

Nevada Rules of Civil Procedure Revision Committee Summary

June 21, 2017 Meeting

The fourth meeting of the Nevada Rules of Civil Procedure Revision Committee (Committee) was held on June 21, 2017 at 3:00 p.m. The meeting was video conferenced between the State Bar of Nevada Office in Reno and the Supreme Court conference room in Las Vegas. Present in Reno were Discovery Commissioner Wesley Ayres, Graham Galloway, Bill Peterson, Todd Reese, Kevin Powers, Justice Mark Gibbons, and Kristen Martini from the Washoe County Bar Association. Present in Las Vegas were Justice Kristina Pickering, Discovery Commissioner Bonnie Bulla, Racheal Mastel, Don Springmeyer, George Bochanis, Judge Elissa Cadish, and Judge Kimberly Wanker.

The Committee first approved the May 24, 2017 meeting minutes, as amended.

The Committee then discussed that the subcommittees would be the driver of the rule proposals and would present rules for the Committee to consider at each Committee meeting.

It was noted that the AOC has created a link on its website and the Supreme Court's website identifying the Committee and its members that also posts the minutes once approved and gives the location and dates of the Committee meetings. An email address will be established by which comments can be submitted and routed to the Committee and its subcommittees under direction of Todd Reese.

The Committee addressed the proposed draft amendments to the NRCP submitted by the "no brainer" subcommittee consisting of Justice Kristina Pickering, Justice Mark Gibbons and Todd Reese. After discussion of whether the proposed NRCP 43(a) should reference a statute, the NRCP rules, or simply refer to "applicable law," NRCP 43 was pulled from consideration for further work by the "no brainer" subcommittee. The proposed NRCP 64 was amended to number the bullet points included in NRCP 64(b), and was then approved by general consent. The proposed NRCP 69(b) was amended to fix the article usage, and was then approved by general consent. The proposed NRCP 71 was amended to conform to the federal rule, eliminating the word "lawfully" and deleting the proposed comment. As amended, NRCP 71 was

approved by general consent. The proposed NRCP 86(b)(12) was amended to provide a blank for an effective date to be filled in, and was then approved by general consent. The proposed NRCP 2, 3, 18, 21, 42, 44.1, 46, 57, 63, 65.1, and 82 were approved by general consent. The proposed NRCP 7.1 and 84 were pulled from the Committee's consideration by the "no brainer" subcommittee prior to the meeting for further work.

Discussion then turned to the subcommittees and subcommittee reports. Bill Peterson was added to the Judgment and Post-Judgment Rules Subcommittee and the Discovery Subcommittee. Judge Kimberly Wanker was added to the NRCP 16.2, 16.205, 16.21, 16.215, and 16.3 Subcommittee.

1) Judgment and Post-Judgment Rules Subcommittee (NRCP 50, 52, 54(b), 58, 59, 60, and writs)

Chair: Dan Polsenberg

Members: Robert Eisenberg, Kevin Powers, Don Springmeyer, Bill Peterson.

Don Springmeyer reported that the Judgment and Post-Judgment Rules Subcommittee would have proposed rules for the Committee to consider at the September meeting.

2) Discovery Subcommittee (NRCP 16.1, 26-37, 45)

Chair: Graham Galloway

Members: Steve Morris, Commissioner Wes Ayres, Commissioner Bonnie Bulla, Dan Polsenberg, George Bochanis, Don Springmeyer, Bill Peterson

Graham Galloway reported that the Discovery Subcommittee has a working draft of NRCP 35, and would present NRCP 35 to the Committee at the July meeting. The subcommittee will split presenting the remaining rules to the Committee at the August and September meetings.

3) Class and Derivative Actions Subcommittee (NRCP 23, 23.1, 23.2)

Chair: Prof. Thomas Main

Members: Dan Polsenberg, Don Springmeyer

Don Springmeyer reported that the Class and Derivative Actions Subcommittee would have a further oral report for the Committee at the July meeting.

- 4) Time and Service of Process Subcommittee (NRCP 4, 5, 6) (includes all e-service rules, calculation of time, and time to perform acts throughout the NRCP)

Chair: Judge Elissa Cadish

Members: Justice Kristina Pickering, Don Springmeyer, Dan Polsenberg, Todd Reese, Kevin Powers

Judge Cadish reported that the Time and Service of Process Subcommittee would propose rules for the Committee to consider at the September meeting.

- 5) Huneycutt Subcommittee (NRCP 62.1, NRAP 12.1, *Huneycutt v. Huneycutt*, 94 Nev. 79, 575 P.2d 585 (1978) and progeny)

Chair: Racheal Mastel

Members: Justice Kristina Pickering, Justice Mark Gibbons, Todd Reese, Dan Polsenberg

Racheal Mastel reported that the Huneycutt Subcommittee would propose rules for the Committee to consider at the August meeting.

- 6) Special Masters and Receivers Subcommittee (NRCP 53 and 66)

No subcommittee has been established at this time

- 7) Approved Forms Subcommittee (NRCP 84 and forms)

Chair: Todd Reese

Members: Steve Morris, Kevin Powers

Todd Reese reported that the work of the Approved Forms Subcommittee often depended on the rules proposed by the other subcommittees, and the subcommittee would propose NRCP 84 and the forms to the Committee to consider at the September meeting.

- 8) NRCP 16.2, 16.205, 16.21, 16.215, and 16.3 Subcommittee

Chair: Racheal Mastel
Members: Todd Reese, Judge Kimberly Wanker

Racheal Mastel reported that the NRCP 16.2, 16.205, 16.21, 16.215, and 16.3 Subcommittee had met and would propose rules for the Committee to consider at the July meeting.

9) No Brainer Subcommittee (All NRCP Rules not otherwise accounted for)

Chair: Justice Kristina Pickering
Members: Justice Mark Gibbons, Todd Reese

Justice Pickering reported that the “No Brainer” Subcommittee would continue to present rules at each Committee meeting with the goal of having all rules not in another subcommittee presented to the Committee by September.

10) Style Subcommittee (NRCP 1 and other rules as applicable)

Chair: Todd Reese
Members: Kevin Powers, Steve Morris, Prof. Thomas Main

Todd Reese reported that the Style Subcommittee would give its feedback regarding the proposed and adopted rules at each meeting, and would present any final rule proposals to the Committee at the September meeting.

11) NRCP 68 Subcommittee

Chair: Dan Polsenberg
Members: Don Springmeyer

Don Springmeyer reported that the NRCP 68 Subcommittee would propose a rule for the Committee to consider at the July meeting.

12) NRCP 12 and 56 Subcommittee

Chair: Judge Elissa Cadish
Members: Justice Kristina Pickering, Judge Wanker, Prof. Thomas Main

Judge Cadish reported that the NRCP 12 and 56 Subcommittee would propose rules for the Committee to consider at the August meeting.

A discussion was then held of issues of general concern to the Committee members. Justice Gibbons advised the Committee that Committee meetings were scheduled for July 26, 2017 at 3:00 pm, August 16, 2017 at 3:00 pm, and September 27, 2017 at 3:00 pm.

There being no further business to come before the Committee, the meeting was adjourned at 4:15 p.m.

Respectfully submitted,
Kristina Pickering and Mark Gibbons
Co-Chairs