

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATIONS FOR SENIOR JUSTICE AND JUDGE STATUS AND
ASSIGNMENT OF SENIOR JUSTICES AND JUDGES PURSUANT TO SUPREME
COURT RULE 10.

ADKT 362

ORDER AMENDING RULE 10 OF THE SUPREME COURT RULES

WHEREAS, this court has considered the qualifications for senior justices and judges, the process of commissioning and the method for appointing senior justices and judges, and the compensation of senior justices and judges for temporary service pursuant to Supreme Court Rule 10; and

WHEREAS, it appears to this court that amendment of the Supreme Court Rules is warranted, accordingly,

IT IS HEREBY ORDERED that Rule 10 of the Supreme Court Rules shall be amended and shall read as set forth in Exhibit A.

IT IS FURTHER ORDERED that this rule shall be effective 30 days from the date of this order. 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 3rd day of May, 2007.

BY THE COURT

A. WILLIAM MAUPIN, *Chief Justice*

MARK GIBBONS
Associate Justice

JAMES W. HARDESTY
Associate Justice

RON D. PARRAGUIRRE
Associate Justice

MICHAEL L. DOUGLAS
Associate Justice

MICHAEL A. CHERRY
Associate Justice

NANCY M. SAIITA
Associate Justice

EXHIBIT A

AMENDMENT TO RULE 10 OF THE SUPREME COURT RULES

Rule 10. Senior justices and judges; designation; service as settlement judge; assignment; duties and powers; compensation and expenses; oath; discipline and removal.

1. **Eligibility for recall.** The supreme court may recall a former supreme court justice or district judge to active service as a senior justice or senior judge of the Nevada court system, provided that:

(a) He or she has served as a supreme court justice or district judge, or any combination thereof, for at least four consecutive years; and

(b) He or she is eligible to retire or has retired under the provisions of the Nevada Revised Statutes; and

(c) He or she was not removed or retired for cause from that judicial office or defeated for retention in an election for that office.

2. **Application.** A former supreme court justice or district judge who meets the requirements of subsection 1 of this rule may apply to be commissioned as a senior justice or judge by filing with the clerk of the supreme court a written application on a form approved by the supreme court. The approved application forms shall be available at the supreme court clerk's office.

3. **Investigation and approval.** The supreme court may refer an applicant to the administrative office of the courts or the commission on judicial selection for investigation into the background and qualifications of the applicant and for a recommendation as to whether the applicant should receive a commission as a senior justice or judge. If the supreme court determines that the applicant remains physically and mentally capable of performing valuable judicial service on a continuing basis, and that the applicant's recall to active service will promote the effective administration of justice, a commission, duly executed and authenticated by the chief justice and clerk, shall thereupon issue under the seal of the supreme court.

4. **Term of commission.** *Each senior justice or judge being recalled to service shall serve a term of one year, unless the term is earlier terminated or the senior justice or judge voluntarily resigns his or her commission. The renewal of the one-year term for a senior justice or judge shall be as follows:*

(a) *Current senior justices and judges may request a renewed commission no later than June 10, 2007;*

(b) *The renewal date of the terms of senior justices or judges recalled after adoption of this rule shall be July 1 of each year; however, the supreme court may, in its sole discretion, elect not to renew the commission of a senior justice or judge at the end of that judge's one-year term;*

(c) *No later than May 1 of each year, a senior justice or judge wishing to continue to serve may request a new commission. The supreme court may require additional information or evaluation prior to extending any judge's term.*

(d) *Any extended commission shall be for one year.*

[4.] 5. Extra-judicial employment. A senior justice or judge is ineligible to practice law in any of the courts of this state or to accept employment which contemplates giving advice on legal matters and shall not be a member of or associated with a firm or attorney that practices law. A senior justice or judge may, however, serve as a private mediator or arbitrator for compensation *provided that the case or matter being mediated or arbitrated did not first come to the senior justice or judge while serving in his or her capacity as senior justice or judge.* Notwithstanding Canon 4C(3) of the Nevada Code of Judicial Conduct, a senior justice or judge may serve as an officer, director, manager, or employee of a business, but full disclosure of such activity shall in all cases be made a matter of record, and the participation of such justice or judge may in all cases be precluded by any party through a timely objection made before consideration of any contested matter.

[5.] 6. Eligibility for assignment. A senior justice or judge, with his or her consent, is eligible for temporary assignment to any state court at or below the level of the court in which he or she was serving at the time of retirement *or leaving office*, provided that the justice or judge previously served at least two years in that office *of temporary assignment and provided that the judge was not removed or retired for cause from that judicial office or defeated for retention in an election for that office.* If designated by the governor, at the request of the chief justice, a senior judge may also hear specific cases in the supreme court upon disqualification of a justice thereof. A senior justice or judge may also be assigned to act as a settlement judge in any state court. But no senior justice or judge may serve as a settlement judge unless that justice or judge completes a course in alternative dispute resolution offered by the National Judicial College, or a similar course of study approved by the chief justice. *The chief justice may, in appropriate circumstances, waive the educational requirement for service as a settlement judge.*

The cost of any course taken by a senior justice or judge to qualify that justice or judge to serve as a settlement judge shall be paid from funds appropriated for judicial education *or from the senior judge budget if approved by the chief justice.* **[The chief justice may, in appropriate circumstances, waive the educational requirement for service as a settlement judge.]**

[6. Order for temporary assignment. The state court administrator is authorized to grant a request for the assignment of a senior justice or judge to serve in the district courts of this state. Upon receiving the approval of the chief justice, the state court administrator shall prepare an administrative order, which shall be initialed by the chief justice, and then signed and filed by the state court administrator. All other assignments of a senior justice or judge for temporary service shall be made pursuant to an order signed by the chief justice.]

[Any order assigning a senior justice or judge shall designate the court to which he or she is assigned and the duration of the assignment, and, in the case of a senior judge assigned to hear and determine a case in the supreme court, the governor shall issue a special commission, as in the case of other judges of the district court. Promptly after assignment of a senior justice or judge under this rule, the state court administrator or

the clerk of the supreme court shall cause a copy of the order to be sent to the senior justice or judge and another copy to the court to which the senior justice or judge is assigned.]

*7. **Temporary assignment to district court.** A district court requiring supplemental judicial assistance may request that the supreme court temporarily assign a senior justice or judge to that court. Any request for a temporary assignment must be submitted to the Administrative Office of the Courts in a form and manner prescribed by that office. The chief justice or the chief justice's designee shall approve the assignment in writing. The Administrative Office of the Courts shall advise the district court of the assignment by issuing an assignment memorandum signed by the chief justice or the chief justice's designee.*

*8. **Temporary assignment to supreme court.** The temporary assignment of a senior justice to the supreme court shall be made by order signed by the chief justice and filed with the clerk of the supreme court. The chief justice, as in the case of sitting district court judges, may request the governor to issue a special commission assigning a senior judge to hear and determine a case in the supreme court.*

[7.] 9. Duties and powers. Each senior justice or judge assigned as provided in this rule has all the judicial powers and duties, while serving under the assignment, of a regularly elected and qualified justice or judge of the court to which he or she is assigned. Without specific assignment, senior justices and judges may perform routine ministerial acts, including the solemnization of marriages, and the administering of oaths, but shall not admit to bail any person accused of crime.

[8.] 10. Compensation. A senior justice or judge assigned as provided in this rule shall receive as compensation for the time actually engaged in the performance of duties under the assignment an amount proportional to the gross monthly salary of a regularly elected and qualified judge of the court on which he or she qualified for retirement. **[If a senior justice or judge notifies the chief justice in writing that the justice or judge will be available for assignments for not less than one-third of the total judicial days which a sitting justice or judge is expected to work yearly, and consents during such period to accept any assignment within the Nevada court system as to which he or she is not disqualified, the justice or judge shall, if approved by the chief justice, receive at least 20 percent of such gross salary monthly, chargeable against compensation for later assignments.]** The compensation shall be paid upon the certificate of the justice or judge that the services were performed for the number of **[days] hours** shown in the certificate.

[A senior justice or judge assigned to a court located outside the county in which he or she regularly resides shall receive, in addition to daily compensation, traveling expenses and per diem as provided by law while attending court or transacting business under the assignment. The expenses shall be paid upon presentation of an itemized statement of the expenses, certified by the senior justice or judge to be correct.]

Each senior justice or judge shall be deemed to have a home court. The home court for a judge residing in Nevada is the district court closest to his

or her residence. If a judge has more than one residence, the home court is the district court closest to the assignment. For a judge residing outside of Nevada, the home court is the district court closest to the assignment to which the judge can fly or drive.

A judge residing in Nevada who lives more than 65 miles from his or her home court shall receive mileage reimbursement for travel from the judge's residence to the home court for assignments. For multiple-day assignments, if the judge elects to remain in a hotel close to the assignment rather than commute, then the judge will also receive reimbursement for hotel accommodations and meals. Except as provided below, time spent traveling from the judge's residence to the home court will not be compensated. A judge residing more than 65 miles outside of Nevada will be deemed to live more than 65 miles from his or her home court and is entitled to compensation as set forth above.

If a judge must travel more than 30 miles from his or her home court for an assignment, the judge will be reimbursed for transportation and lodging expenses and per diem at the rates included in the Policies & Procedures for Judicial Expenditures. In addition, the judge is entitled to claim and receive compensation for the time incurred during travel.

[9.] 11. Oath. To accept a commission as a senior justice or judge, a former supreme court justice or district judge must take, subscribe and file with the clerk of the supreme court, the following oath or affirmation:

“I,, do solemnly swear (or affirm) that I will support, protect and defend the Constitution and Government of the United States, and the Constitution and Government of the State of Nevada, against all enemies, whether domestic or foreign, and that I will bear true faith, allegiance and loyalty to the same, any ordinance, resolution or law of any State notwithstanding, and that I will well and faithfully perform all the duties of the office of a senior justice (or judge) of the Nevada court system on which I am about to enter; (if an oath) so help me God; (if an affirmation) under the pains and penalties of perjury.”

[10.] 12. Discipline and removal. The supreme court may for cause revoke the commission of any senior justice or judge, either following notice and opportunity for hearing before the court, or after proceedings before the commission on judicial discipline.

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