

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE REPEAL OF  
THE RULES OF PRACTICE FOR THE  
FIRST JUDICIAL DISTRICT COURT  
AND APPROVAL OF PROPOSED  
RULES OF PRACTICE FOR THE FIRST  
JUDICIAL DISTRICT COURT

ADKT 0543

**FILED**

NOV 27 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *S. Young*  
DEPUTY CLERK

*ORDER REPEALING AND REPLACING RULES  
OF PRACTICE FOR THE FIRST JUDICIAL DISTRICT*

WHEREAS, on June 27, 2019, James T. Russell, District Judge, and James Wilson, Jr., District Judge, First Judicial District Court filed a petition in this court seeking to repeal the Rules of Practice for the First Judicial District Court and replace them with proposed new rules. The petition was filed in response to this court's February 28, 2019, order directing district courts to submit to this court any amendments to the local district court rules that are necessary to conform their rules to the NRCP, NRAP and NEFCR that were amended by this court's order on December 31, 2018, and effective on March 1, 2019; accordingly,

IT IS HEREBY ORDERED that the Rules of Practice for the First Judicial District Court are repealed and the proposed new rules shall be adopted and shall read as set forth in Exhibit A.

IT IS FURTHER ORDERED that the adoption of the proposed Rules of Practice for the First Judicial District Court shall be effective on January 1, 2020. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada.

Publication of this order shall be accomplished by the clerk disseminating copies of this order to all subscribers of the advance sheets of the Nevada Reports and all persons and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk of this court as to the accomplishment of the above-described publication of notice of entry and dissemination of this order shall be conclusive evidence of the adoption and publication of the foregoing rule amendment.

Dated this 27<sup>th</sup> day of November, 2019.

Gibbons, C.J.  
Gibbons

Pickering, J.  
Pickering

Hardesty, J.  
Hardesty

Parraguirre, J.  
Parraguirre

Stiglich, J.  
Stiglich

Cadish, J.  
Cadish

Silver, J.  
Silver

cc: All District Court Judges  
Clark County Bar Association  
Washoe County Bar Association  
First Judicial District Bar Association  
Paul A. Matteoni, President, State Bar of Nevada  
Kimberly Farmer, Executive Director, State Bar of Nevada  
Administrative Office of the Courts

## EXHIBIT A

# REPEAL AND ADOPTION OF NEW RULES OF PRACTICE FOR THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

## 1. GENERAL ADMINISTRATION

### 1.1 Name, citation, and application.

(a) *Name and citation.* These are the “First Judicial District Court Rules.” They will be cited as “FJDCR.”

(b) *Applicability.* These rules govern the procedure and administration of cases in the First Judicial District Court of Nevada.

(c) *Self-represented parties.* Self-represented parties are required to follow all law applicable to their case, including these rules.

### 1.2 Construction.

(a) *Other laws.* These rules will be interpreted, applied, and enforced to avoid inconsistency with any governing statutes and rules.

(b) *Liberal construction.* These rules will be liberally construed to promote the fair and efficient administration of justice by the court, and to secure the just, speedy, and inexpensive determination of every action.

(c) *No limiting of discretion.* These rules are not intended to and will not limit the discretion of the court. The court on its own initiative or on motion may change, suspend, or waive any of these rules in the interests of justice.

(d) *Headings.* Rule and subdivision headings in these rules will not affect the scope, meaning, or intent of any provision in the rules.

(e) *Tense, gender, and number.* The past, present, and future tenses will each include the others. The masculine, feminine, and neuter genders will each include the others. The singular and plural forms will each include the other.

### **1.3 Definitions.**

(a) “Case” includes all actions and proceedings of every kind.

(b) “Civil action” means all actions other than criminal, family, guardianship, and juvenile cases.

(c) “Court” means the First Judicial District Court of Nevada.

(d) “Emergency” means an unforeseen combination of circumstances or the resulting state that calls for immediate court action to avoid irreparable harm to a party or child of a party.

(e) “Family cases” includes cases brought under NRS Title 11.

(f) “Guardianship cases” means those cases governed by NRS Chapters 159 and 159A.

(g) “Indian child” means an unmarried person under the age of 18 who is either a member of a federally recognized Indian tribe, or eligible for membership in a federally recognized Indian tribe and the biological child of a member of an Indian tribe.

(h) “Juvenile cases” are cases covered under NRS Title 5 and NRS Chapter 432B cases.

(i) “Judicial clerk” means the court clerk, deputy clerks, and the clerk’s staff.

(j) A “motion” includes all requests for an order, other than initial pleadings, regardless of the title a party puts on the paper.

(k) “Papers” are all documents filed with the court, other than pleadings.

(l) “Party” means the person who files a legal action or the person’s legal representative, or a person named in a pleading as the person against whom a claim in the pleading is made or that person’s legal representative.

(m) “Person” includes natural persons, corporations, firms, associations, and all other entities.

(n) “Pleading” is defined by NRCP 7. An initial original petition is also a pleading.

(o) A “related case” is one in which:

(1) Both actions involve one or more of the same parties on both sides of the case, or a person or entity that has or had a business relationship with a party, for example, a stockholder, partner, creditor, debtor, etc.; and both actions include the same or a similar claim;

(2) Both actions involve the same property, transaction, or event;

(3) Both actions involve similar questions of fact and law and their assignment to the same judge is likely to effect a substantial savings of judicial effort, either because the same result would follow in both actions or otherwise;  
or

(4) For any other reason, it would result in substantial duplication of labor if the actions were heard by different judges.

(p) “Service” means providing a copy of a pleading or paper to another party or person. A summons and complaint are served as set out in NRCP 4, 4.1, 4.2, 4.3, and 4.4. Pleadings and papers filed after an original complaint and summons are served as set out in NRCP 5.

#### **1.4 Judge acting in other department; transferring cases.**

(a) *Act in other department.* Either judge of this court may act in the department of the other without a formal assignment.

(b) *Transfer between departments.* The judges may, by agreement, transfer cases from one department to the other.

#### **1.5 Assignment of cases.**

(a) *Cases related to family, guardianship, or juvenile cases.* The court strives to have the same judge hear all matters involving any member(s) of a family. Before assigning a new family, guardianship, or juvenile case to a department, the judicial clerk will search the court's records to determine whether any party has a current or past family, guardianship, juvenile, or criminal case.

(1) If none of the parties in the new case have a current or past family, guardianship, juvenile, or criminal case, the judicial clerk will assign the case to a department on an alternating basis.

(2) If one or more of the parties in the new case is a party in a pending family, guardianship, juvenile, or criminal case, the new case will be assigned to the department that has the pending case. If both departments have a pending case involving one or more of the parties in the new case, the judges will decide which department will take the new case.

(3) If none of the parties in the new case has a pending case, but one or more parties had a previous family, guardianship, juvenile, or criminal case, the new case will be assigned to the department that had the earlier case. If both departments had a previous case involving one or more of the parties

in the new case, the judges will decide which department will take the new case.

(4) Any situation not covered by the above rules will be resolved by the judges.

(b) *Protective order application.* If a party who applies for an order for protection against domestic violence has a family, juvenile, or guardianship case pending in this court, or the party against whom the application is made has a family, juvenile, or guardianship case pending in this court, the clerk will assign the application to the department in which the other case is pending.

(c) *Civil case assignment.*

(1) If a party has or had a related case in this court, the new case will be assigned to the same department that is handling the earlier filed case whether the earlier case is open or closed.

(2) If a party has or had a related case in both departments, the case will be assigned to the department that has or had the most recent case.

(3) Except as set forth above, civil cases will be randomly assigned by a judicial clerk on an alternating basis at the time the case is filed.

(4) Any situation not covered by the above rules will be resolved by the judges.

(d) *Criminal case assignment.*

(1) If a criminal defendant has a pending district court criminal case, a new criminal case will be assigned to the department that has the pending case.

(2) If a criminal defendant does not have a criminal case pending in either department, but has a pending family, guardianship, or juvenile case, the new case will be assigned to the department that has the pending case.

(3) If a criminal defendant does not have a pending criminal, family, guardianship, or juvenile case, but had a prior criminal case in a department, the new criminal case will be assigned to the department that handled the prior criminal case. If the defendant had criminal cases in both departments, the new case will be assigned to the department that handled the most recently filed criminal case.

(4) Any situation not covered by the above rules will be resolved by the judges.

### **1.6 Notice of related cases.**

(a) *Notice.* Parties in family, guardianship, or juvenile cases must file and serve a notice informing the court of any and all related cases in this court known to the party at the time the party files the first pleading or paper.

(b) *Notice content.* The notice will state:

(1) The title and case number of each related action;

(2) A brief statement of the relationship between the parties and issues in the cases; and

(3) The reasons why assignment to a single judge is or is not desirable.

(c) *Closed or inactive related cases.* Notice of related actions must be filed even if the related action is closed or inactive.

### **1.7 Attorneys.**

(a) *Conduct.* Attorneys will:



(1) Be patient, dignified, respectful, and courteous to the judge, court staff, litigants, jurors, witnesses, lawyers, and others with whom the attorney deals in an official capacity;

(2) Conduct themselves in a civil and professional manner in and around the courthouse, the courtroom, and in the preparation of all pleadings and papers;

(3) Be on time for all conferences, hearings, and trials;

(4) Be prepared to participate fully in all conferences, hearings, and trials; and

(5) Not contact the judicial assistant, law clerk, or other judicial staff for legal advice, advice on how to proceed in any matter, or request clarification concerning any order or other act by the court.

*(b) Attorney of record.*

(1) When an attorney has filed a pleading or paper in this court for a party or otherwise appeared in this court representing the party, that attorney is the party's attorney of record until he is released by order of the court upon motion, or the attorney withdraws under SCR 46.

(2) A consent to withdrawal of counsel or an application to substitute the party in the place of the attorney of record, and the proposed order substituting the party in the place of the attorney of record, must include the party's current or last known physical and mailing address, telephone and cellular number, and email address.

(3) A party who has an attorney of record may act only through his attorney. A party who has an attorney of record cannot file a pleading or paper without the attorney's signature except to notify the court that the party will, from the date the notice is filed and served, represent himself and proceed

without an attorney. The court may in its discretion hear a party in open court even though the party is represented by an attorney.

(4) Substitution of attorneys by stipulation requires leave of court and must be signed by the attorneys and the represented party. An attorney substituting into a case accepts all dates and deadlines then in effect under any statute, rule, or order.

(5) Discharge, withdrawal, substitution, or retaining an attorney will not alone be reason for delay of any deadline, hearing, or trial.

(6) Except for good cause shown, no withdrawal or substitution will be approved if delay of discovery, any hearing, trial, or any other matter would result. Where delay would result, the papers seeking leave of court for the withdrawal or substitution must include a request for specific relief from discovery deadlines, the hearing, trial, or any other matter.

(7) A stipulation and order permitting substitution or withdrawal of counsel may be submitted ex parte if:

(A) The substitution or withdrawal is signed by the client, the withdrawing counsel, and in the event of a substitution of counsel, by the substituting counsel;

(B) The attorney substituting in acknowledges responsibility for all pending dates and deadlines; and

(C) If the substitution is of the party in place of his attorney who will no longer be representing him, the stipulation includes the party's physical and mailing address, telephone and cellular number, and email address.

**1.8 Contact information.** Attorneys and self-represented parties must keep a current physical and mailing address, telephone number, email address, and facsimile number (if the attorney or the party has facsimile capability) on file with the court and served upon all parties. A notice of change of any contact information must be filed and served on all parties within 7 days of the change. If an attorney or a self-represented party fails to timely file a notice of change of contact information, service made to the address on record will be deemed good service unless otherwise ordered upon a showing of good cause.

**1.9 Ex parte communications.**

(a) *Definition.* “Ex parte communication” is any communication from any person made, directly or indirectly, to the judge outside the presence of the parties or their lawyers, that relates to a pending or impending matter, and that might reasonably result in a party gaining some advantage in the litigation.

(b) *Not allowed; exceptions.* No person will initiate, make, have, or cause an ex parte communication concerning a pending or impending matter, with a judge, judicial assistant, law clerk, or other person subject to the judge’s control or direction. There are two exceptions:

(1) When the communication is specifically permitted by law; and

(2) When circumstances require ex parte communication to address an emergency.

(c) *Notice to other parties.* Even when ex parte communication is specifically permitted by law or because of an emergency, the party or attorney attempting or making the ex parte communication must, as soon as reasonably possible, give notice of the ex parte communication to all parties, and attempt

to include all parties in any hearing or further communications with the judge. The party or attorney seeking ex parte communication must certify and present specific facts showing the efforts made to include opposing counsel or self-represented parties in the ex parte communication and further communications with the judge, and the efforts made to provide notice of the ex parte communication to opposing counsel or self-represented parties, whether by personal service, telephone, cellular phone, messages, email, or other means, and the result of those efforts.

**1.10 Court reporters not provided.** Court hearings are audiovisually recorded. The court does not provide court reporters except for criminal jury trials. The parties may, at their expense, arrange for a court reporter at any hearing.

**1.11 Interpreters.** The court provides interpreters for criminal hearings. A party who needs an interpreter in non-criminal cases must file a request for an interpreter not less than 72 hours before any hearing or trial.

**1.12 Sanctions.**

(a) *No limiting of discretion.* None of the First Judicial District Court Rules will limit the court's discretion in imposing sanctions.

(b) *Process.* If a party or an attorney fails, refuses, or neglects to comply with any applicable law, rule, or order of the court, the court may, after notice and an opportunity to be heard, impose any and all reasonable sanctions allowed by law, including but not limited to the following:

(1) Hold the disobedient party or attorney in civil or criminal contempt of court;

(2) Continue any hearing or trial until the disobedient party or attorney has complied with the requirements imposed, and require the disobedient party to pay the other party's expenses, including reasonable attorney fees, incurred in preparing for and attending such hearing;

(3) Set the case for immediate hearing or trial;

(4) Decline to set a hearing or trial;

(5) Impose a financial sanction;

(6) Refuse to allow the disobedient party or attorney to support or oppose designated claims or defenses, or prohibit him from introducing certain evidence and/or making certain arguments;

(7) Dismiss one or more claims or strike one or more defenses of the disobedient party, with or without prejudice;

(8) Strike in whole or in part any portion of any pleading or paper;

(9) Make a complaint to the State Bar of Nevada against an attorney;

(10) Award attorney fees, costs, or both;

(11) Set aside any order;

(12) Enter the default of the disobedient party;

(13) Order the party to perform community service; and/or

(14) Impose other sanctions, conditions, or remedies in its discretion.

### **1.13 Forms.**

(a) The court may adopt, approve, and modify forms.

(b) The court may require the use of certain forms.

(c) Forms available on the First Judicial District Court's website and forms found on the Nevada Appellate Courts' website are approved and recommended for use in this court.

## **2. ARBITRATION AND MEDIATION**

### **2.1 Court Annexed Arbitration Program.**

(a) The court adopts the Court Annexed Arbitration Program under the Nevada Arbitration Rules.

(b) The arbitration commissioner manages the program.

### **2.2 Court Annexed Mediation Program.**

(a) The court adopts the Court Annexed Mediation Program under the Nevada Mediation Rules.

(b) The mediation coordinator manages the program.

### **2.3 Short Trial Program.**

(a) The court adopts the Short Trial Program under the Nevada Short Trial Rules.

(b) The court manages the program.

## **3. PLEADINGS AND PAPERS**

### **3.1 Form and content.**

(a) *Paper size and fastening.* Pleadings and papers presented for filing will be on 8½ × 11-inch paper that is flat, unfolded, stapled together in the top left corner, unless there are 100 or more pages, including exhibits, in which

case the pages will be securely fastened at the top with a two-prong fastener inserted into two holes centered on the page, 2¾ inches apart and ½ inch to ⅝ inch from the top edge of the page.

(b) *Margins.* Margins must be at least one inch on all four edges of the page.

(c) *Double spaced.* Lines of typewritten text will be double spaced and, except for the title page, begin at least 1½ inches from the top of the page. The double space requirement does not apply to exhibits, footnotes, quotations, legal descriptions of real property, identification of counsel, caption, title of the court, or the name of the case.

(d) *Font size.* All text will be a size that is either not more than 10 characters per lineal inch or not less than 12 points for proportional spaced fonts or equivalent.

(e) *Legibility.* Self-represented parties may submit handwritten pleadings and papers. All handwriting must be in blue ink and legible.

(f) *Erasures and interlineation.* No pleading or paper will be amended by erasure, interlineation, or attachment except with leave of court.

(g) *Quotations.* All quotations of 50 words or more will be double indented and single spaced.

(h) *Page numbering.* All pages of every pleading or paper, except the first page, will be numbered consecutively with the page number centered one inch from the bottom of the page.

(i) *Line numbering.* Each line of every page must be numbered in the left margin.

(j) *One side of the paper.* All pages, including exhibits, must be printed on only one side of the paper.

(k) *Color.* All pleadings and papers will be on white paper.

**3.2 Caption, court title, case name, and name of the pleading or paper.**

(a) *Identification of person filing.* The name, address, telephone number, facsimile number, and email address of the person filing the pleading or paper will be set forth on the first page in the upper left-hand corner of the page. Attorneys will include their Nevada State Bar number. Attorneys will identify the party they represent in the last line of the filing person's information. The space to the right of center and above the court title will be left open for the court file-stamp.

(b) *Court title and case caption.* The title of the court will appear at the center of the first page at least three-quarters of an inch below the information required by subsection (a) of this rule. The venue, Carson City or Storey County, will be stated below the title of the court. The case name will appear below the title of the court, to the left of center. The case number and department number will appear to the right of the case name. The title of the document will appear below the case caption.

(c) *Title to include identity of party filing.* The title of the document will identify by name the party who is filing the pleading or paper, e.g., "John Smith's Motion for Attorney Fees."

(d) *Form.* The first page of a pleading or paper will be in substantially the following form:



Firm Name  
Attorney Name  
Nevada State Bar #  
Address  
Telephone  
Facsimile  
Email  
Representing [party represented]

FIRST JUDICIAL DISTRICT COURT OF NEVADA  
CARSON CITY  
or  
STOREY COUNTY

PARTY NAME,

Plaintiff,

vs.

PARTY NAME,

Defendant.

CASE NO. XXXXXXXX

DEPARTMENT X

JOHN SMITH'S MOTION FOR ATTORNEY FEES

(e) *Original signature and date required.* Pleadings and papers must have an original signature of counsel or the self-represented litigant in blue ink and the date signed.

(f) *Self-represented litigant signature.* To file a notice of appearance and/or an initial pleading, a self-represented party's signature must be notarized or the signature must be immediately below the following

declaration: “I declare under penalty of perjury that the foregoing is true and correct.” A self-represented party must also print his name below his signature.

(g) *Reference to parties.* The actual names of the parties, or descriptive terms such as “the employee,” “the injured worker,” etc., will be used rather than “plaintiff,” “defendant,” etc.

### **3.3 Filing.**

(a) *Original only.* Only original pleadings and papers (the hard copy of the pleading or paper with the original signature) can be presented to the judicial clerk for filing. Pleadings and papers cannot be submitted to the judicial clerk by facsimile, email, or other electronic means for filing.

(b) *Copies.*

(1) If a pleading or paper has multiple case numbers, a separate original must be presented for each case.

(2) If a person who files a pleading or paper wants a file-stamped copy, he must submit an additional copy of the pleading or paper, and if filing by mail, a self-addressed, postage-paid envelope. Persons who have been granted leave to proceed without paying fees and costs need not submit a self-addressed, postage-paid envelope.

### **3.4 Proof of service.**

(a) *Content.* A proof of service will contain:

(1) The exact name of the document being served;

(2) The manner of service (mailed, hand delivered, etc.);

(3) If service is made by mail, the name and mailing address of the person served; if hand delivered, the name and location of the person served;

(4) The date of service; and

(5) The signature and printed name of the person making the service, and if hand delivered, the relationship between the party having the pleading or paper served and the person serving the document.

### **3.5 Filing documents under seal.**

*(a) Criminal cases.*

(1) The following documents will be filed under seal without a court order in criminal cases:

(A) Financial declarations;

(B) Medical reports and records, including without limitation, substance abuse evaluations, mental health evaluations, psychosexual evaluations;

(C) Motions for court funds to pay indigent criminal defendant investigative expenses, expert fees, or other costs or fees and any resulting order;

(D) Tax documents; and

(E) Documents identified by any statute, rule, regulation, or order as confidential and non-public, presumptively confidential and non-public, or for which automatic sealing is provided.

(2) *Motion.* Any pleadings, or papers other than those listed in subsection (a), that a party wants filed under seal must be delivered to the judicial clerk with a motion for leave to file the documents under seal. If any pleadings or papers are filed under seal under a prior court order, the pleading or paper must state on the first page, directly under the case number: "FILED UNDER SEAL UNDER COURT ORDER DATED XXX."

(3) *Process.* All pleadings or papers filed with a motion to seal will be filed under seal and will remain sealed until the court either denies the motion to seal or enters an order unsealing them.

(4) *Unsealing pleadings or papers.* The court may, upon motion or on its own, direct the unsealing of pleadings or papers filed under seal, with or without redactions, after notice to all parties and an opportunity to be heard.

(b) *All other cases.* In all non-criminal cases, sealing records will be handled as provided in the Nevada Supreme Court Rules.

### **3.6 Pleadings.**

(a) *Affirmation.* When a party files his first pleading, the party must submit an affirmation that the pleading or paper does not contain personal information as defined in NRS 239B.030(4), and acknowledge that when he files any additional documents, an affirmation will be provided only if the document does contain personal information. The judicial clerk has affirmation forms available. The affirmation may be included at the beginning of the pleading. This rule does not apply in criminal cases.

(b) *Required allegations in initial pleadings.* The first paragraphs of an initial pleading will contain:

(1) *Subject matter jurisdiction.* The first paragraph of any civil or family complaint, counterclaim, cross-claim, third-party complaint, or petition for affirmative relief will state the statutory or other basis of subject matter jurisdiction for each claim, and specific facts that support subject matter jurisdiction.

(2) *Indian child.* If a complaint or petition involves an Indian child or a child who may be an Indian child, and seeks foster care placement, a

preadoptive placement, adoptive placement, or the termination of parental rights, the second paragraph of the complaint or petition will:

(A) Identify the child including a date of birth;

(B) Identify what tribe the child is or may be a member of or eligible for membership in;

(C) State whether the child resides or is domiciled within the jurisdiction of such tribe;

(D) State whether the child is a ward of the tribal court; and

(E) As to each parent, state whether the parent voluntarily consents to the relief requested in the complaint or petition. All parties have a duty to immediately inform the court at any stage of foster care placement, a preadoptive placement, adoptive placement, or the termination of parental rights proceedings if the party learns that the involved child is or may be an Indian child.

(3) *Bankruptcy.* A party will state whether he is or is not a debtor in bankruptcy, and whether to his knowledge any other party is or is not a debtor in bankruptcy. All parties must promptly file notice if they become debtors in bankruptcy or if, to their knowledge, any other party becomes a debtor in bankruptcy.

### **3.7 Motions and stipulations.**

(a) *Motion.* A non-pleading request for an order or other relief is made by motion unless otherwise prescribed in these rules or other controlling law.

(b) *Duty to confer and exchange information; certification in motion.* Before filing any motion, except as provided below in this subsection, the party must confer with the opposing attorneys or self-represented parties

and make a good faith effort, including the exchange of names of witnesses and documents that support each party's contentions, to resolve the issue raised in the motion. The first paragraph of any motion, except as provided below in this subsection, must be a certification that the attorneys or parties filing the motion have complied in good faith with this rule and state specifically:

(1) The date the attorney or the moving party conferred with the opposing attorneys or self-represented parties;

(2) The method of conferring, i.e., in person, by telephone, letter, etc.;

(3) What witnesses were identified by each party as supporting their contentions;

(4) What documents or other evidence were exchanged in support of each party's contentions;

(5) Any issues that were resolved; and

(6) What issues could not be resolved.

This rule does not apply to motions made under NRS 13.050; NRCP 11(c), 12(b)-(d), 41, 50, 53(b)(3), 54(d), 56, and 59; or under any statute or rule that allows a motion for attorneys fees, costs, or both.

(c) *Telephone conference with judge.* If, at any time after the parties have conferred in good faith as required in subsection (b) of this rule and been unable to resolve all of the issues, the parties agree to a telephone conference with the judge, the attorneys and/or self-represented parties may contact the judge's judicial assistant and inform him of the nature of the issue and that they would like to arrange a telephone call with the judge regarding the issue. If the issue does not involve material factual disputes, the judge may agree to

participate in a telephone conference that will be recorded on the court's recording system.

(d) *Required content.* Motions and oppositions must include with appropriate headings and in the following order:

(1) For motions other than those excepted under subsection (b) of this rule, a certification of counsel or of the self-represented party that he has conferred with opposing counsel or self-represented party and made a good faith effort to resolve the issue raised in the motion;

(2) State of the issue the party wants decided;

(3) State the facts upon which the motion is based, and include admissible evidence to support the alleged facts;

(4) Cite the legal authority that supports the party's position;

(5) Include analysis of the facts and law and the party's argument;

and

(6) Specify the requested relief.

(e) *Failure to comply.* Failure to comply with these requirements by the moving party may result in the court declining to consider the motion until the parties have conferred and be treated as consent to deny the motion; failure to comply with these requirements by the opposing party may be treated as consent to grant the motion.

**3.8 Time for filing opposition.** Unless otherwise ordered by the court, opposition points and authorities must be filed and served within 14 days after service of the motion.

**3.9 Time for filing and content of reply.** If the party making the motion wants to file reply points and authorities, the reply must be filed within 7 days after service of the opposition. The purpose of a reply is to rebut facts, law, or argument raised in the opposition. Parties will not file a reply that simply repeats facts, law, or argument contained in the motion, or to provide facts or law that should have been, but were not, included in the motion. The court may strike a reply in its entirety or in part and impose other sanctions if a reply violates this rule.

**3.10 Proposed orders.**

(a) *Required.* A party filing a motion will attach to the motion an original proposed order and a copy of the proposed order. A party filing an opposition to a motion will attach to the opposition an original proposed order and a copy of the proposed order. If the moving party files a reply and believes the original proposed order should be modified, that party will attach to the reply a modified proposed order and a copy of the modified proposed order. The party filing a motion or opposition will submit with the motion or opposition a self-addressed envelope of sufficient size to hold the copy of the order, and with sufficient postage for mailing the copy of the order to the party.

(b) *Content.* The proposed order will be consistent with the facts, law, and argument contained in the party's points and authorities in support of or in opposition to the motion. The proposed order will include an order that the party or attorney who submitted the order, identified by name, will serve a notice of entry of the order on all other parties and file proof of such service within 7 days after the date the court sent the order to the attorney.



(c) *Identify preparer.* Proposed orders will include on the bottom left side of the signature page: the date, signature and printed name of the attorney or party submitting the order, address, telephone number, and email address.

(d) *Preparing attorney to serve other parties.* If the court signs an order prepared by a party, the court will send a copy of the signed order to that party and that party will serve a notice of entry of order on all other parties and file proof of such service within 7 days after the date the court sent the order to the party.

### **3.11 Request to submit.**

(a) *Request to submit.* To have the judicial clerk submit a motion or other paper to the court for decision or review, a party must file a request to submit that must:

(1) Identify the party that filed the motion or other paper;

(2) State the exact name of the motion or other paper the party wants submitted;

(3) Include the date the motion or paper to be submitted was filed;

and

(4) Include a proof of service on the other party.

(b) *Exceptions.* Emergency and ex parte motions are automatically submitted to the court and do not need a request to submit.

(c) *Time for filing.* The court will decline to consider a request to submit filed less than 15 days after the motion was filed.

(d) *Separate requests to submit.* A separate request to submit must be filed and served for each motion or paper the party wants submitted.

### **3.12 Oral argument.**

(a) *No oral argument unless ordered.* Decisions will be rendered without oral argument unless otherwise ordered by the court. The court may require oral argument on its own initiative or upon motion of a party.

(b) *New facts or law.* Oral arguments are not evidentiary hearings, therefore the court will not consider facts not alleged and supported by admissible evidence included with the motion, opposition, or reply. The court will not consider law that is not in the motion, opposition, or reply. The court may allow the motion, opposition, or reply to be supplemented upon motion and good cause shown, and may grant a continuance of the oral argument in the interests of justice.

### **3.13 Reconsideration of orders.**

(a) *Leave required.* Issues once heard and disposed of will not be renewed in the same cause except by leave of court granted upon motion. The court may reconsider a decision if the court overlooked or misunderstood a material fact, or overlooked, misunderstood, or misapplied law that directly controls a dispositive issue.

(b) *Opposition.* An opposition to a motion for leave to file a motion for reconsideration will not be filed unless ordered by the court.

### **3.14 Affidavits and declarations.** Affidavits and declarations will:

- (a) Identify the affiant or declarant;
- (b) State that the assertions are made under the penalty of perjury;
- (c) State that the assertions are made on personal knowledge, or upon information and belief if such assertions would be admissible under the rules

of evidence and the party states the rule of evidence that makes the assertions admissible, set forth specific facts that would be admissible in evidence, and avoid general conclusions or argument; and

(d) Be attached as an exhibit to the pleading or paper to which it relates.

### **3.15 Stipulations.**

(a) *Requirements.* Stipulations must be in writing, dated and signed by counsel and any self-represented parties. The stipulation filed must contain the original signature in blue ink of each counsel and any self-represented party. A stipulation must be served on any non-signing party who has appeared. Unwritten or unsigned agreements are not stipulations and will not be considered by the court. The court may allow stipulations to be made in open court on the record.

(b) *Order required.* Stipulations are not effective unless and until approved by the court in a written order.

(c) *Form.*

(1) Stipulations filed with the court will include “and Order” in the title. For example:

Stipulation for Continuance  
and Order

(2) Stipulations will include an order in the form of a signature block that will appear one inch below the last typewritten matter on the left side of the last page of the agreement, and will read as follows:

**IT IS ORDERED:**

- Granted**
- Granted in part:**

\_\_\_\_\_

\_\_\_\_\_

**and Denied in part:**

\_\_\_\_\_

\_\_\_\_\_

- Denied**
- Declined to consider ex parte**
- Declined to consider without a hearing**
- Other:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**DATED:** \_\_\_\_\_

\_\_\_\_\_  
**DISTRICT COURT JUDGE**

**3.16 Motions and stipulations for a continuance of a hearing or trial.**

(a) *Disfavored.* Continuances of hearings and trials are disfavored and will not be granted, even upon stipulation, except for good cause.

(b) *Affidavit or declaration.* Motions requesting a continuance of a hearing or trial must be made on affidavit or declaration unless good cause exists for allowing the moving party to be sworn and testify orally to the factual matters.

(c) *Nonappearance of witness.* An affidavit, declaration, or oral testimony in support of a motion for continuance of a hearing or trial based upon the failure of a witness to appear, must include:

- (1) The name of the absent witness and their present physical address;

(2) What the affiant, declarant, or witness has been informed of and believes will be the testimony of the absent witness, and the source of the information provided to the affiant, declarant, or witness;

(3) Whether or not the same facts can be proved by another witness, stipulated to by opposing counsel, or presented in an alternate form such as a deposition; and the efforts made to see if the evidence can be presented by any of these alternatives;

(4) The efforts made to procure the witness's attendance and why the efforts failed;

(5) When the moving party first learned the attendance of the absent witness could not be obtained;

(6) That the motion is made in good faith and not merely for delay; and

(7) A certification that includes specific facts to show that the moving party has made a good faith effort to communicate with all of the parties regarding the requested continuance and the results of the communication.

(d) *Service.* A copy of the motion and affidavit or declaration upon which a motion for a continuance is made will be served upon the opposing party as soon as practicable after the cause for the continuance is known to the moving party.

(e) *Changes in affidavit or declaration.* If the court holds a hearing on the motion, amendments or additions to affidavits or declarations for continuance will not be allowed except for good cause shown.

(f) *Effect.* An order granting a continuance will not affect any established trial date, hearing date, or deadline except as specifically provided in the order granting the continuance.

### **3.17 Motions and stipulations to extend a deadline.**

(a) *Time for filing.* Motions or stipulations to extend a deadline must be filed as soon as possible and before the expiration of the subject deadline.

(b) *Title to indicate number of request.* Every motion or stipulation for an extension of time will, immediately below the title of such motion or stipulation, include a statement indicating whether it is the first, second, etc., requested extension, i.e., “First Request for Extension.”

(c) *Content.* An affidavit or declaration in support of a motion or stipulation to extend a deadline will:

- (1) Identify the requester;
- (2) Identify the statute, rule, or order that established the deadline and the date of the deadline;
- (3) State the factual basis for the request;
- (4) State what work has been completed to meet the deadline and why the deadline cannot be met;
- (5) Inform the court of all previous requests for extensions, and for each request:
  - (A) Identify the party making the request;
  - (B) State the factual basis supporting the request; and
  - (C) State whether the request was granted.
- (6) Propose a new deadline and a schedule to meet the new deadline; and

(7) Certify that the moving party has made a good faith effort to communicate with all parties regarding the requested extension and the results of those efforts.

(d) *No effect on other dates.* An order extending a deadline does not affect any established trial date, hearing date, or other deadline except as specifically provided in the order extending the deadline.

### **3.18 Motion for order shortening time.**

(a) *Contents of affidavit or declaration.* An affidavit or declaration in support of a motion for an order shortening time will:

(1) Identify the requester;

(2) Explain why expedited action could not be avoided and is necessary;

(3) State whether opposing counsel or self-represented litigants were consulted in good faith regarding the proposed order shortening time, and if not, why not, including when and how consultation was attempted;

(4) State the factual basis for the request;

(5) Be hand or electronically delivered to all other parties the same day the motion is filed; and

(6) Propose a reasonable date for a response to the motion.

(b) *Proposed order.* Proposed orders shortening time will include language and blank space so that the following can be easily inserted by the judge:

(1) The date and time for the hearing on the motion if an expedited hearing is ordered;

(2) The date for filing any objections to the motion;

(3) The date for filing a response to any objection; and

(4) The date by which service of the order shortening time will be completed.

(c) *Personal service.* An order shortening time must be personally served within 24 hours after the order is entered unless otherwise ordered by the court.

(d) *No effect on other dates.* An order shortening time does not affect any established trial date, hearing date, or deadline except as specifically provided in the order shortening time.

### **3.19 Ex parte and emergency motions.**

(a) *Showing of emergency.* The first paragraph of an ex parte or emergency motion must state specific facts that show:

(1) An emergency that justifies the court proceeding without the other party being given notice and an opportunity to respond; and

(2) Specific facts showing what efforts have been made to notify the other party, or specific facts showing that justice requires the other party not be given notice. All alleged facts must be supported by affidavit, declaration, or other admissible evidence.

(b) *Proposed orders.* Proposed orders for ex parte or emergency motions must include a line for the court to write in the date upon which the party obtaining the order must serve the order on the other party.

**3.20 Motions for order to show cause.** Motions for an order to show cause will include:



(a) *Specific order information.* Motions must state the title of the order allegedly violated, the date the order was filed, and the specific provision and language of the order allegedly violated with reference to page and line numbers;

(b) *Facts.* The supporting affidavit or declaration must contain specific facts supporting the alleged violation, including dates and times and avoid general conclusions and argument, and be supported by admissible evidence; and

(c) *Civil or criminal.* Indicate whether the party filing the motion is seeking a finding of criminal contempt to punish the allegedly offending party, or civil contempt to coerce the allegedly offending party's compliance with a court directive.

(d) *Proposed order to show cause.* The proposed order must include the information required in subsections (a), (b), and (c) of this rule.

**3.21 Discovery motions.** Discovery related motions will not be considered unless the motion includes an affidavit or declaration that states the parties have had a personal consultation, the date and time of the consultation, the parties made a good faith effort to resolve the dispute, and the reason the parties have been unable to resolve the matter, i.e., disputed facts, disagreement on the law, etc.

**3.22 Default judgment.** An application for a default judgment must be made upon affidavit or declaration under penalty of perjury unless the court orders an evidentiary hearing.

### **3.23 Points and authorities.**

(a) *Concise.* Points and authorities must be concise, not repetitive, and must not contain burdensome, irrelevant, immaterial, or scandalous matters.

(b) *Length.* Unless otherwise ordered by the court, the moving party's initial points and authorities, and the opposing points and authorities, will not exceed 10 pages. Points and authorities in a reply will not exceed 5 pages. The page limits do not include exhibits. If the court allows longer points and authorities, they will include a table of contents and table of authorities.

(c) *Permission to exceed page limit.*

(1) The court looks with disfavor on motions to exceed the applicable page limit, and so permission to exceed the page limit will not be routinely granted. A motion to file points and authorities that exceed the applicable page limit will be granted only upon a showing of diligence and good cause.

(2) A motion seeking an enlargement of the page limit for points and authorities shall be filed on or before the due date and shall be accompanied by a declaration stating in detail the reasons for the motion and the number of additional pages requested.

(3) The motion shall also be accompanied by a single copy of the points and authorities the party proposes to file.

### **3.24 Legal citations and factual references.**

(a) *Statutes, rules, and regulations.* Reference to a statute, rule, ordinance, or regulation will include the specific section and any subsection. Language irrelevant to the issue before the court should be omitted from

quotations from statutes, rules, ordinances, and regulations, and the omission indicated with ellipses.

(b) *Cases.* The United States Reports citation and one parallel citation will be used for U.S. Supreme Court decisions. The Federal Reporter System citation will be used for Federal Courts of Appeal and District Court decisions. The Nevada Reports citation and the West's National Reporter System citations will be used for Nevada cases. The West's National Reporter System citation will be used for decisions from the appellate courts of other states. The year of the decision will be included with all citations. Citations to federal cases will identify the court. Citations to decisions from the appellate courts of other states will identify the state. All citations will include the specific page upon which the pertinent language appears.

(c) *Factual references.* Every assertion of fact will be supported by reference to admissible evidence attached to the points and authorities and the specific document, page, and paragraph where the evidence relied on is located.

### **3.25 Exhibits.**

(a) *Page numbering.* Every page of every exhibit will be numbered on the bottom right-hand side of the page.

(b) *Legibility.* Exhibits need not be typewritten and may be copies, but must be clearly legible and not unnecessarily voluminous.

(c) *Page limits; appendices.* No more than 50 pages of exhibits may be attached to pleadings or papers. Exhibits exceeding 50 pages will be submitted in a separate, bound appendix. Each appendix will have no more than 100 pages. The appendix will be firmly bound together at the top with a two-prong

fastener inserted into two holes centered  $2\frac{3}{4}$  inches apart and  $\frac{1}{2}$  inch to  $\frac{5}{8}$  inch from the top edge of the page.

(d) *Cover sheet.* Each appendix will have a cover sheet that has the case caption, identifies the pleading or paper to which the appendix relates, and indicates the volume number of the appendix if there is more than one volume.

(e) *Table of contents.* Each appendix will include a table of contents identifying each exhibit by number and description.

(f) *Exhibit index tabs.* Exhibits attached to pleadings or papers or in an appendix, including copies, must have indexing tabs that extend below the bottom of the pages of the documents so each exhibit number can be clearly seen without having to thumb through the exhibits. The exhibits will be identified as Exhibit 1, Exhibit 2, etc., and any exhibits attached to exhibits will be identified as Exhibit 1A, Exhibit 1B, etc.

(g) *Oversized exhibits.* Oversized exhibits will be reduced to  $8\frac{1}{2} \times 11$  inches unless such reduction would destroy legibility or authenticity. An oversized exhibit that cannot be reduced will be filed separately with a caption cover sheet identifying the exhibit and the document to which it relates.

(h) *Legal authority not to be attached.* Copies of cases, statutes, or other legal authority will not be attached as exhibits or made part of an appendix.

## **4. TRIALS AND HEARINGS**

### **4.1 Law and motion.**

(a) *Uncontested cases.* Uncontested probate, guardianship, adoption, and termination of parental rights hearings are set by counsel on the law and motion calendar without a court order.

(b) *Calendar.* The law and motion calendar will be called as follows:

### Carson City

Department 1 on Mondays and Department 2 on Tuesdays:

8:30 a.m. Uncontested civil, probate, and guardianship

9:00 a.m. Criminal calendar

11:30 a.m. Adoptions and uncontested termination of parental rights matters

### Storey County

Both departments on the third Friday of the month; Department 1 in even-numbered months, and Department 2 in odd-numbered months.

10:00 a.m. All matters

(c) *Holidays.* If a Carson City law and motion day falls on a holiday recognized by the State of Nevada, the calendar will be heard on the next day the court is open.

## **4.2 Setting criminal trials.**

(a) *Set at arraignment.* Criminal trials are set at the arraignment.

(b) *Procedure.* The parties need to be prepared at the arraignment to discuss how much time is needed for the trial based upon the factual issues and the number of witnesses the parties reasonably believe they will call. The court may set reasonable time limits each party will have to question prospective jurors and present the case, including opening statement, direct examination, cross-examination, redirect examination, rebuttal, objections, and closing argument. The parties will be required to complete each phase of the trial within the time allotted.

(c) *Motion to increase time.* After the trial date is set, if either party believes the trial will take more time than allotted, the party must file a motion showing why the time allotted is not sufficient, including specific facts that were not known at the arraignment and how much additional time is requested. The motion must be supported by affidavit or declaration.

#### **4.3 Setting family case hearings and trials.**

(a) *When set.* Family case hearings and trials will be set during the case management conference, or by order upon motion or stipulation.

(b) *Procedure.* The parties must include in their case management conference report and in any motion or stipulation for a hearing or trial how much time each party reasonably believes is needed for the hearing or trial based upon the factual issues and the number of witnesses and exhibits. The court may set reasonable time limits on the amount of time each party will have to present his case, including opening statement, direct examination, cross-examination, redirect examination, recross-examination if allowed, objections, and closing argument. An additional 30 minutes will be added to the hearing or trial time for court use. The parties will be required to complete each phase of the trial within the time allotted.

(c) *Motion to increase time.* If, after the hearing or trial date and time are set, either party believes the trial will take more time than allotted, the party may file a motion showing why the time allotted is not sufficient, including specific facts that were not known at the case management conference or at the time the motion or stipulation were filed, and how much additional time is requested. The motion must be supported by affidavit or declaration.

#### **4.4 Settings for non-criminal, non-family, and non-juvenile cases.**

(a) *Order required.* An order is required to set hearings and trials in non-criminal and non-family matters.

(b) *Procedure.* The court may initiate the hearing or trial setting process on its own initiative, a party may file a motion for a hearing or trial date, or the parties may request a hearing or trial date by stipulation. The court may set a trial or hearing by order, order the judicial assistant to contact the parties by telephone or email to set a hearing, or order the parties to set the matter through the judicial assistant using a Notice to Set. The court may set reasonable limits on the time each party will have for any or all parts of the hearing or trial. The parties will be required to complete each phase of the trial within the time allotted.

(c) *Content of motion or stipulation.* A motion or stipulation to set a hearing or trial must contain specific facts to support the amount of time each party will need to question prospective jurors and present his case, including opening statement, direct examination, cross-examination, redirect examination, recross-examination if allowed, objections, and closing argument.

#### **4.5 Evidentiary hearing and trial statements in non-criminal and non-juvenile cases.**

(a) *Evidentiary hearing and trial statements required without order.* Before any evidentiary hearing or trial, except in criminal or juvenile cases, the parties will file a hearing or trial statement.

(1) *Service.*

(A) Each party will file and personally serve a hearing or trial statement at least 2 days before any evidentiary hearing or trial that was set 14 or fewer days before the date of the evidentiary hearing;

(B) Each party will file and serve a hearing or trial statement at least 7 days before any evidentiary hearing or trial that was set 15 or more days before the evidentiary hearing or trial.

(2) *Content.* Evidentiary hearing and trial statements will include the following:

(A) A certification that the party has served the hearing statement on the opposing party within the time limits set in subsection (a)(1)(A)-(B) of this rule;

(B) A list of witnesses the party intends to call at the hearing or trial, with each witness's physical and mailing address, all known telephone numbers, and email address, and a summary of each witness's specific expected testimony;

(C) A copy of all exhibits the party intends to use at the hearing;

(D) A statement of the facts relevant to the hearing or trial;

(E) If a party is represented by counsel, a statement of the legal issues with citations to the applicable law; and

(F) A statement of the specific relief requested.

(b) *Joint evidentiary hearing and trial statements upon order.* The court may order the parties to file a joint hearing or trial statement.

(1) *Service.* Unless otherwise ordered, a joint hearing or trial statement will be served as set forth in subsection (a)(1)(A)-(B) of this rule.



(2) *Content.* Hearing and trial statements will include the following:

(A) A certification that the party has served the hearing or trial statement on the opposing party within the time limits set in the order or as required in subsection (a)(1)(A)-(B) of this rule;

(B) A list of witnesses, with each witness's physical and mailing address, all known telephone numbers, and email address, and a summary of each witness's specific expected testimony;

(C) A copy of all exhibits each party intends to use at the hearing, and as to each exhibit, a statement as to whether the parties stipulate or object to admission of the exhibit; and if a party objects to an exhibit, the objecting party will state the facts and cite the legal authority that supports the objection, and the offering party will state the facts and cite the legal authority that supports the admission of the exhibit.

(D) A list of admitted or undisputed facts;

(E) A list of disputed facts, and for each disputed fact, a statement by the party alleging the fact of the specific evidence, including references to specific witnesses and exhibits that support the allegation; and a statement by the party disputing the fact of the specific evidence, including references to specific witnesses and exhibits that dispute the allegation.

(F) A statement of the legal issues with citations to the applicable law; and

(G) A statement of the specific relief requested.

(c) *Failure to timely disclose.* The court may prohibit a party from calling any witness or using any exhibit that was not timely disclosed as required under this rule.

#### **4.6 Jury trials.**

(a) *Jury instructions.*

(1) The court will prepare its stock instructions and verdict form.

(2) The parties will, not less than 21 days before the start of trial, file a hard copy and electronic copy of their proposed jury instructions and verdict forms, and serve a hard copy upon the other party. Proposed instructions must include the legal authority for the instruction.

(3) Instructions that become necessary during the course of the trial, and that could not reasonably have been anticipated before trial, must be filed and served, along with a copy that contains the legal authority for the instruction, and provided to the court in electronic form as soon as practicable.

(4) During the final settling of jury instructions, the parties must provide for the record any instruction the party proposed and the court denied.

(b) *Jury fees.* The party demanding a jury trial will, on the last day of trial, deposit with the judicial clerk the total amount of jury fees.

**4.7 Notice to court of settlement.** If the parties settle a matter that has been set for hearing or trial, all parties will notify the court immediately.

**4.8 Time limits.** The court may impose reasonable time limits for any hearing or trial.

### **5. CRIMINAL**

**5.1 Status check.** The court will hold a status check approximately 5 weeks before the date of a jury trial to determine whether:

- (a) To summon jurors;
- (b) All *Brady* and discovery disclosures have been made;
- (c) Plea negotiations have been completed; and
- (d) There is a need for a *Petrocelli*, suppression, or any other special hearing.

**5.2 Guilty plea agreements.** Guilty plea agreements must be filed the Thursday before the day the matter is set for arraignment in Department 1, and the Friday before the day the matter is set for arraignment in Department 2.

### **5.3 Sentencing.**

(a) *Documents.* Any document a party wants the court to consider at sentencing must be filed and received by the other party's attorney not less than 7 days before the sentencing hearing.

(b) *Length.* Sentencings on the law and motion calendar must be completed within 20 minutes. If a sentencing hearing may take more than 20 minutes, counsel must file and serve a notice, and a hearing will be set outside the law and motion calendar.

**5.4 Restitution.** Unless a defendant stipulates to the specific amount of restitution, a request for restitution must be supported by competent evidence that includes an affidavit or declaration of a person with personal knowledge. Evidence must be filed and received by defense counsel not less than 14 days before the matter will be heard. Counsel will confer not later than 7 days before the hearing to determine whether an evidentiary hearing on restitution will be

necessary. If an evidentiary hearing is necessary, the State will file a notice that a restitution evidentiary hearing is necessary, and the court will vacate the sentencing and set the matter for hearing outside the law and motion calendar. If a restitution evidentiary hearing is necessary, defense counsel will file a notice specifically stating its objections to the requested restitution not later than 7 days before the hearing.

## **6. CIVIL AND CRIMINAL APPEALS FROM MUNICIPAL OR JUSTICE COURT**

**6.1 Briefs.** The appellant must file an opening brief of not more than 10 pages within 30 days after the matter is set for hearing, or 30 days after the transcript of the proceedings has been filed with the district court and provided to the parties, whichever is later. The respondent must file an answering brief of not more than 10 pages within 21 days thereafter. A reply brief is not required, but if one is filed, it must not be more than 5 pages and must be filed within 14 days after the answering brief is filed.

**6.2 Request to submit.** Appellant will file a request to submit the case when he files his reply brief or 22 days after the filing of his opening brief, whichever is earlier.

## **7. FAMILY MATTERS**

**7.1 Application.** The rules in this section apply to actions brought under Title 11 of the Nevada Revised Statutes.

## **7.2 Standards of conduct.**

(a) *Respect.* An attorney must not participate in or further vindictive conduct and will strive to lower the emotional level of a family dispute by treating all other participants with respect.

(b) *Alternative dispute resolution.* Attorneys will attempt to resolve family disputes by agreement and will consider and counsel their clients about alternative means of achieving resolution including negotiation, mediation, arbitration, and litigation.

**7.3 Confidentiality, best interests of children.** Absent a written order of the court to the contrary, all lawyers, litigants, witnesses, or other parties privy to matters being heard by the court are prohibited from:

(a) *Discussing with a child.* Discussing with a child of the litigants the issues, proceedings, pleadings, or papers on file with the court;

(b) *Allowing child to view court materials.* Allowing a minor child to review pleadings, papers, exhibits, or the record of the proceedings before the court, whether in the form of transcripts or any form of recording, or leaving such materials in a place where it is likely or foreseeable that a child will access those materials.

## **7.4 Expert testimony and reports regarding children.**

(a) *Order required.* No person may cause a child in a pending child custody or visitation action to be examined by a doctor, therapist, counselor, psychologist, similar professional, private investigator, or any other person for the purpose of obtaining an expert opinion for a child custody or visitation hearing or trial without a court order. This rule does not prevent a person from

reporting information to law enforcement, Child Protective Services, or a medical provider regarding neglect or abuse of the child or to receive any health care.

(b) *Evaluation.* When it appears an expert medical, psychiatric, or psychological evaluation is necessary for the parties or their child, the parties are encouraged to stipulate to retention of one expert. Upon request of either party, or on its own initiative, the court may appoint a neutral expert if the parties cannot agree on one expert. The parties are responsible for a court-appointed expert's fees unless otherwise ordered by the court.

**7.5 Class for separating or separated parents.** Parties involved in an action that includes disputed child custody or visitation issues may be ordered to complete the Ron Wood Family Center live co-parenting class, or by order of the court, a co-parenting class that is substantially equivalent to the Ron Wood Family Center live co-parenting class, before the case proceeds to a final hearing or order. The co-parenting class should be completed as soon as possible and proof of completion filed by each party within 7 days after completion of the class.

**7.6 Mandatory mediation of child custody and visitation issues.**

(a) *Mandatory.* Parties involved in an action that includes disputed child custody or visitation issues must participate in mediation in good faith before the final hearing or trial of the matter except as provided in subsection (h) of this rule.

(b) *Referring the parties.* The court may at any time, on its own initiative, refer the parties to mediation. If the court has not initiated the

mediation process before the case management conference, it will initiate or waive the mediation process at the case management conference.

(c) *Motion for temporary custody or visitation.* If a motion for temporary custody or visitation is filed at the same time as the initial pleading, the filing party must also file a Request and Order for Mediation.

(d) *Party requested mediation.* After an answer or other initial response is filed, either party may file a motion requesting mediation. The parties may stipulate to mediation. The parties may stipulate to a specific court-approved mediator. If an interpreter is needed, the party needing the interpreter will indicate the need in the motion or stipulation.

(e) *Private mediator.* The parties may agree to a private mediator as long as the mediator agrees to comply with subsection (k) of this rule.

(1) The parties will contract directly with the private mediator and be responsible for payment of fees as negotiated by the parties and the mediator.

(2) The private mediator, within 7 days of accepting the matter for mediation, will file with the court a notice that includes the name of the mediator and the date set for the first mediation conference.

(f) *Mediation.* The mediator will complete the mediation within 30 days after the parties file a certificate of completion from the approved co-parenting class.

(g) *Confidential.* Mediation will be held in private, and all communications, verbal or written, shall be confidential and shall not be disclosed, even upon waiver of the privilege by either or both parties, except where the mediator is required to report any information that falls within the

scope of mandatory abuse reporting requirements or to communicate any threat of violence.

(h) *Waiver*. A party who believes there is good cause for not mediating may seek a waiver of the mediation requirement. The party seeking a waiver must file a motion with the court at the time that party files his first pleading. Mediation may not be appropriate where:

(1) There are substantiated allegations of child abuse or neglect, or domestic violence;

(2) The case involves multiple social agencies or mental health professional contacts for a parent or child;

(3) The case is at the post-judgment stage and has involved bitter conflict and frequent court appearances;

(4) A parent has serious psychological or emotional problems or has displayed severely anti-social modes of behavior;

(5) The mediator determines mediation is futile or impractical; or

(6) Other good cause.

(i) *Support person*. A party may have a third person present for support before and after meetings with the mediator. Generally, third persons are not allowed in the mediation sessions, but the mediator, in his sole discretion, may allow support persons into the mediation.

(j) *Counsel*. Counsel for the parties will be provided an opportunity to confer with the mediator prior to the mediation conference, but will be excluded from the mediation sessions.

(k) *Mediation report*. Court-approved and private mediators must, not less than 14 and not more than 21 days after the completion or termination of



the mediation, file in the district court and with the mediation coordinator, and serve the parties with a written report that includes:

(1) The parties attended or failed to attend;

(2) The parties participated or failed to participate in good faith;

(3) If the mediation was successful in resolving all of the custody or visitation issues, the mediator will submit a specific parenting plan with all of the terms of the agreement;

(4) If the mediation was successful in resolving some of the custody or visitation issues, the mediator will submit to the court:

(A) A partial parenting agreement outlining the terms of all resolved issues signed by the parties;

(B) A statement of all unresolved issues; and

(C) The partial parenting agreement that may include options A and B, which describes each parent's desired outcome, to be determined by the court.

(5) If no agreement was reached, a statement that no agreement was reached.

(l) *Adoption of agreement.* The parties will have 14 days from the date the mediation report is served to object to a mediated agreement. If there is no timely objection, the court will order adoption of the mediated agreement.

(m) *Failure to appear.* If one or both parties fail to appear at a mediation conference, the mediator will immediately file with the court and the mediation coordinator a declaration stating:

(1) Which party failed to appear;

(2) Specific information on what notice of the mediation conference was given to the no-show party; and

(3) Whether the no-show party contacted the mediator before or after the missed mediation conference.

(n) *Mediating again.* The parties may agree, one party may request, or the court may on its own initiative order the parties to mediate again.

(o) *No evaluation.* Mediators will not conduct an evaluation of either or both parties as part of or after the mediation. Mediators will not provide written or verbal recommendations as part of the mediation process.

(p) *Fees for service.* Fees may be assessed to parties referred to mediation under NRS 3.500(2)(e) and in accordance with the fee schedule approved by the court. Unless otherwise directed, each party is required to pay one-half the fee of the court-approved mediator. Payment will be made to the judicial clerk in the county where the action is being heard. The payments shall be made within 14 days from the date the parties are ordered to mediate, using established judicial clerk procedures.

(q) *Mediator qualifications.* Court-approved mediators must have the following minimum qualifications:

(1) A law degree or master's degree in psychology, social work, marriage and family therapy, counseling, or related behavioral science;

(2) Forty hours of mediation training, four hours of child development training as it relates to timeshares, and four hours of domestic violence training; the training must be sponsored by the Association of Family and Conciliation Courts, approved by the Academy of Family Mediators, or as otherwise approved by the court;

(3) Ten completed mediations;

(4) Six hours of family law, counseling, or mediation continuing education each calendar year. The areas of training may include, but are not

limited to, mediation models, theory, and techniques; the nature of conflict and its resolution; family law; the legal process and case law relevant to the performance of mediation; substance abuse; recent research applicable to the profession; family life cycles of divorce, family reorganization, and remarriage; child development; crisis intervention; interviewing skills; domestic violence, including child abuse, spousal abuse, and child neglect, and the possibility of danger in the mediation session; parent education; sensitivity to individual, gender, racial, and cultural diversity and socioeconomic status; family systems theory; the development of parenting plans, parental alienation syndrome, and the role of parenting plans in the family's transition; and

(5) Adherence to the Model Standards of Conduct for Mediators as jointly developed by the American Arbitration Association, American Bar Association, and the Association for Conflict Resolution.

**7.7 Affidavit of resident witness.** An affidavit of resident witness must state:

(a) That the assertions of the affidavit are made under penalty of perjury and based upon the affiant's personal knowledge;

(b) The affiant's residence address and the length of time the affiant has resided in this state;

(c) That the affiant is personally acquainted with the party to the action whose residence is being corroborated;

(d) The party's residence address;

(e) The date from which the affiant knows that the party has resided at that address and the total length of time affiant knows that the party has resided in the State of Nevada;

(f) If the jurisdiction of the court is based upon the minimum legal residency, the affiant shall specify the number of days the party has been physically present in Nevada during the six weeks immediately preceding the filing of the complaint or joint petition; and

(g) The resident witness affidavit must not predate the filing of the complaint or joint petition.

**7.8 Mutual financial restraining order.** A party may obtain an ex parte financial restraining order that restrains the parties from:

(a) Transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community or separate, except in the usual course of business or for the necessities of life;

(b) Cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance coverage, including life, health, automobile, and disability coverage; and

(c) Cashing, borrowing against, canceling, transferring, or disposing of retirement benefits or pension plans for the benefit (or election for benefit) of the parties or their minor child;

**7.9 Temporary restraining orders regarding residence.** An ex parte motion for a restraining order granting temporary, exclusive possession of the community residence will be considered only in cases of extreme emergency, supported by an affidavit or declaration setting forth in detail facts establishing the existence of an emergency to the court's satisfaction and why the other party could not or should not be heard before the court decides the motion.

### **7.10 Other notice exceptions.**

(a) A party is excused from giving notice where notice would frustrate the very purpose of the order or cause the party or child to suffer immediate and irreparable injury.

(b) Ex parte orders may be obtained without notice in the following circumstances:

(1) Where a person's health, safety, or welfare is in imminent danger; or

(2) Where such other circumstances exist as the court may find to warrant the issuance of an order without notice.

### **7.11 Motions for support; fees and allowances; financial declaration required.**

(a) A party filing a motion that includes a request for fees, allowances, temporary spousal support, child support, exclusive possession of a community residence, or any other financial issue must file a financial disclosure at the same time the motion is filed. The court may decline to consider or may deny a motion that is not accompanied by a fully completed financial disclosure, or impose other sanctions.

(b) A party filing an opposition to a motion that includes a request for fees, allowances, temporary spousal support, child support, exclusive possession of a community residence, or any other financial issue must, at the same time the opposition is filed, file a financial disclosure. The court may decline to consider an opposition or grant such a motion that is not

accompanied by a fully completed financial disclosure, or impose other sanctions.

(c) The financial disclosure forms found on the State of Nevada Self-Help Center website and the First Judicial District Court website are the approved financial disclosure forms.

(d) Income of a successor spouse of a party must be listed in that party's financial disclosure in the "other income" section. If any party resides with an adult person other than a spouse, that party's financial disclosure must state the dollar amount and value of other services that the cohabitant contributes to the filing party's expenses.

**7.12 Motions for judgment for arrears in periodic payments; schedule of arrears required.** If a party alleges the other party is in arrears in payment of periodic child support, spousal support, or any other periodic payment and requests relief by motion, the party must attach to the motion a completed First Judicial District Court Form 7.12, Periodic Payment Summary, or a substantially equivalent summary that shows when each periodic payment was due; the ordered payment amount; when payment was received; how much was paid; the difference, plus or minus, between the ordered amount and what was paid; and a running total.

### **7.13 Court Appointed Special Advocate.**

(a) The court may on its own initiative or upon request, appoint a Court Appointed Special Advocate (CASA) as an advocate for any minor child.

(b) Under this rule, CASA advocates focus on the best interest of minor children who are the subject of a custody dispute, adults involved with those

children, and ascertaining the children's concerns, desires, and needs regarding the issues before the court.

(c) Services will be conducted by an advocate under the procedures adopted by CASA. CASA supervises the advocate's activities.

(d) If the pleadings or papers filed with the court contain allegations of domestic violence by one spouse against another spouse, then any referral to CASA must contain an order that CASA implement its domestic violence protocol in the handling of the case.

(e) The court may continue any matter for the purpose of obtaining CASA services.

(f) CASA advocates cannot have ex parte communication with a judge unless there is an emergency involving the health, safety, or welfare of a child or other person. Any such communication will be recorded if possible. If it is not possible to record, a statement regarding the content of the communication will be made by the CASA advocate and the judge and made part of the record within 7 days after the communication. Any such communication will be disclosed to the parties as soon as possible.

(g) Written reports prepared by the advocate will be filed and served upon the parties by CASA. The report will be filed under seal. Written reports are confidential, except as provided by order of the judge. Only the court, the parties, and their attorneys are entitled to read the report. No child who is the subject of the written report may see a copy of the written report or be advised of its contents by anyone.

#### **7.14 Parenting coordinator.**

(a) *Appointment.* The court may appoint a parenting coordinator in high-conflict cases to assist the parties in creating agreed-upon structured guidelines for implementing their parenting plan, for improving communication between the parties, for improving their parenting skills, to assist in minimizing conflict, and/or to develop a plan to deal with disputes.

(b) *Fees and costs.* Fees and costs for a parenting coordinator will be paid by the parties equally, unless the court enters an order directing otherwise. The parenting coordinator may recommend that one party pay all or more than half of the fees and costs based upon a party's failure to work in good faith with the parenting coordinator, the other party, or both, or for other good cause.

(c) *Report and objections.* The parenting coordinator will file a report upon matters submitted to him. The parties will have 14 days from the date of service to file written objections. A request for any action upon the report will be by motion.

**7.15 Funds for services.** Based on the financial condition of the parties, the court may order that mediation funds be used for a psychological evaluation of a party or child, a parenting capacity evaluation, a child custody evaluation, to assist paying for a parenting coordinator in high-conflict cases, or provide other related assistance to protect the best interests of the child.

**7.16 Child representative.** The court may appoint an attorney to protect the legal rights of a child, or a guardian ad litem to protect the best interests of a child, or both.



## **8. MASTERS**

**8.1 Appointment.** The court may appoint masters to serve, at will, on a full-time or part-time basis. The master's compensation will be fixed by the court. Masters may recommend the appointment of assistant special masters.

### **8.2 Powers and duties.**

(a) Masters may:

- (1) Swear witnesses;
- (2) Take evidence;
- (3) Make findings of fact and recommendations;
- (4) Conduct all proceedings before the master in the same manner as a district judge conducts proceedings in a district court; and
- (5) Have all inherent powers of the district court, including the power to hold any person in contempt for acts committed in the presence of the master.

(b) Not later than 14 days after the evidence before a master is closed, the master will file with the district court, or the juvenile court in juvenile cases, and provide the parties, counsel, and any other person concerned written notice of:

- (1) The master's findings of fact;
- (2) The master's recommendations;
- (3) The right to object to the master's recommendations; and
- (4) In juvenile cases, the right to request a hearing de novo before the juvenile court as provided in NRS 62B.030(4)(c).

### **8.3 Objections.**

(a) *Written objection required.* Objections to the master's findings and recommendations must be in writing, filed with the master, served on all parties to the proceedings before the master, and filed within any applicable statutory deadline.

(b) *Record request.* The objecting party must, at the same time the objection is filed, file with the master a request for the master to send to the district court judge, or juvenile court judge in juvenile cases, a copy of the audiovisual recording of the master's hearing, or if there is no audiovisual recording, a transcript of the recording of the master's hearing that is the subject of the objection. A transcript will not be prepared at the expense of Carson City or Storey County, except on order of the district court or juvenile court.

(c) *Setting a hearing.* The objecting party must, at the same time the objection is filed, serve and file in the district court, or juvenile court in juvenile cases, a notice to set a hearing. The date for setting the hearing with the judicial assistant must not be more than 14 days from the date the objection is filed. In juvenile court, the hearing must occur within 30 days of the date the hearing was set, unless otherwise ordered upon a showing of good cause.

(d) *Hearing statements.* Within 14 days of the filing of the notice of objection, the objecting party must file an opening points and authorities that includes:

- (1) A statement of the issue;
- (2) A statement of facts with specific supporting references to the time on the court's audiovisual recording or in the master's file's pleadings and papers;

(3) A statement of the applicable law and an analysis of the application of the law to the facts; and

(4) If the objecting party timely requested a hearing de novo, the points and authorities must include a statement as to which portion of the hearing master's proceeding the objecting party wants heard de novo. (See *Trent v. Clark*, 88 Nev. 573, 502 P.2d 385 (1972)).

(e) *Answering points and authorities.* Answering points and authorities must be filed within 14 days after the service of the opening points and authorities.

(f) *Reply points and authorities.* A reply points and authorities must be filed within 7 days after service of the answering points and authorities, or before the date of the hearing, whichever is earlier.

(g) *Filing documents related to juvenile court objections.* All documents related to an objection in a juvenile case will be filed in the juvenile court under the original juvenile court case number.

**8.4 Enforcement pending review.** Upon motion or upon the court's initiative, the judge may enforce the provisions of a master's recommendation pending determination on review.

**8.5 Juvenile master.** The juvenile master will have the powers and duties:

(a) As set forth in NRS 62B.030;

(b) To act as supervising master in the Juvenile Traffic Court of Carson City and Storey County;

(c) To serve as the master in cases arising under NRS Chapter 425 and NRS Chapter 432B;

(d) To serve as the arbitration commissioner for the Court Annexed Arbitration Program under the Nevada Rules Governing Alternative Dispute Resolution; and

(e) To serve as the family mediation coordinator for the Court Annexed Mediation Program under the Nevada Mediation Rules.

## **9. ACTIONS INVOLVING PROFESSIONAL NEGLIGENCE**

**9.1 Pretrial conference.** The court will hold a pretrial conference under NRCP 16(a) within 45 days after an answer is filed to a complaint for professional negligence filed under NRS Chapter 41A. One purpose of the pretrial conference is to expedite disposition of the action as required by NRS 41A.061(3). After consulting with the parties and any unrepresented parties at the pretrial conference, the court will issue a scheduling order.