provided in NRCP 30(b)(4). The Court interprets NRCP 28(a)(1) and NRCP 30 to allow the deposition officer to be in a separate location from the deponent. See SCR IX-B (A) and (B) Rules 9.

13. NRCP 41(e). This order shall operate to stay trials in civil cases and toll the time for bringing a case to trial for purposes of NRCP 41(e) for the duration of the COVID-19 emergency and for a period of 30 days thereafter.

14. Non-jury trials in civil cases. Any scheduled non-jury trials in non-essential civil cases are stayed. On order of the district court and for good cause shown, a non-jury trial may be rescheduled or conducted by alternative means.

15. Non-jury trials and hearings in civil-domestic cases. Non-jury trials and evidentiary hearings in civil-domestic cases may be conducted by alternative means or continued, to be decided on a case-by-case basis.

#### CRIMINAL CASES

16. Appearances by in-custody defendants. In-custody defendants will appear by alternate means when possible. No defendant who is in isolation pursuant to the detention health protocol will be brought for any court appearance. Attorneys may appear by alternate means when available and when permitted by the court.

17. Out-of-custody matters. Out-of-custody matters may be decided by the judge or may be heard at the discretion of the judge if the matter can be heard entirely by alternate means. Otherwise, out-of-custody matters will be continued, unless the court deems the hearing to be essential.

18. Right to speedy trial. The time period of any continuance resulting from the stay of jury trials imposed due to the COVID-19 pandemic shall be excluded for purposes of calculating speedy trial time limits under NRS 178.556(1) and NRS 174.511. The court finds that the pandemic constitutes good cause for the delay that the ends of justice that are served by delaying jury trials outweighs the interest of the parties and the public in a speedy trial. The

1 period of exclusion shall be from March 17, 2020, when the jury trial stay was first imposed,  
2 through the date 30 days after this order is lifted.

### 3 JUVENILE DELINQUENCY

4 19. In-custody juvenile appearances. Subject to constitutional, statutory, and rule requirements,  
5 the court will exercise its discretion to determine whether contested juvenile hearings,  
6 detention hearings, hearings for entry of plea, certification hearings, disposition hearings,  
7 probation violation hearings, and parole violations for in-custody juveniles may be held in  
8 a way that protects the health and safety of all involved. These hearings will, if possible, be  
9 conducted by alternative means. Attorneys, probation officers, social workers, parents,  
10 guardians, and any other necessary parties to a juvenile proceeding are strongly encouraged  
11 to appear by alternative means. Video appearances are strongly preferred. No in-custody  
12 juvenile who is hospitalized, isolated, or quarantined will be transported to court or appear  
13 for a court proceeding. Those matters are to be continued until the juvenile is no longer under  
14 any hospitalization, isolation, or quarantine.

15 20. Out-of-custody matters. All matters where the juvenile is out of custody will be continued  
16 until further order of the court.

17 21. Drug court. Juveniles in drug court may be required to check in by telephone or otherwise  
18 be supervised electronically.

### 19 JUVENILE DEPENDENCY AND ADOPTIONS

20 22. Abuse and Neglect.

- 21 a. Initial protective custody hearings will continue to be heard as an essential case type.
- 22 b. The COVID-19 pandemic is good cause to continue all adjudicatory hearings set  
23 under NRS 432B.530 during the next 30 days. The court will provide notice of the  
24 new date.
- 25 c. Disposition hearings held under NRS 432B.540 and NRS 432B.550 currently set will  
26 be decided on the report filed with the court. Attorneys for the parents, children, and



1 any CASA may file a report to supplement the DCFS recommendation for  
2 disposition, placement, and services. All disputed dispositions will be heard by  
3 teleconference.

4 d. All semi-annual and annual reviews to be heard during the next 30 days under NRS  
5 432B.580 and NRS 432B.590 will be decided on the reports submitted by DCFS to  
6 the court. Attorneys for the parents, children, and any CASA may file a supplemental  
7 for the court's consideration. The court may notice parties of a court hearing with an  
8 appearance by alternative means for disputed issues.

9 e. Hearings regarding presumptions held under NRS 432B.153, 432B.157, 432B.159  
10 and 432B.555 will be continued for at least 30 days unless the parties stipulate to the  
11 facts or a decision can be made on the papers, or the court determines extraordinary  
12 circumstances exist to proceed with the hearing.

13 23. Termination of parental rights.

14 a. Motions to terminate parental rights under 432B.5901 and any related motions may  
15 be decided on the pleadings and papers filed unless the court determines a hearing  
16 is required.

17 b. All currently set initial hearings on termination of parental rights under NRS  
18 432B.5901-5905 will be held in person as essential hearings unless the court  
19 approves appearances by alternative means. If the court approves appearances by  
20 alternative means, DCFS personnel will appear by alternative means, and attorneys  
21 for all parties may also appear by alternative means. The statutory requirement for the  
22 parents to appear in person may be waived as long as a parent appear by alternative  
23 means.

24 c. Any termination of parental rights trials currently in process will be concluded. All  
25 termination of parental rights trials currently set for trial in the next 30 days will be  
26 continued and re-noticed by the court, unless the court determines compelling



1 reasons exist to hold the trial. Appearances by alternative means are encouraged for  
2 any party, witness or lawyer participating in the trial. See NRS 432B.5905.

3 d. Other motions may be decided on the papers or continued unless the court determines  
4 an appearance by alternative means is necessary because of extraordinary  
5 circumstances. Status checks will be continued or handled with written reports unless  
6 extraordinary circumstances warrant a hearing by alternative means.

7 e. All mediations conducted pursuant to NRS 432B.5904 will be continued for 30 days  
8 unless arrangements can be made to hold the mediation by alternative means.

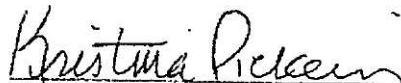
9 24. Adoptions. Adoptions will be conducted by alternative means unless the court determines  
10 otherwise.

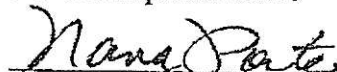
11 FINAL PROVISIONS

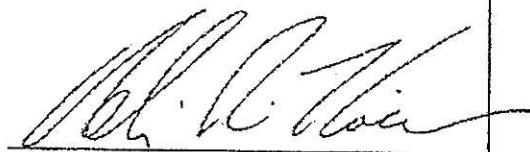
12 25. Attorney obligations. Attorneys, as officers of the court, have ethical obligations for  
13 cooperative civility under normal circumstances. This court, under the present emergency,  
14 reminds attorneys that they have an obligation to be cooperative with courts and each other  
15 as we all navigate this emergency.

16 26. Duration. This order shall be reviewed no later than every 30 days and shall remain in effect  
17 until thirty (30) days following the expirations of the March 12, 2020 Governor's Emergency  
18 Declaration or until modified or rescinded by a subsequent order, whichever occurs earlier.

19 Entered this 23<sup>rd</sup> day of April, 2020.

20  
21   
22 KRISTINA PICKERING  
23 Chief Justice  
24 Nevada Supreme Court

25   
26 NANCY PORTER  
District Judge - Dept. 1

  
ALVIN R. KACIN  
District Judge - Dept. 2

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19 Entered this \_\_\_\_ day of April, 2020.

20  
21  
22 KRISTINA PICKERING  
23 Chief Justice  
24 Nevada Supreme Court

25   
26 NANCY PORTER  
District Judge - Dept. 1

  
ALVIN R. KACIN  
District Judge - Dept. 2