EXHIBIT A

AMENDMENT TO THE NEVADA RULES OF CIVIL PROCEDURE

Advisory Committee Note—2019 Amendments
Preface

The 2019 amendments to the Nevada Rules of Civil Procedure are comprehensive. Modeled in part on the 2018 version of the Federal Rules of Civil Procedure, the 2019 amendments restyle the rules and modernize their text to make them more easily understood. Although modeled on the FRCP, the amendments retain and add certain Nevada-specific provisions. The stylistic changes are not intended to affect the substance of the former rules.

The 2019 amendments to the NRCP affect and will require review and revision of other court rules. Because the amendments respecting filing, service, and time calculation directly impact the Nevada Electronic Filing and Conversion Rules and certain of the Nevada Rules of Appellate Procedure, amendments to those rules have been adopted to harmonize them with the NRCP. The job of reviewing and amending the District Court Rules and individual local rules, such as the Second and Eighth Judicial District Court Rules, to bring them into conformity with the 2019 amendments to the NRCP, NEFCR, and NRAP remains.

I. SCOPE OF RULES~~—ONE;~~ FORM OF ACTION

~~RULE~~Rule 1. ~~SCOPE OF RULES~~Scope and Purpose

These rules govern the procedure in all civil actions and proceedings in the district courts~~ in all suits of a civil nature whether cognizable as cases at~~

~~law or in equity, with the exceptions~~ , except as stated in Rule 81. They ~~shall~~should be construed ~~and~~, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.

~~RULE~~Rule 2. ~~ONE FORM OF ACTION~~One Form of Action

There ~~shall be~~is one form of action ~~to be known as "~~ the civil action~~."~~.

II. ~~COMMENCEMENT OF~~COMMENCING AN ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS, AND ORDERS

~~RULE~~Rule 3. ~~COMMENCEMENT OF ACTION~~Commencing an Action

A civil action is commenced by filing a complaint with the court.

~~RULE~~Advisory Committee Note—2019 Amendment

As used in these rules, "complaint" includes a petition or other document that initiates a civil action.

Rule 4. ~~PROCESS~~

~~RULE 5. SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS~~

~~(a)~~ **Summons and Service~~: When Required.~~** ~~Except as~~

(a) **Summons.**

(1) **Contents.** A summons must:

(A) name the court, the county, and the parties;

(B) be directed to the defendant;

(C) state the name and address of the plaintiff's attorney or—if unrepresented—of the plaintiff;

(D) state the time within which the defendant must appear and defend under Rule 12(a) or any other applicable rule or statute;

(E) notify the defendant that a failure to appear and defend will result in a default judgment against the defendant for the relief demanded in the complaint;

(F) be signed by the clerk;

(G) bear the court's seal; and

(H) comply with Rule 4.4(c)(2)(C) when service is made by publication.

(2) **Amendments.** The court may permit a summons to be amended.

(b) **Issuance.** On or after filing a complaint, the plaintiff must present a summons to the clerk for issuance under signature and seal. If a summons is properly presented, the clerk must issue a summons under signature and seal to the plaintiff for service on the defendant. A summons—or a copy of a summons that is addressed to multiple defendants—must be issued for each defendant to be served.

(c) **Service.**

(1) **In General.** Unless a defendant voluntarily appears, the plaintiff is responsible for:

(A) obtaining a waiver of service under Rule 4.1, if applicable; or

(B) having the summons and complaint served under Rule 4.2, 4.3, or 4.4 within the time allowed by Rule 4(e).

(2) **Service With a Copy of the Complaint.** A summons must be served with a copy of the complaint. The plaintiff must furnish the necessary copies to the person who makes service.

(3) **By Whom.** The summons and complaint may be served by the sheriff, or a deputy sheriff, of the county where the defendant is found or by any person who is at least 18 years old and not a party to the action.

(4) **Cumulative Service Methods.** The methods of service provided in Rules 4.2, 4.3, and 4.4 are cumulative and may be utilized with, after, or independently of any other methods of service.

(d) **Proof of Service.** Unless a defendant voluntarily appears or waives or admits service, a plaintiff must file proof of service with the court stating the date, place, and manner of service no later than the time permitted for the defendant to respond to the summons.

(1) **Service Within the United States.** Proof of service within Nevada or within the United States must be made by affidavit from the person who served the summons and complaint.

(2) **Service Outside the United States.** Service not within the United States must be proved as follows:

(A) if made under Rule 4.3(b)(1)(A), as provided in the applicable treaty or convention; or

(B) if made under Rule 4.3(b)(1)(B) or (C), by a receipt signed by the addressee, or by other evidence satisfying the court that the summons and complaint were delivered to the addressee.

(3) **Service by Publication.** If service is made by publication, a copy of the publication must be attached to the proof of service, and proof of service must be made by affidavit from:

(A) the publisher or other designated employee having knowledge of the publication; and

(B) if the summons and complaint were mailed to a person's last-known address, the individual depositing the summons and complaint in the mail.

(4) **Amendments.** The court may permit proof of service to be amended.

(5) **Failure to Make Proof of Service.** Failure to make proof of service does not affect the validity of the service.

(e) **Time Limit for Service.**

(1) **In General.** The summons and complaint must be served upon a defendant no later than 120 days after the complaint is filed, unless the court grants an extension of time under this rule.

(2) **Dismissal.** If service of the summons and complaint is not made upon a defendant before the 120-day service period—or any extension thereof—expires, the court must dismiss the action, without prejudice, as to that defendant upon motion or upon the court's own order to show cause.

(3) **Timely Motion to Extend Time.** If a plaintiff files a motion for an extension of time before the 120-day service period—or any extension thereof—expires and shows that good cause exists for granting an extension of the service period, the court must extend the service period and set a reasonable date by which service should be made.

(4) **Failure to Make Timely Motion to Extend Time.** If a plaintiff files a motion for an extension of time after the 120-day service period—or any extension thereof—expires, the court must first determine whether good cause exists for the plaintiff's failure to timely file the motion for an extension before the court considers whether good cause exists for granting

an extension of the service period. If the plaintiff shows that good cause exists for the plaintiff's failure to timely file the motion and for granting an extension of the service period, the court must extend the time for service and set a reasonable date by which service should be made.

Advisory Committee Note—2019 Amendment

Rule 4 is revised and reorganized, preserving the core of former NRCP 4, incorporating provisions from the federal rule and Rules 4, 4.1, and 4.2 of the Arizona Rules of Civil Procedure, and adding new provisions. The amendments break up former NRCP 4 into Rule 4, Summons and Service; Rule 4.1, Waiving Service; Rule 4.2, Service Within Nevada; Rule 4.3, Service Outside Nevada; and Rule 4.4, Alternative Service Methods.

Subsection (a). Rule 4(a)(1) restates the first sentence in former NRCP 4(b) with stylistic changes. The second sentence of former NRCP 4(b) is moved into Rule 4.4(c)(2)(C), service by publication, with a cross-reference in Rule 4(a)(1)(H). Rule 4(a)(2) is new and is incorporated from the federal rule.

Subsection (b). Rule 4(b) makes stylistic changes to former NRCP 4(a). It borrows language from its federal rule counterpart, with changes to accommodate Nevada practice.

Subsection (c). Rule 4(c)(1) states the service requirements. Rule 4(c)(2) restates the first two sentences of former NRCP 4(d). Rule 4(c)(3) is a stylistic restatement of the former NRCP 4(c). Rule 4(c)(4) is carried forward from the last sentence of the former NRCP 4(e)(2).

Subsection (d). Rule 4(d) incorporates former NRCP 4(g), with stylistic revisions. Rule 4(d)(2), addressing international service, and Rule 4(d)(4), addressing amendment of proof of service, are new and drawn from FRCP 4(l)(2) and (3), respectively.

Subsection (e). Rule 4(e) revises former NRCP 4(i) to clarify that the 120-day period for accomplishing service generally applies to all civil actions. Rule 4(e) does not incorporate the federal exemption for foreign service. A plaintiff needing to serve a defendant in a foreign country may move to extend the time for service; if appropriate, the court can extend the deadline and set a reasonable deadline for service. Rule 4(e)(2) makes clear that, if the court acts on its own, it must issue an order to show cause giving the parties notice and an opportunity to be heard before dismissing an action for failure to make service.

Rule 4.1. Waiving Service

(a) **Requesting a Waiver.** An individual, entity, or association that is subject to service under Rule 4.2(a), 4.2(c)(1) or (2), 4.3(a)(1) or (3), or 4.3(b)(1) or (3) has a duty to avoid unnecessary expenses of serving the summons. The plaintiff may notify such a defendant that an action has been commenced and request that the defendant waive service of a summons. The notice and request must:

(1) be in writing and be addressed:

(A) to the individual defendant; or

(B) for an entity or association, to a person designated by Rule 4.2(c)(1);

(2) name the court where the complaint was filed;

(3) be accompanied by a copy of the complaint, two copies of the waiver form, Form 2 in the Appendix of Forms or its substantial equivalent, and a prepaid means for returning the form;

(4) inform the defendant, using the waiver form, of the consequences of waiving and not waiving service;

(5) state the date when the request is sent;

(6) give the defendant a reasonable time of at least 30 days after the request was sent—or at least 60 days if sent to the defendant outside the United States—to return the waiver; and

(7) be sent by first-class mail or other reliable means.

(b) **Reserved.**

(c) **Time to Answer After a Waiver.** A defendant who, before being served with process, timely returns a waiver need not serve an answer to the complaint until 60 days after the request was sent—or until 90 days after it was sent to the defendant outside the United States.

(d) **Results of Filing a Waiver.** When the plaintiff files a waiver, proof of service is not required and these rules apply as if a summons and complaint had been served at the time of filing the waiver.

(e) **Jurisdiction and Venue Not Waived.** Waiving service of a summons does not waive any objection to personal jurisdiction or to venue.

Advisory Committee Note—2019 Amendment

Rule 4.1 is new and mirrors FRCP 4(d), minus FRCP 4(d)(2)'s penalty provision. The waiver provisions apply to individuals, entities, and associations, wherever served, but do not apply to minors, incapacitated persons, or government defendants. The Appendix of Forms at the end of these rules includes Form 1, a Request to Waive Service of Summons; and Form 2, Waiver of Service of Summons. Use of the forms is not mandatory, but if the forms are not used the text of the request or waiver sent must be substantially similar to the text in Forms 1 and 2 to be valid.

Rule 4.2. Service Within Nevada

(a) **Serving an Individual.** Unless otherwise provided ~~in~~by these rules, service may be made on an individual:

(1) by delivering a copy of the summons and complaint to the individual personally;

(2) by leaving a copy of the summons and complaint at the individual's dwelling or usual place of abode with a person of suitable age and discretion who currently resides therein and is not an adverse party to the individual being served; or

(3) by delivering a copy of the summons and complaint to an agent authorized by appointment or by law to receive service of process.

(b) **Serving Minors and Incapacitated Persons.**

(1) **Minors.** A minor must be served by delivering a copy of the summons and complaint:

(A) if the minor is 14 years of age or older, to the minor; and

(B) to one of the following persons:

(i) if a guardian or similar fiduciary has been appointed for the minor, to the fiduciary under Rule 4.2(a), (c), or (d), as appropriate for the type of fiduciary;

(ii) if a fiduciary has not been appointed, to the minor's parent under Rule 4.2(a); or

(iii) if neither a fiduciary nor a parent can be found with reasonable diligence:

(a) to an adult having the care or control of the minor under Rule 4.2(a); or

(b) to a person of suitable age and discretion with whom the minor resides.

(2) **Incapacitated Persons.** An incapacitated person must be served by delivering a copy of the summons and complaint:

(A) to the incapacitated person; and

(B) to one of the following persons:

(i) if a guardian or similar fiduciary has been appointed for the incapacitated person, to the fiduciary under Rule 4.2(a), (c), or (d), as appropriate for the type of fiduciary; or

(ii) if a fiduciary has not been appointed:

(a) to a person of suitable age and discretion with whom the incapacitated person resides;

(b) if the incapacitated person is living in a facility, to the facility under Rule 4.2, as appropriate for the type of facility; or

(c) to another person as provided by court order.

(c) **Serving Entities and Associations.**

(1) **Entities and Associations in Nevada.**

(A) An entity or association that is formed under the laws of this state, is registered to do business in this state, or has appointed a registered agent in this state, may be served by delivering a copy of the summons and complaint to:

(i) the registered agent of the entity or association;

(ii) any officer or director of a corporation;

(iii) any partner of a general partnership;

(iv) any general partner of a limited partnership;

(v) any member of a member-managed limited-liability company;

(vi) any manager of a manager-managed limited-liability company;

(vii) any trustee of a business trust;

(viii) any officer or director of a miscellaneous organization mentioned in NRS Chapter 81;

(ix) any managing or general agent of any entity or association; or

(x) any other agent authorized by appointment or by law to receive service of process.

(B) If an agent is one authorized by statute and the statute so requires, a copy of the summons and complaint must also be mailed to the defendant entity or association at its last-known address.

(2) **Other Foreign Entities and Associations.** A foreign entity or association that cannot be served under Rule 4.2(c)(1) may be served by delivering a copy of the summons and complaint to any officer, director, partner, member, manager, trustee, or agent identified in Rule 4.2(c)(1) that is located within this state.

(3) **Service via the Nevada Secretary of State.**

(A) If, for any reason, service on an entity or association required to appoint a registered agent in this state or to register to do business in this state cannot be made under Rule 4.2(c)(1) or (2), then the plaintiff may seek leave of court to serve the Nevada Secretary of State in the entity's or association's stead by filing with the court an affidavit:

(i) setting forth the facts demonstrating the plaintiff's good faith attempts to locate and serve the entity or association;

(ii) explaining the reasons why service on the entity or association cannot be made; and

(iii) stating the last-known address of the entity or association or of any person listed in Rule 4.2(c)(1), if any.

(B) Upon court approval, service may be made by:

(i) delivering a copy of the summons and complaint to the Nevada Secretary of State or his or her deputy; and

(ii) posting a copy of the summons and complaint in the office of the clerk of the court in which such action is brought or pending.

(C) If the plaintiff is aware of the last-known address of any person listed in Rule 4.2(c)(1), the plaintiff must also mail a copy of the summons and complaint to each such person at the person's last-known address by registered or certified mail. The court may also order additional notice to be sent under Rule 4.4(d) if the plaintiff is aware of other contact information of the entity or association or of any person listed in Rule 4.2(c)(1).

(D) Unless otherwise ordered by the court, service under Rule 4.2(c)(3) may not be used as a substitute in place of serving, under Rule 4.3(a), an entity or association through a person listed in Rule 4.2(c)(1) whose address is known but who lives outside this state.

(E) The defendant entity or association must serve a responsive pleading within 21 days after the later of:

(i) the date of service on the Nevada Secretary of State and posting with the clerk of the court; or

(ii) the date of the first mailing of the summons and complaint to the last-known address of any person listed in Rule 4.2(c)(1).

(d) **Serving the State of Nevada, Its Public Entities and Political Subdivisions, and Their Officers and Employees.**

(1) **The State and Its Public Entities.** The State and any public entity of the State must be served by delivering a copy of the summons and complaint to:

(A) the Attorney General, or a person designated by the Attorney General to receive service of process, at the Office of the Attorney General in Carson City; and

(B) the person serving in the office of administrative head of the named public entity, or an agent designated by the administrative head to receive service of process.

(2) **State Officers and Employees.** Any current or former public officer or employee of the State who is sued in his or her official capacity or his or her individual capacity for an act or omission relating to his or her public duties or employment must be served by delivering a copy of the summons and complaint to:

(A) the Attorney General, or a person designated by the Attorney General to receive service of process, at the Office of the Attorney General in Carson City; and

(B) the current or former public officer or employee, or an agent designated by him or her to receive service of process.

(3) **Political Subdivisions and Their Public Entities.** Any county, city, town, or other political subdivision of the State, and any public entity of such a political subdivision, must be served by delivering a copy of the summons and complaint to the presiding officer of the governing body of the political subdivision, or an agent designated by the presiding officer to receive service of process.

(4) **Local Officers and Employees.** Any current or former public officer or employee of any county, city, town, or other political subdivision of the State, or any public entity of such a political subdivision, who is sued in his or her official capacity or his or her individual capacity for an act or omission relating to his or her public duties or employment must be

served by delivering a copy of the summons and complaint to the current of former public officer or employee, or an agent designated by him or her to receive service of process.

(5) **Statutory Requirements.** A party suing the State, its public entities or political subdivisions, or their current or former officers and employees must also comply with any statutory requirements for service of the summons and complaint.

(6) **Extending Time.** The court must allow a party a reasonable time to cure its failure to:

(A) serve a person required to be served under Rule 4.2(d)(1) or (2), if the party has served the Attorney General; or

(B) serve the Attorney General under Rule 4.2(d)(1) or (2), if the party has served the required person.

Advisory Committee Note—2019 Amendment

Subsection (a). Rule 4.2(a) restyles NRCP 4(d)(6) to track FRCP 4(e)(2). Rule 4.2(a)(2) specifies that a summons and complaint may not be delivered to a person of suitable age and discretion who resides with the individual being served if the person is a party to the litigation adverse to the individual being served. This makes unavailing the practice of having a plaintiff in a divorce action accept service on behalf of the spouse with whom he or she still resides.

Subsection (b). Rule 4.2(b) amends former NRCP 4(d)(3) and (4) for service on minors and incapacitated persons. NRS Chapter 129 generally defines a "minor" to be a person under 18 years of age unless emancipated. To serve a minor who is 14 years of age or older, Rule 4.2(b)(1)(A) requires

personal service of the summons and complaint on the minor and, also, service on the person designated by Rule 4.2(b)(1)(B).

Rule 4.2(b)(2) similarly amends the procedure for serving an incapacitated person. The rule requires personal service of the summons and complaint on the incapacitated person and, in addition, service of the summons and complaint on the incapacitated person's guardian or fiduciary, if one has been appointed, or other person specified in the rule. Rule 4.2(b)(2) only applies when the person being served has already been declared incapacitated under applicable law; service on a person not yet declared incapacitated should be made under Rule 4.2(a). The change in terminology from "incompetent" to "incapacitated" is stylistic, not substantive.

Subsection (c). The amendments to Rule 4.2(c) encompass all business entities, associations, and other organizations. Rule 4.2(c)(1) generally restates former NRCP 4(d)(1), but also incorporates provisions from FRCP 4(h)(1)(B). Rule 4.2(c)(1) applies to any Nevada entity or association and any foreign entity or association that has registered to do business in Nevada or has appointed a registered agent in Nevada. Rule 4.2(c)(2) applies to foreign entities or associations generally.

Rule 4.2(c)(3) revises the second half of former NRCP 4(d)(1) and governs service on the Nevada Secretary of State when an entity or association cannot otherwise be served. Secretary of State service only applies when a Nevada or foreign entity or association is required by law to appoint a registered agent in Nevada or to register to do business in Nevada. Service on the Nevada Secretary of State now requires court approval and incorporates new alternative notice provisions in Rule 4.4(d).

Subsection (d). Rule 4.2(d) amends former NRCP 4(d)(5) and addresses service on government entities and their officers and employees.

Waiver of service under Rule 4.1 does not apply to government entities and persons subject to service under Rule 4.2(d).

Rule 4.3. Service Outside Nevada

(a) **Service Outside Nevada but Within the United States.**

(1) **Serving Individuals.** A party may serve process outside Nevada, but within the United States, in the same manner as provided in Rule 4.2(a) for serving such a defendant within Nevada, or as prescribed by the law of the place where the defendant is served.

(2) **Serving Minors and Incapacitated Persons.** A party may serve process outside Nevada, but within the United States, in the same manner as provided in Rule 4.2(b) for serving such a defendant within Nevada.

(3) **Serving Entities and Associations.** A party may serve process outside Nevada, but within the United States, in the same manner as provided in Rule 4.2(c)(1) for serving such a defendant within Nevada, or as prescribed by the law of the place where the defendant is served.

(4) **Serving Another State or Territory.** Service upon another state or territory, its public entities and political subdivisions, and their officers and employees may be made in the manner prescribed by that state's or territory's law for serving a summons or like process on such a defendant.

(5) **Serving the United States.** Service upon the United States and its agencies, corporations, officers, or employees may be made as provided by Rule 4 of the Federal Rules of Civil Procedure.

(6) **Authorized Persons.** Service must be made by a person who is authorized to serve process under the law of the state or territory where service is made.

(b) **Service Outside the United States.**

(1) **Serving an Individual.** Unless otherwise provided by these rules, an individual—other than a minor, an incapacitated person, or a person whose waiver has been filed—may be served at a place outside of the United States:

(A) by any internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents;

(B) if there is no internationally agreed means, or if an international agreement allows but does not specify other means, by a method that is reasonably calculated to give notice:

(i) as prescribed by the foreign country's law for service in that country in an action in its courts of general jurisdiction;

(ii) as the foreign authority directs in response to a letter rogatory or letter of request; or

(iii) unless prohibited by the foreign country's law, by:

(a) delivering a copy of the summons and of the complaint to the individual personally; or

(b) using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt; or

(C) by other means not prohibited by international agreement, as the court orders.

(2) **Serving a Minor or Incapacitated Person.** A minor or an incapacitated person who is outside the United States must be served in the manner prescribed by Rule 4.3(b)(1)(B)(i) or (ii), or 4.3(b)(1)(C).

(3) **Serving Entities or Associations.** An entity or association that is outside the United States may be served in any manner prescribed by

Rule 4.3(b)(1) for serving an individual, except personal delivery under Rule 4.3(b)(1)(B)(iii)(a).

(4) **Serving a Foreign Country or Political Subdivision.** A foreign country or a political subdivision, agency, or instrumentality thereof must be served under 28 U.S.C. § 1608.

Advisory Committee Note—2019 Amendment

Rule 4.3(a) governs service outside Nevada but within the United States and amends former NRCP 4(e)(2). Rule 4.3(b) governs service outside of the United States and is drawn from FRCP 4(f), (g), (h), and (j).

Rule 4.4. Alternative Service Methods

(a) **Statutory Service.** If a statute provides for service, the summons and complaint may be served under the circumstances and in the manner prescribed by the statute.

(b) **Court-Ordered Service.**

(1) If a party demonstrates that the service methods provided in Rules 4.2, 4.3, and 4.4(a) are impracticable, the court may, upon motion and without notice to the person being served, direct that service be accomplished through any alternative service method.

(2) A motion seeking an order for alternative service must:

(A) provide affidavits, declarations, or other evidence setting forth specific facts demonstrating:

(i) the due diligence that was undertaken to locate and serve the defendant; and

(ii) the defendant's known, or last-known, contact information, including the defendant's address, phone numbers, email

addresses, social media accounts, or any other information used to communicate with the defendant; and

(B) state the proposed alternative service method and why it comports with due process.

(3) If the court orders alternative service, the plaintiff must also:

(A) make reasonable efforts to provide additional notice under Rule 4.4(d); and

(B) mail a copy of the summons and complaint, as well as any order of the court authorizing the alternative service method, to the defendant's last-known address.

(4) The plaintiff must provide proof of service under Rule 4(d) or as otherwise directed by the court.

(5) A plaintiff may serve a defendant by publication only if the requirements of Rule 4.4(c) are met and the procedures for publication are followed.

(c) **Service by Publication.** If a party demonstrates that the service methods provided in Rules 4.2, 4.3, and 4.4(a) and (b) are impracticable, the court may, upon motion and without notice to the person being served, direct that service be made by publication.

(1) **Conditions for Publication.** Service by publication may only be ordered when the defendant:

(A) cannot, after due diligence, be found;

(B) by concealment seeks to avoid service of the summons and complaint; or

(C) is an absent or unknown person in an action involving real or personal property under Rule 4.4(c)(3).

(2) **Motion Seeking Publication.** A motion seeking an order for service by publication must:

(A) through pleadings or other evidence establish that:

(i) a cause of action exists against the defendant who is to be served; and

(ii) the defendant is a necessary or proper party to the action;

(B) provide affidavits, declarations, or other evidence setting forth specific facts demonstrating the efforts that the plaintiff made to locate and serve the defendant;

(C) provide the proposed language of the summons to be used in the publication, briefly summarizing the claims asserted and the relief sought and including any special statutory requirements;

(D) suggest one or more newspapers or other periodicals in which the summons should be published that are reasonably calculated to give the defendant actual notice of the proceedings; and

(E) if publication is sought based on the fact that the defendant cannot be found, provide affidavits, declarations, or other evidence establishing the following information:

(i) the defendant's last-known address;

(ii) the dates during which the defendant resided at that location; and

(iii) confirmation that the plaintiff is unaware of any other address at which the defendant has resided since that time, or at which the defendant can be found.

(3) **Service by Publication Concerning Property Located Within Nevada.**

(A) The court may order service by publication in the actions listed in Rule 4.4(c)(3)(B) if a defendant:

(i) resides in the United States and has been absent from this state for at least two years;

(ii) resides in a foreign country and has been absent from the United States for at least six months;

(iii) is an unknown heir or devisee of a deceased person; or

(iv) is an unknown owner of real or personal property.

(B) Rule 4.4(c)(3) applies only to the following actions involving real or personal property located within Nevada:

(i) actions for the enforcement of mechanics' liens or other liens against real or personal property;

(ii) actions for foreclosure of mortgages and deeds of trust;

(iii) actions for the establishment of title to real estate;

(iv) actions to exclude the defendant from any interest in real or personal property; and

(v) any other action for the enforcement, establishment, or determination of any right, claim, or demand, actual or contingent, to or against any real or personal property.

(C) Service by publication on an unknown heir, devisee, or property owner may only be used when the unknown heir, devisee, or property owner must be a party to the action under Rule 19(b).

(D) A plaintiff proceeding under Rule 4.4(c)(3) must provide the information required by Rule 4.4(c)(2), as applicable, in addition to

providing affidavits, declarations, or other evidence establishing the facts necessary to satisfy the requirements of Rule 4.4(c)(3).

(4) **The Order for Service by Publication.**

(A) In the order for service by publication, the court must direct publication to be made in one or more newspapers or other periodicals published in Nevada; in the state, territory, or foreign country where the defendant is believed to be located; or in any combination of locations. The court's designated locations must be reasonably calculated to give the defendant actual notice of the proceedings. The service must be published at least once a week for a period of four weeks.

(B) If publication is ordered and the plaintiff is aware of the defendant's last-known address, the plaintiff must also mail a copy of the summons and complaint to the defendant's last-known address. The court may also order that additional notice be sent under Rule 4.4(d).

(C) Service by publication is complete four weeks from the later of:

(i) the date of the first publication; or

(ii) the mailing of the summons and complaint, if mailing is ordered.

(d) **Additional Methods of Notice.**

(1) In addition to any other service method, the court may order a plaintiff to make reasonable efforts to provide additional notice of the commencement of the action to a defendant using other methods of notice, including certified mail, telephone, voice message, email, social media, or any other method of communication.

(2) Unless otherwise ordered, the plaintiff or the plaintiff's attorney may contact the defendant to provide notice of the action, except when

the plaintiff or attorney would violate any statute, rule, temporary or extended protective order, or injunction by communicating with the defendant.

(3) The plaintiff must provide proof of notice in the same manner as proof of service under Rule 4(d), or as otherwise directed by the court.

Advisory Committee Note—2019 Amendment

Subsection (a). Rule 4.4(a) incorporates former NRCP 4(e)(3).

Subsection (b). Modeled on Rule 4.1(k) of the Arizona Rules of Civil Procedure, Rule 4.4(b) is new and authorizes the court to fashion a method of service consistent with due process when no other available service method remains besides publication, which should only be used as a last resort.

Subsection (c). Rule 4.4(c), publication, amends former NRCP 4(e)(1). Rule 4.4(c)(2) specifies the requirements for a motion seeking publication. The motion must contain specific facts demonstrating the plaintiff's efforts to find and serve the defendant; general allegations that a defendant cannot be found are insufficient to warrant publication. Rule 4.4(c)(3) governs service by publication concerning real and personal property in this state. In general, persons outside the state must be served under Rule 4.3. Given the State's interest in resolving disputes concerning real or personal property located within this state, however, service by publication may be used for the specified defendant when that party's presence is necessary for the action to be adjudicated. Rule 4.4(c)(4) governs the order for publication. When ordering publication, the court must designate the locations for publication and order any other steps to be taken to effect service that, in the court's opinion, are calculated to satisfy due process. This may include publication in locations outside of Nevada or outside of the United States. The new rule adds "or other

periodicals" to the rule to permit the court to authorize the summons in a periodical other than a newspaper, including an online periodical.

Subsection (d). Rule 4.4(d) is new and permits the court to order the plaintiff to make reasonable efforts to provide actual notice of the action to the defendant. In this modern era of electronic communication, a plaintiff may communicate with a defendant electronically, and thus know how to contact the defendant by phone, email address, social media, or other methods, but be unaware of the defendant's current physical address. In this situation, a plaintiff should not be permitted to mail notice to a defendant's long-outdated last-known address while ignoring other reliable means of providing actual notice. The rule does not specify any particular method of communication, recognizing that notice via nontechnological methods of communication or future technologies may both be used, depending on the individual case. This rule is intended to work in conjunction with other service rules that require the summons and complaint to be mailed to a defendant's last-known address. Notice given under Rule 4.4(d) does not constitute service by itself, unless the notice provided complies with another service method.

Rule 5. Serving and Filing Pleadings and Other Papers

(a) **Service: When Required.**

(1) **In General.** Unless these rules provide otherwise, each of the following papers must be served on every party:

(A) an order stating that service is required ~~by its terms to be served, every~~;

(B) a pleading ~~subsequent to~~filed after the original complaint, unless the court orders otherwise ~~orders~~under Rule 5(c) because ~~of~~there are numerous defendants~~, every~~;

(C) any paper relating to discovery required to be served ~~upon~~on a party, unless the court orders otherwise ~~orders, every;~~

(D) a written motion ~~other than~~, except one ~~which~~that may be heard ex parte~~,~~; and ~~every~~

(E) a written notice, appearance, demand, offer of judgment, ~~designation of record on appeal, and~~ or any similar paper ~~shall be served upon each of the parties.~~ .

(2) **If a Party Fails to Appear.** No service ~~need be made~~is required on ~~parties~~a party who is in default for ~~failure~~failing to appear ~~except~~. But a pleading that ~~pleadings asserting~~asserts a new ~~or additional claims~~claim for relief against ~~them shall~~such a party must be served ~~upon them in the manner provided for service of summons in~~on that party under Rule 4.

(b) ~~**Same:**~~ **Service: How Made.**

(1) ~~Whenever under these rules service is required or permitted to be made upon~~**Serving an Attorney.** If a party is represented by an attorney, ~~the~~ service ~~shall~~under this rule must be made ~~upon~~on the attorney unless the court orders ~~that~~ service ~~be made upon~~on the party.

(2) **Service in General.** A paper is served under this rule ~~is made~~ by:

~~(A) Delivering a copy to the attorney or the party by:~~

~~(i~~(A) handing it to the ~~attorney or to the party~~person;

~~(ii~~(B) leaving it ~~:~~

(i) at the ~~attorney's or party's~~person's office with a clerk or other person in charge~~,~~ or, if ~~there is~~ no one is in charge, ~~leaving it~~ in a conspicuous place in the office; or

(~~iii~~ii) if the person has no office or the office is closed ~~or the person to be served has no office,~~ , at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there;

(C) mailing it to the person's last known address—in which event service is complete upon mailing;

(D) leaving it ~~at the person's dwelling house or usual place of abode with some person of suitable age and discretion residing there.~~with the court clerk if the person has no known address;

(~~B) Mailing a copy~~E) submitting it to the ~~attorney or the party at his or her last known address. Service by mail is complete on mailing; provided, however, a motion, answer or other document constituting the initial appearance of a party must also, if served by mail, be filed within the time allowed for service; and provided further, that after such initial appearance, service by mail be made only by mailing from a point within the State of Nevada.~~

~~(C) If the attorney or the party has no known address, leaving a copy with the clerk of the court.~~

~~(D) Delivering a copy by~~court's electronic ~~means if the attorney or the party served has consented to service by~~ filing system, if established under the NEFCR, for electronic ~~means. Service by~~ service under NEFCR 9 or sending it by other electronic means ~~is complete on transmission provided, however, a motion, answer or other document constituting the initial appearance of a party must also, if served by electronic means, be filed within the time allowed for service. The served attorney's or party's consent to service by electronic means shall be expressly stated and filed~~ that the person consented to in writing ~~with the clerk of the court and served on the other parties to the action. The written consent shall identify:~~

~~(i) the persons~~ —in which events service is complete upon ~~whom service must be made;~~

~~(ii) the appropriate address or location for such service, such as the electronic mail address or facsimile number;~~

~~(iii) the format to be used for attachments; and~~

~~(iv) any other limits on the scope or duration of the consent.~~

~~An attorney's or party's consent shall remain effective until expressly revoked or until the representation of a party changes through entry, withdrawal, or substitution of counsel. An attorney or party who has consented to service by electronic means shall, within 10 days after any change of electronic mail address or facsimile number, serve and file notice of the new electronic mail address or facsimile number.~~

~~(3) Service by electronic means under Rule 5(b)(2)(D)~~submission or sending, but is not effective if the serving party ~~making service~~ learns that ~~the attempted service~~it did not reach the person to be served~~.~~; or

(F) delivering it by any other means that the person consented to in writing—in which event service is complete when the person making service delivers it to the agency designated to make delivery.

(3) **Using Court Facilities.** If the court has established an electronic filing system under the NEFCR through which service may be effected, a party may use the court's transmission facilities to make service under Rule 5(b)(2)(E).

(4) **Proof of service.** Proof of service may be made by certificate ~~of an attorney or of the attorney's employee, or by written admission, or by affidavit~~, acknowledgment, or other proof satisfactory to the court. Proof of

service should accompany the filing or be filed in a reasonable time thereafter. Failure to make proof of service ~~shall~~does not affect the validity of service.

(c) ~~Same:~~ Serving **Numerous Defendants.**

(1) **In** ~~any~~**General.** If an action ~~in which there are~~involves an unusually large ~~numbers~~number of defendants, the court~~, upon~~ may, on motion or ~~of~~on its own ~~initiative, may,~~ order that ~~service of the~~:

(A) defendants' pleadings ~~of the defendants~~ and replies ~~thereto~~to them need not be ~~made as between the~~served on other defendants ~~and that~~ ;

(B) any ~~cross-claim~~crossclaim, counterclaim, ~~or matter constituting an~~ avoidance, or affirmative defense ~~contained therein shall be deemed to be~~in those pleadings and replies to them will be treated as denied or avoided by all other parties; and ~~that the~~

(C) filing ~~of~~ any such pleading and ~~service thereof upon~~serving it on the plaintiff constitutes ~~due~~ notice of ~~it~~the pleading to all parties.

(2) **Notifying Parties.** A copy of every such order must be served on the parties~~. A copy of every such order shall be served upon the parties in such manner and form~~ as the court directs.

(d) **Filing.** ~~All papers~~

(1) **Required Filings.** Any paper after the complaint that is required to be served ~~upon a party shall~~must be filed ~~with the court either before service or within a~~ no later than a reasonable time ~~thereafter, except as otherwise provided in Rule 5(b), but, unless~~after service. But disclosures under Rule 16.1 and the following discovery requests and responses must not be filed until they are used in the proceeding or the court orders filing ~~is ordered by the court on motion of a party or upon its own motion,~~; depositions ~~upon oral~~

~~examination and~~ , interrogatories, requests for ~~production,~~ documents or tangible things or to permit entry onto land, and requests for admission~~, and the answers and responses thereto, shall not be filed unless and until they are used in the proceedings. Originals of responses to requests for admissions or production and answers~~ .

(2) **Nonelectronic Filing.** A paper not filed electronically is filed by delivering it:

(A) to ~~interrogatories shall be served upon the party~~ the clerk; or

(B) to a judge who ~~made the request or propounded the interrogatories and that party shall make such originals available at the time of any pretrial hearing or at trial for use by any party.~~

~~**(c) Filing With the Court Defined.** The~~ agrees to accept it for filing ~~of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with the judge, in which event the judge shall,~~ and who must then note ~~thereon~~ the filing date on the paper and ~~forthwith transmit them~~promptly send it to ~~the office of~~ the clerk.~~ A~~

(3) **Electronic Filing, Signing, or Verification.** The court may, by local rule~~ permit~~, allow papers to be filed, signed, or verified by electronic means that are consistent with any technical standards~~, if any, that~~ established by the ~~Judicial Conference of the United States establishes.~~NEFCR. A paper ~~signed by electronic means in compliance with the local rule constitutes~~ filed electronically is a written paper ~~presented~~ for ~~the purpose~~purposes of ~~applying~~ these rules.~~ The clerk shall not refuse to accept for filing any paper presented for that purpose solely because it is not presented~~

(4) **Acceptance by the Clerk.** The clerk must not refuse to file a paper solely because it is not in the form prescribed by these rules or by a local rule or practice.

Advisory Committee Note—2019 Amendment

Rule 5 generally conforms to FRCP 5. It retains former NRCP 5(a)'s reference to a "paper relating to discovery" to remind practitioners of the need to serve discovery documents on other parties, including deposition notices under Rule 30, requests for inspections under Rule 34, and subpoenas directed to a third party under Rule 45.

The amendments to Rule 5 relating to electronic filing and service reflect Nevada rules (such as the NEFCR) and practice. Rule 5(b)(4) retains the provisions requiring a proof of service to be attached to an electronic filing; the April 2018 amendments to the federal rule eliminating the proof of service for electronic filing are not adopted. NEFCR 9 bases the time to respond to a document served through an electronic filing system on the date stated in the proof of service.

Rule 5.1. Reserved~~RULE 6. TIME~~

~~(a) **Computation.** In~~

Rule 5.2. Reserved

Advisory Committee Note—2019 Amendment

The procedures for privacy protection in Nevada are located in the Rules Governing Sealing and Redacting Court Records.

Rule 6. Computing and Extending Time; Time for Motion Papers

(a) **Computing Time.** The following rules apply in computing any time period ~~of time prescribed or allowed by~~specified in these rules, ~~by the local rules of~~in any ~~district~~ local rule or court~~, by~~ order ~~of court~~, or ~~by~~in any ~~applicable~~ statute~~,~~ that does not specify a method of computing time.

(1) **Period Stated in Days or a Longer Unit.** When the period is stated in days or a longer unit of time:

(A) exclude the day of the ~~act,~~ event~~, or default from which the designated period of time begins to run shall not be included. The~~ that triggers the period;

(B) count every day, including intermediate Saturdays, Sundays, and legal holidays; and

(C) include the last day of the period ~~so computed shall be included, unless it is~~, but if the last day is a Saturday, ~~a~~ Sunday, or ~~a nonjudicial day, in which event~~legal holiday, the period ~~runs~~continues to run until the end of the next day ~~which~~that is not a Saturday, ~~a~~ Sunday, or ~~a nonjudicial day, or~~legal holiday.

(2) **Period Stated in Hours.** When the period is stated in hours:

(A) begin counting immediately on the occurrence of the event that triggers the period;

(B) count every hour, including hours during intermediate Saturdays, Sundays, and legal holidays; and

(C) if the period would end on a Saturday, Sunday, or legal holiday, the period continues to run until the same time on the next day that is not a Saturday, Sunday, or legal holiday.

(3) **Inaccessibility of the Clerk's Office.** Unless the court orders otherwise, if the clerk's office is inaccessible:

(A) on the last day for filing under Rule 6(a)(1), then the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or legal holiday; or

(B) during the last hour for filing under Rule 6(a)(2), then the time for filing is extended to the same time on the first accessible day that is not a Saturday, Sunday, or legal holiday.

(4) **"Last Day" Defined.** Unless a different time is set by a statute, local rule, or court order, the last day ends:

(A) for electronic filing under the NEFCR, at 11:59 p.m. in the court's local time; and

(B) for filing by other means, when the ~~act to~~ clerk's office is scheduled to close.

(5) **"Next Day" Defined.** The "next day" is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.

(6) **"Legal Holiday" Defined.** "Legal holiday" means any day set aside as a legal holiday by NRS 236.015.

(b) **Extending Time.**

(1) **In General.** When an act may or must be done ~~is the filing of a paper in court, a day on which weather or other conditions have made the office of the clerk of the district court inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and nonjudicial days shall be excluded in the computation except for those proceedings filed under Titles 12 or 13 of the Nevada Revised Statutes.~~

~~**(b) Enlargement.** When by these rules or by a notice given thereunder~~

~~or by order of court an act is required or allowed to be done at or~~ within a specified time~~,~~ :

(A) the parties~~,~~ may obtain an extension of time by ~~written~~ stipulation ~~of counsel filed in~~if approved by the ~~action, may enlarge~~court, provided that the ~~period,~~stipulation is submitted to the court before the original time or its extension expires; or

(B) the court may, for good cause ~~shown may at any time in its discretion (1)~~ , extend the time:

(i) with or without motion or notice ~~order~~if the ~~period enlarged~~court acts, or if a request ~~therefor~~ is made, before the ~~expiration of the period originally prescribed~~original time or ~~as extended by a previous order,~~its extension expires; or ~~(2) upon~~

(ii) on motion made after the ~~expiration of the specified period permit the act to be done where the failure to act was the result~~time has expired if the party failed to act because of excusable neglect~~; but it may~~.

(2) **Exceptions.** A court must not extend the time ~~for taking any action~~to act under Rules 50(b~~), 50(c)~~(2) and (d), 52(b), 59(b), (d~~)~~), and (e~~)~~), and 60(~~b), except to~~c)(1), and must not extend the ~~extent and~~ time after it has expired under ~~the conditions stated in them.~~Rule 54(d)(2).

(c) ~~**Reserved.**~~

~~**(d) For**~~ **Motions~~—~~, Notices of Hearing, and Affidavits.** ~~A written motion, other than one which may be heard ex parte, and notice of the hearing thereof shall be served not later than 5 days before the time specified for the hearing, unless a different period is fixed by these rules or by rule or order of the court. Such an order may, for cause shown, be made on ex parte application. When a motion or opposition is supported by affidavit, the affidavit shall be served with the motion or opposition.~~

~~(e~~ (1) **In General.** A written motion and notice of the hearing must be served at least 21 days before the time specified for the hearing, with the following exceptions:

(A) when the motion may be heard ex parte;

(B) when these rules or the local rules provide otherwise; or

(C) when a court order—which a party may, for good cause, apply for ex parte—sets a different time.

(2) **Supporting Affidavit.** Any affidavit supporting a motion must be served with the motion. Except as Rule 59(c) provides otherwise, any opposing affidavit must be served at least 7 days before the hearing, unless the court permits service at another time.

(d) **Additional Time After Certain Kinds of Service ~~by Mail or Electronic Means.~~** ~~Whenever a party has the right or is required to do some act or take some proceedings~~ **.** When a party may or must act within a ~~prescribed period~~ specified time after ~~the service of a notice~~ being served and service is made under Rule 5(b)(2)(C) (mail), (D) (leaving with the clerk), or (F) (other ~~paper, other than process, upon the party and the notice or paper is served upon the party by mail or by electronic~~ means~~,~~ consented to), 3 days ~~shall be~~are added after the period would otherwise expire under Rule 6(a).

Advisory Committee Note—2019 Amendment

Subsection (a). Rule 6(a) represents a major change in calculating time deadlines. It adopts the federal time-computation provisions in FRCP 6(a). Under Rule 6(a)(1), all deadlines stated in days are computed the same way, regardless of how long or short the period is. This simplifies time computation and facilitates "day-of-the-week" counting, but it has required revision to ~~the prescribed~~time deadlines stated elsewhere in the NRCP. To

compensate for the shortening of time periods previously expressed as less than 11 days by the directive to count intermediate Saturdays, Sundays, and legal holidays, many of the periods have been lengthened. In general, former periods of 5 or fewer days are lengthened to 7 days, while time periods between 6 and 15 days are now set to 14 days. Time periods of 16 to 20 days were set to 21 days, and periods longer than 30 days were retained without change. The use of 7-, 14-, and 21-day periods enables "day-of-the-week" counting; for example, if a motion was filed and served on Wednesday with 7 days to respond, the opposition would be due the following Wednesday. Statutory- and rule-based time periods subject to this rule may not be changed concurrently with this rule. If a reduction in the times to respond under those statutes and rules results, an extension of time may be warranted to prevent prejudice.

Subsection (b). Rule 6(b) addresses extensions of time. While it borrows language from its federal rule counterpart, the rule retains Nevada-specific provisions governing stipulations for extension of time, subject to court approval. Rule 6(b) provides the court may extend the time to act "for good cause." If another rule provides a method for extending time, such as Rule 29 for stipulations about discovery, the court or the parties may extend time as provided in that rule.

Subsection (c). Rule 6(c), previously NRCP 6(d), is conformed to FRCP 6(c), with reference to Nevada's local rules. The local rules govern motion practice in general and may provide, for example, larger periods of time in which to file motions, specific procedures governing motion practice, or procedures to request a hearing or to submit a motion without a hearing.

Subsection (d). Rule 6(d) limits the instances in which three additional days will be added to a time calculation to instances in which service is accomplished by mail, by leaving it with the clerk, or in cases involving express

consent.

In all other respects, the 2019 amendments to the NRCP and the companion amendments to the Nevada Electronic Filing and Conversion Rules (NEFCR) and the NRAP eliminate the former inconsistent provisions for adding three days for electronic service. These amendments also require the simultaneous filing and service of documents on submission to a court's electronic filing system. The Committee recognizes this will require local rule amendments and changes to existing electronic filing systems. However, the Committee agrees with the following advisory committee notes to the 2016 amendments to FRCP 6, which explain that the FRCP were amended

> in 2001 to provide for service by electronic means. Although electronic transmission seemed virtually instantaneous even then, electronic service was included in the modes of service that allow 3 added days to act after being served. There were concerns that the transmission might be delayed for some time, and particular concerns that incompatible systems might make it difficult or impossible to open attachments. These concerns have been substantially alleviated by advances in technology and in widespread skill in using electronic transmission.
>
> ***
>
> Diminution of the concerns that prompted the decision to allow the 3 added days for electronic transmission is not the only reason for discarding this indulgence. Many rules have been changed to ease the task of computing time by adopting the 7-, 14-, 21-, and 28-day periods that allow 'day-of-the-week' counting. Adding 3 days at the end complicated the counting, and increased the occasions for further complication by invoking the provisions that apply when the last day is a Saturday, Sunday, or legal holiday.

Requiring simultaneous filing and service of documents submitted to an electronic filing system will take advantage of the speed of electronic communication and reduce litigation delays. If electronic service after business hours, or just before or during a weekend or holiday, results in a practical reduction of the time available to respond, an extension of time may be warranted to prevent prejudice. Consent to and use of electronic filing and service remain governed by local courts and the NEFCR.

III. PLEADINGS AND MOTIONS

~~**RULE 7. PLEADINGS ALLOWED; FORM OF MOTIONS**~~

Rule 7. Pleadings Allowed; Form of Motions and Other Papers

(a) **Pleadings.** ~~There shall be~~ Only these pleadings are allowed:

(1) a complaint ~~and~~ ;

(2) an answer~~; a reply~~ to a complaint;

(3) an answer to a counterclaim ~~denominated~~designated as ~~such; an answer to a cross-claim, if the~~ a counterclaim;

(4) an answer ~~contains~~to a ~~cross-claim; a third-party complaint, if a person who was not an original party is summoned under the provisions of Rule 14; and a third-party answer, if~~ crossclaim;

(5) a third-party complaint ~~is served. No other pleading shall be allowed, except that the~~ ;

(6) an answer to a third-party complaint; and

(7) if the court ~~may order~~orders one, a reply to an answer ~~or a third-party answer.~~.

(b) **Motions and Other Papers.**

(1) ~~An application to the~~**In General.** A request for a court ~~for an~~ order ~~shall~~must be made by motion ~~which,~~. The motion must:

(A) be in writing unless made during a hearing or trial~~, shall be made in writing, shall~~ ;

(B) state with particularity the grounds ~~therefor,~~for seeking the order; and ~~shall set forth~~

(C) state the relief ~~or order~~ sought. ~~The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.~~

(2) **Form.** The rules ~~applicable to~~governing captions, signing, and other matters of form ~~of~~in pleadings apply to ~~all~~ motions and other papers ~~provided for by~~.

Advisory Committee Note—2019 Amendment

As used in these rules, "complaint" includes a petition or other document that initiates a civil action.

~~(3) All motions shall be signed in accordance with~~

Rule ~~11.~~

~~**(c) Demurrers, Pleas, Etc., Abolished.** Demurrers, pleas, and exceptions for insufficiency of a pleading shall not be used.~~

~~RULE~~ 7.1. ~~DISCLOSURE STATEMENT~~Disclosure Statement

(a) **Who Must File; Contents.** ~~Any~~A nongovernmental party ~~to a civil proceeding~~, except for a natural person, must file ~~an original and one copy of~~ a disclosure statement that:

(1) ~~Identifies~~identifies any parent ~~corporation~~entity and any publicly held ~~corporation~~entity owning 10% or more of ~~its~~the party's stock or other ownership interest; or

(2) ~~States~~states that there is no such ~~corporation~~entity.

(b) **Time to File; Supplemental Filing.** A party must:

(1) ~~File~~file the disclosure statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court; and

(2) ~~Promptly~~promptly file a supplemental statement if any required information changes.

~~RULE~~Advisory Committee Note—2019 Amendment

Rule 7.1 is similar to its federal counterpart, except that this rule applies to any nongovernmental party other than an individual natural person.

Rule 8. ~~GENERAL RULES OF PLEADING~~General Rules of Pleading

(a) ~~Claims~~**Claim for Relief.** A pleading ~~which sets forth~~that states a claim for relief~~, whether an original claim, counterclaim, cross-claim, or third-party claim, shall~~ must contain ~~(1) :~~

(1) a short and plain statement of the grounds for the court's jurisdiction, unless the court already has jurisdiction and the claim needs no new jurisdictional support;

(2) a short and plain statement of the claim showing that the pleader is entitled to relief~~, and (2) ;~~

(3) a demand for ~~judgment for~~ the relief ~~the pleader seeks. Relief~~sought, which may include relief in the alternative or ~~of several~~ different types ~~may be demanded. Where a claimant~~of relief; and

(4) if the pleader seeks ~~damages of~~ more than $15,000 in monetary damages, the demand ~~shall be~~ for relief may request damages "in excess of $15,000" without further specification of the amount.

(b) **Defenses; ~~Form of~~ Admissions and Denials.** ~~A~~

(1) **In General.** In responding to a pleading, a party ~~shall~~ must:

(A) state in short and plain terms ~~the party's~~its defenses to each claim asserted against it; and ~~shall~~

(B) admit or deny the ~~averments upon which the adverse~~allegations asserted against it by an opposing party ~~relies. If a party is without~~.

(2) **Denials—Responding to the Substance.** A denial must fairly respond to the substance of the allegation.

(3) **General and Specific Denials.** A party that intends in good faith to deny all the allegations of a pleading—including the jurisdictional grounds—may do so by a general denial. A party that does not intend to deny all the allegations must either specifically deny designated allegations or generally deny all except those specifically admitted.

(4) **Denying Part of an Allegation.** A party that intends in good faith to deny only part of an allegation must admit the part that is true and deny the rest.

(5) **Lacking Knowledge or Information.** A party that lacks knowledge or information sufficient to form a belief ~~as to~~about the truth of an ~~averment, the party shall~~allegation must so state, and ~~this~~the statement has the effect of a denial. ~~Denials shall fairly meet the substance of the averments~~

(6) **Effect of Failing to Deny.** An allegation—other than one relating to the amount of damages—is admitted if a responsive pleading is required and the allegation is not denied. ~~When a pleader intends in good faith to deny only a part or a qualification of an averment, the pleader shall specify so much of it as is true and material and shall deny only the remainder. Unless the pleader intends in good faith to controvert all the averments of the preceding pleading, the pleader may make denials as specific denials of~~

~~designated averments or paragraphs, or may generally deny all the averments except such designated averments or paragraphs as the pleader expressly admits; but, when the pleader does so intend to controvert all its averments, including averments of the grounds upon which the court's jurisdiction depends, the pleader may do so by general denial subject to the obligations set forth in Rule 11~~If a responsive pleading is not required, an allegation is considered denied or avoided.

(c) **Affirmative Defenses.**

(1) **In ~~pleading~~General.** In responding to a ~~preceding~~ pleading, a party ~~shall set forth~~must affirmatively state any avoidance or affirmative defense, including:

(A) accord and satisfaction~~,~~;

(B) arbitration and award~~,~~;

(C) assumption of risk~~,~~;

(D) contributory negligence~~,~~;

(E) discharge in bankruptcy~~,~~;

(F) duress~~,~~;

(G) estoppel~~,~~;

(H) failure of consideration~~,~~;

(I) fraud~~,~~;

(J) illegality~~,~~;

(K) injury by fellow servant~~,~~;

(L) laches~~,~~;

(M) license~~,~~;

(N) payment~~,~~;

(O) release~~,~~;

(P) res judicata~~,~~;

(Q) statute of frauds~~,~~ ;

(R) statute of limitations~~,~~ ; and

(S) waiver~~, and any other matter constituting an avoidance or affirmative defense. When a party has~~ .

(2) **Mistaken Designation.** If a party mistakenly ~~designated~~designates a defense as a counterclaim, or a counterclaim as a defense, the court ~~on terms~~must, if justice ~~so~~ requires, ~~shall~~ treat the pleading as ~~if there had been a proper designation~~though it were correctly designated, and may impose terms for doing so.

~~**(d) Effect of Failure to Deny.** Averments in a pleading to which a responsive pleading is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleading. Averments in a pleading to which no responsive pleading is required or permitted shall be taken as denied or avoided.~~

~~**(e) Pleading to Be Concise and Direct; Consistency.**~~

(d) **Pleading to Be Concise and Direct; Alternative Statements; Inconsistency.**

(1) **In General.** Each ~~averment of a pleading shall~~allegation must be simple, concise, and direct. No technical ~~forms of pleading or motions are~~ form is required.

~~(2)~~ (2) **Alternative Statements of a Claim or Defense.** A party may set ~~forth~~out two or more statements of a claim or defense ~~alternately~~alternatively or hypothetically, either in ~~one~~a single count or defense or in separate ~~counts or defenses. When two or more statements are made in the~~ones. If a party makes alternative ~~and~~ statements, the pleading is sufficient if any one of them ~~if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the~~

~~alternative statements.~~ is sufficient.

(3) **Inconsistent Claims or Defenses.** A party may ~~also~~ state as many separate claims or defenses as ~~the party~~it has, regardless of consistency ~~and whether based on legal or on equitable grounds or on both. All statements shall be made subject to the obligations set forth in Rule 11~~.

(~~f) Construction of~~ e) **Construing Pleadings**~~. All pleadings shall~~. Pleadings must be ~~so~~ construed so as to do ~~substantial~~ justice.

~~RULE~~Advisory Committee Note—2019 Amendment

The amendments generally conform Rule 8 to FRCP 8, with the addition of the Nevada-specific provisions respecting claims for damages in excess of $15,000 in Rule 8(a)(4) and discharge in bankruptcy as an affirmative defense. FRCP 8(a)(1)'s jurisdictional statement requirement is incorporated into Rule 8(a)(1) but this does not affect the jurisdiction of the various Nevada courts. Former NRCP 8's references to NRCP 11 are deleted as unnecessary.

Rule 9. ~~PLEADING SPECIAL MATTERS~~Pleading Special Matters

(a) **Capacity~~. It is not necessary~~ or Authority to ~~aver~~Sue; Legal Existence.**

(1) **In General.** Except when required to show that the court has jurisdiction, a pleading need not allege:

(A) a party's capacity ~~of a party~~ to sue or be sued ~~or the~~;

(B) a party's authority ~~of a party~~ to sue or be sued in a representative capacity; or

(C) the legal existence of an organized association of persons that is made a party. ~~When~~

(2) **Raising Those Issues.** To raise any of those issues, a party ~~desires to raise an issue as to the legal existence of any party or the capacity of any party to sue or be sued or the authority of a party to sue or be sued in a representative capacity, the party desiring to raise the issue shall~~must do so by a specific ~~negative averment~~denial, which ~~shall include such~~must state any supporting ~~particulars as~~facts that are peculiarly within the ~~pleader's~~party's knowledge.

(b) **Fraud~~, or~~ Mistake~~, Condition~~; Conditions of ~~the~~ Mind.** In ~~all averments of~~alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake~~ shall be stated with particularity.~~. Malice, intent, knowledge, and other ~~condition~~conditions of a person's mind ~~of a person~~ may be ~~averred~~alleged generally.

(c) **Conditions Precedent.** In pleading ~~the performance or occurrence of~~ conditions precedent, it ~~is sufficient~~suffices to ~~aver~~allege generally that all conditions precedent have occurred or been performed~~ or have~~. But when denying that a condition precedent has occurred~~. A denial of performance~~ or ~~occurrence shall be made specifically and~~been performed, a party must do so with particularity.

(d) **Official Document or Act.** In pleading an official document or official act, it ~~is sufficient~~suffices to ~~aver~~allege that the document was legally issued or the act legally done~~ in compliance with law~~.

(e) **Judgment.** In pleading a judgment or decision of a domestic or foreign court, a judicial or quasi-judicial tribunal, or ~~of~~ a board or officer, it ~~is sufficient~~suffices to ~~aver~~plead the judgment or decision without ~~setting forth matter~~ showing jurisdiction to render it.

(f) **Time and Place.** ~~For the purpose of~~ An allegation of time or place is material when testing the sufficiency of a pleading~~, averments of time and~~

~~place are material and shall be considered like all other averments of material matter~~.

(g) **Special ~~Damage. When items~~Damages.** If an item of special damage ~~are~~is claimed, ~~they shall~~it must be specifically stated.

~~RULE~~Rule 10. ~~FORM OF PLEADINGS~~Form of Pleadings

(a) **Caption; Names of Parties.** Every pleading ~~shall contain~~must have a caption ~~setting forth~~with the court's name, the ~~name of the court and~~ county, ~~the~~a title ~~of the action, the file~~, a case number, and a Rule 7(a) designation ~~as in Rule 7(a). In~~. The caption of the complaint ~~the title of the action shall include the names of~~ must name all the parties~~, but in~~ ; the caption of other pleadings ~~it is sufficient to state the name of~~ , after naming the first party on each side ~~with an appropriate indication of~~ , may refer generally to other parties. ~~A party whose name is not known may be designated by any name, and when the true name is discovered, the pleading may be amended accordingly.~~

(b) **Paragraphs; Separate Statements.** ~~All averments of claim or defense shall be made~~A party must state its claims or defenses in numbered paragraphs, ~~the contents of~~ each ~~of which shall be~~ limited as far as practicable to a ~~statement of a~~ single set of circumstances~~; and~~ . A later pleading may refer by number to a paragraph ~~may be referred to by number in all succeeding pleadings. Each~~ in an earlier pleading. If doing so would promote clarity, each claim founded ~~upon~~on a separate transaction or occurrence~~—~~and each defense other than ~~denials shall~~a denial—must be stated in a separate count or defense ~~whenever a separation facilitates the clear presentation of the matters set forth~~.

(c) **Adoption by Reference; Exhibits.** ~~Statements~~A statement in a

pleading may be adopted by reference elsewhere in ~~a different part of~~ the same pleading or in ~~another~~any other pleading or ~~in any~~ motion. A copy of ~~any~~a written instrument ~~which~~that is an exhibit to a pleading is a part ~~thereof~~of the pleading for all purposes.

~~**RULE 11. SIGNING OF PLEADINGS**~~

(d) **Using a Fictitious Name to Identify a Defendant.** If the name of a defendant is unknown to the pleader, the defendant may be designated by any name. When the defendant's true name is discovered, the pleader should promptly substitute the actual defendant for a fictitious party.

Advisory Committee Note—2019 Amendment

The amendments generally conform Rule 10 to FRCP 10, except that Rule 10 retains the Nevada-specific provisions relating to captions of pleadings and permitting a party to name fictitious defendants. The federal rules do not have a provision permitting a pleader to name a fictitious defendant. The amendment moves the fictitious-party provision from former NRCP 10(a) to Rule 10(d). This move represents a stylistic, not a substantive, change to existing Nevada law.

Rule 11. Signing Pleadings, Motions, and Other Papers; Representations to the Court; Sanctions

(a) **Signature.** ~~(a) **Signature.**~~ Every pleading, written motion, and other paper ~~shall~~must be signed by at least one attorney of record in the attorney's ~~individual~~ name~~,~~ ~~—~~or~~,~~ by a party personally if the party is ~~not represented by an attorney, shall be signed by the party. Each paper~~

~~shall~~unrepresented. The paper must state the signer's address, email address, and telephone number~~, if any. Except when otherwise specifically provided by~~. Unless a rule or statute~~, pleadings~~ specifically states otherwise, a pleading need not be verified or accompanied by an affidavit. ~~An~~ The court must strike an unsigned paper ~~shall be stricken~~ unless the omission ~~of the signature~~ is promptly corrected ~~promptly~~ after being called to the attorney's or party's attention ~~of the attorney or party~~.

(b) **Representations to the Court.** By presenting to the court ~~(~~a pleading, written motion, or other paper—whether by signing, filing, submitting, or later advocating~~) a pleading, written motion, or other paper, it~~—an attorney or unrepresented party ~~is certifying~~certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances~~,~~ :

(1) it is not being presented for any improper purpose, such as to harass ~~or to~~, cause unnecessary delay, or ~~needless~~needlessly increase ~~in~~ the cost of litigation;

(2) the claims, defenses, and other legal contentions ~~therein~~ are warranted by existing law or by a nonfrivolous argument for ~~the extension, modification, or reversal of~~extending, modifying, or reversing existing law or ~~the establishment of~~for establishing new law;

(3) the ~~allegations and other~~ factual contentions have evidentiary support or, if specifically so identified, ~~are~~will likely ~~to~~ have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information ~~or belief~~.

(c) **Sanctions.**

(1) **In General.** If, after notice and a reasonable opportunity to respond, the court determines that ~~subdivision~~ Rule 11(b) has been violated, the court may~~, subject to the conditions stated below,~~ impose an appropriate sanction ~~upon the attorneys~~on any attorney, law ~~firms~~firm, or ~~parties~~party that ~~have~~ violated ~~subdivision (b)~~ the rule or ~~are~~is responsible for the violation. Absent exceptional circumstances, a law firm must be held jointly responsible for a violation committed by its partner, associate, or employee.

~~(1) How Initiated.~~

~~(A) By~~ 2) **Motion~~.~~ for Sanctions.** A motion for sanctions ~~under this rule shall~~must be made separately from any other ~~motions or requests~~ motion and ~~shall~~must describe the specific conduct ~~alleged to violate subdivision (b). It shall~~that allegedly violates Rule 11(b). The motion must be served ~~as provided in~~ under Rule 5, but ~~shall~~it must not be filed ~~with~~ or be presented to the court ~~unless, within 21 days after service of the motion (or such other period as the court may prescribe),~~if the challenged paper, claim, defense, contention, ~~allegation,~~ or denial is ~~not~~ withdrawn or appropriately corrected within 21 days after service or within another time the court sets. If warranted, the court may award to the ~~party~~ prevailing ~~on the motion~~ party the reasonable expenses ~~and attorney's~~, including attorney fees, incurred ~~in~~for presenting or opposing the motion. ~~Absent exceptional circumstances, a law firm shall be held jointly responsible for violations committed by its partners, associates, and employees.~~

~~(B~~(3) **On the Court's Initiative.** On its own ~~initiative~~, the court may ~~enter an~~ order ~~describing the specific conduct that appears to violate subdivision (b) and directing~~ an attorney, law firm, or party to show cause why

~~it~~ conduct specifically described in the order has not violated ~~subdivision (b) with respect thereto.~~Rule 11(b).

(~~2~~4) **Nature of a Sanction~~; Limitations.~~.** A sanction imposed ~~for violation of~~under this rule ~~shall~~must be limited to what ~~is sufficient~~suffices to deter repetition of ~~such~~the conduct or comparable conduct by others similarly situated. ~~Subject to the limitations in subparagraphs (A) and (B), the~~The sanction may ~~consist of, or~~ include~~, directives of a~~ nonmonetary ~~nature,~~directives; an order to pay a penalty into court~~,~~; or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of ~~some~~part or all of the reasonable ~~attorney's~~attorney fees and other expenses ~~incurred as a direct result of~~directly resulting from the violation.

~~(A)~~ (5) **Limitations on Monetary** ~~sanctions may not be awarded~~ **Sanctions.** The court must not impose a monetary sanction:

(A) against a represented party for ~~a violation of subdivision~~ violating Rule 11(b)(2~~).~~); or

(B) ~~Monetary sanctions may not be awarded on the court's initiative~~on its own, unless it issued the ~~court issues its order to~~ show~~-~~cause order under Rule 11(c)(3) before ~~a~~ voluntary dismissal or settlement of the claims made by or against the party ~~which~~that is, or whose attorneys are, to be sanctioned.

(~~3)~~ 6) **Requirements for an Order.** ~~When~~An order imposing ~~sanctions, the court shall~~a sanction must describe the sanctioned conduct ~~determined to constitute a violation of this rule~~ and explain the basis for the sanction ~~imposed~~.

(d) **~~Applicability~~Inapplicability to Discovery.** ~~Subdivisions (a) through (c) of this~~This rule ~~do~~does not apply to disclosures and discovery requests, responses, objections, and motions ~~that are subject to the provisions~~

~~of~~ under Rules 16.1, 16.2, ~~and~~16.205, 26 through 37~~.~~, and 45(a)(4). Sanctions for improper discovery or refusal to make or allow discovery are governed by Rules 26(g) and 37.

~~**RULE 12. DEFENSES AND OBJECTIONS WHEN AND HOW PRESENTED BY PLEADING OR MOTION MOTION FOR JUDGMENT ON PLEADINGS**~~

~~**(a) When Presented.**~~

Rule 12. Defenses and Objections: When and How Presented; Motion for Judgment on the Pleadings; Consolidating Motions; Waiving Defenses; Pretrial Hearing

(a) **Time to Serve a Responsive Pleading.**

(1) **In General.** Unless another time is specified by Rule 4.2(c)(3)(E), this rule, or a statute, the time for serving a responsive pleading is as follows:

(A) A defendant ~~shall~~must serve an answer~~.~~:

(i) within ~~20~~21 days after being served with the summons and complaint~~, unless otherwise provided by statute when service of process is made pursuant to Rule 4(e)(3).~~; or

~~(2)~~ (ii) if the defendant has timely waived service under Rule 4.1, within 60 days after the request for a waiver was sent, or within 90 days after the request for a waiver was sent to the defendant outside of the United States.

(B) A party ~~served~~must serve an answer to a counterclaim or crossclaim within 21 days after being served with ~~a~~the pleading ~~stating a cross-claim against~~ that states the counterclaim or crossclaim.

(C) A party ~~shall~~must serve a reply to an answer ~~thereto~~ within ~~20~~21 days after being served~~. The plaintiff shall serve a reply to a counterclaim in the answer within 20 days after service of the answer or, if a~~ with an order to reply ~~is ordered by the court, within 20 days after service of the order~~, unless the order ~~otherwise directs~~specifies a different time.

(~~3~~2) **The State of Nevada ~~or~~ , Its Public Entities and Political Subdivisions, and Their Officers and Employees.** Unless another time is specified by Rule 12(a)(3) or a statute, the following parties must serve an answer to a complaint, counterclaim, or crossclaim within 45 days after service on the party, or if required service on the Attorney General, whichever date of service is later:

(A) the State and any public entity of the State;

(B) any county, city, town or other political subdivision ~~thereof, **and** any officer, employee, board or commission member of the State~~ of ~~Nevada or~~ the State, and any public entity of such a political subdivision~~, **and** any state legislator shall file an answer or other responsive pleading within 45 days after their respective dates of service.~~; and

~~(4) The service of~~ (C) any current or former public officer or employee of the State, any public entity of the State, any county, city, town or other political subdivision of the State, or any public entity of such a political subdivision, who is sued in his or her official capacity or his or her individual capacity for an act or omission relating to his or her public duties or employment.

(3) **Effect of a Motion.** Unless the court sets a different time, serving a motion ~~permitted~~ under this rule alters these periods ~~of time~~ as follows~~, unless a different time is fixed by order of the court~~:

(A) if the court denies the motion or postpones its disposition until ~~the~~ trial ~~on~~, the ~~merits, a~~ responsive pleading ~~shall~~must be served within ~~10~~14 days after notice of the court's action; or

(B) if the court grants a motion for a more definite statement, ~~a~~the responsive pleading ~~shall~~must be served within ~~10~~14 days after ~~service of~~ the more definite statement is served.

(b) **How ~~Presented.~~to Present Defenses.** Every defense~~, in law or fact,~~ to a claim for relief in any pleading~~, whether a claim, counterclaim, cross-claim, or third-party claim, shall~~ must be asserted in the responsive pleading ~~thereto~~ if one is required~~, except that~~. But a party may assert the following defenses ~~may at the option of the pleader be made~~ by motion:

(1) lack of subject-matter jurisdiction ~~over the subject matter, (2)~~;

(2) lack of personal jurisdiction ~~over the person,~~;

(3) ~~insufficiency of~~ insufficient process~~,~~;

(4) ~~insufficiency of~~ insufficient service of process~~,~~;

(5) failure to state a claim upon which relief can be granted~~,~~; and

(6) failure to join a party under Rule 19.

A motion ~~making~~asserting any of these defenses ~~shall~~must be made before pleading if a ~~further~~responsive pleading is ~~permitted.~~allowed. If a pleading sets out a claim for relief that does not require a responsive pleading, an opposing party may assert at trial any defense to that claim. No defense or objection is waived by ~~being joined~~joining it with one or more other defenses or objections in a responsive pleading or in a motion. ~~If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, the adverse party may assert at the trial any defense in law or fact to that claim for relief. If, on a motion asserting the defense numbered (5) to~~

~~dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.~~

(c) **Motion for Judgment on the Pleadings.** After the pleadings are closed~~—~~but ~~within such time as~~ early enough not to delay ~~the~~ trial~~, any~~—a party may move for judgment on the pleadings.

(d) **Result of Presenting Matters Outside the Pleadings.** If, on a motion ~~for judgment on the pleadings,~~under Rule 12(b)(5) or 12(c), matters outside the pleadings are presented to and not excluded by the court, the motion ~~shall~~must be treated as one for summary judgment ~~and disposed of as provided in~~under Rule 56~~, and all~~. All parties ~~shall~~must be given a reasonable opportunity to present all the material ~~made~~that is pertinent to ~~such a~~the motion ~~by Rule 56~~.

~~**(d) Preliminary Hearings.** The defenses specifically enumerated (1)-(6) in subdivision (b) of this rule, whether made in a pleading or by motion, and the motion for judgment mentioned in subdivision (c) of this rule shall be heard and determined before trial on application of any party, unless the court orders that the hearing and determination thereof be deferred until the trial.~~

(e) **Motion for a More Definite Statement.** ~~If a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, the~~A party may move for a more definite statement ~~before interposing~~of a pleading to which a responsive pleading is allowed but which is so vague or ambiguous that the party cannot reasonably prepare a response. The motion must be made before filing a responsive pleading~~. The motion shall~~ and must point out the defects

complained of and the details desired. If the ~~motion is granted~~court orders a more definite statement and the order ~~of the court~~ is not obeyed within ~~10~~14 days after notice of the order or within ~~such other~~the time ~~as~~ the court ~~may fix~~sets, the court may strike the pleading ~~to which the motion was directed or make such order as it deems just~~or issue any other appropriate order.

(f) **Motion to Strike.** ~~Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion made by a party within 20 days after the service of the pleading upon the party or upon the court's own initiative at any time, the court may order stricken~~ The court may strike from ~~any~~a pleading ~~any~~an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter. The court may act:

~~**(g) Consolidation of Defenses in Motion.** A party who makes a motion under this rule may join with it any other motions herein provided for and then available to the party. If a party makes a motion under this rule but omits therefrom any defense or objection then available to the party which this rule permits to be raised by motion, the party shall not thereafter make a motion based on the defense or objection so omitted, except a motion as provided in subdivision (h)(2) hereof on any of the grounds there stated.~~

~~(h) **Waiver or Preservation of Certain Defenses.**~~

(1) on its own; or

(2) on motion made by a party either before responding to the pleading or, if a response is not allowed, within 21 days after being served with the pleading.

(g) **Joining Motions.**

(1) **Right to Join.** A motion under this rule may be joined with any other motion allowed by this rule.

(2) **Limitation on Further Motions.** Except as provided in Rule 12(h)(2) or (3), a party that makes a motion under this rule must not make another motion under this rule raising a defense ~~of lack of jurisdiction over the person, insufficiency of process, or insufficiency of service of process is waived (A) if~~ or objection that was available to the party but omitted from its earlier motion.

(h) **Waiving and Preserving Certain Defenses.**

(1) **When Some Are Waived.** A party waives any defense listed in Rule 12(b)(2)-(4) by:

(A) omitting it from a motion in the circumstances described in ~~subdivision~~ Rule 12(g~~),~~)(2); or

(B) ~~if~~ failing to either:

(i) make it ~~is neither made~~ by motion under this rule ~~nor included~~; or

(ii) include it in a responsive pleading or in an amendment ~~thereof permitted~~allowed by Rule 15(a~~) to be made~~)(1) as a matter of course.

(2) ~~A defense of failure~~**When to Raise Others.** Failure to state a claim upon which relief can be granted, ~~a defense of failure~~ to join a ~~party indispensable under~~person required by Rule 19~~, and an objection of failure~~(b), or to state a legal defense to a claim may be ~~made~~ raised:

(A) in any pleading ~~permitted~~allowed or ordered under Rule 7(a~~), or by motion for judgment on the pleadings, or at the trial on the merits.~~);

(B) by a motion under Rule 12(c); or

(C) at trial.

(3) ~~Whenever it appears by suggestion~~**Lack of** ~~the parties or otherwise that~~ **Subject-Matter Jurisdiction.** If the court determines at any

time that it lacks ~~jurisdiction of the~~ subject-~~-~~matter jurisdiction, the court ~~shall~~must dismiss the action.

~~**RULE 13. COUNTERCLAIM AND CROSS-CLAIM**~~

~~(a) **Compulsory Counterclaims.** A pleading shall state as a counterclaim~~ (i) **Hearing Before Trial.** If a party so moves, any ~~claim which at the time of serving the pleading the pleader has against any opposing party, if it~~ defense listed in Rule 12(b)(1)-(6)—whether made in a pleading or by motion—and a motion under Rule 12(c) must be heard and decided before trial unless the court orders a deferral until trial.

Advisory Committee Note—2019 Amendment

The Committee considered but rejected the suggestion that improper venue be added to Rule 12(b) to track FRCP 12(b)(3). As explained in the advisory committee note to Rule 12 of the 1953 NRCP, "The federal defense of improper venue is deleted, since improper venue is not a defense under state practice, but is a ground for change of venue. Practice as to change of venue will not be affected by this rule. Motion therefor may be made, or will be waived, apart from the requirements of Rule 12(h)." *See* NRS Chapter 13, in particular, NRS 13.050, which requires the demand for change of venue be made "before the time for answer expires."

Rule 12(b)(5) mirrors FRCP 12(b)(6). Incorporating the text of the federal rule does not signal an intent to change existing Nevada pleading standards.

Rule 13. Counterclaim and Crossclaim

(a) **Compulsory Counterclaim.**

(1) **In General.** A pleading must state as a counterclaim any claim that—at the time of its service—the pleader has against an opposing party if the claim:

(A) arises out of the transaction or occurrence that is the subject matter of the opposing party's claim; and

(B) does not require ~~for its adjudication the presence of third parties of~~adding another party over whom the court cannot acquire jurisdiction. ~~But the~~

(2) **Exceptions.** The pleader need not state the claim if ~~(1) at the time~~ :

(A) when the action was commenced, the claim was the subject of another pending action~~,~~; or ~~(2)~~

(B) the opposing party ~~brought suit upon the~~sued on its claim by attachment or other process ~~by which the court~~ that did not ~~acquire~~ establish personal jurisdiction ~~to render a personal judgment~~over the pleader on that claim, and the pleader ~~is~~does not ~~stating~~assert any counterclaim under this ~~Rule 13~~rule.

(b) **Permissive ~~Counterclaims.~~Counterclaim.** A pleading may state as a counterclaim ~~any claim~~ against an opposing party ~~not arising out of the transaction or occurrence~~ any claim that is ~~the subject matter of the opposing party's claim~~not compulsory.

(c) **Relief Sought in a Counterclaim~~ Exceeding Opposing Claim~~.** A counterclaim ~~may or may~~need not diminish or defeat the recovery sought by the opposing party. It may ~~claim~~request relief ~~exceeding~~that exceeds in amount or ~~different~~differs in kind from ~~that~~the relief sought ~~in the pleading of~~ by the opposing party.

(d) **Counterclaim Against the State.** These rules ~~shall not be construed to enlarge beyond the limits now fixed by law~~do not expand the right to assert ~~counterclaims~~ a counterclaim—or to claim ~~credits~~ a credit—against the State, its political subdivisions, their agencies and entities, or ~~an~~any current or former officer or ~~agency~~employee thereof.

(e) **Counterclaim Maturing or Acquired After Pleading.** ~~A claim which either matured or was acquired by the pleader after serving a pleading may, with the permission of the court, be presented as a counterclaim by~~The court may permit a party to file a supplemental pleading~~.~~

~~**(f) Omitted Counterclaim.** When a pleader fails to set up a counterclaim through oversight, inadvertence, or excusable neglect, or when justice requires, the pleader may by leave of court set up the~~ asserting a counterclaim ~~by amendment~~that matured or was acquired by the party after serving an earlier pleading.

(f) **Abrogated.**

(g) ~~**Cross-Claim**~~**Crossclaim Against a Coparty.** A pleading may state as a ~~cross-claim~~crossclaim any claim by one party against a coparty ~~arising~~if the claim arises out of the transaction or occurrence that is the subject matter ~~either~~ of the original action or of a counterclaim ~~therein~~, or ~~relating~~if the claim relates to any property that is the subject matter of the original action. ~~Such cross-claim~~The crossclaim may include a claim that the ~~party against whom it is asserted~~coparty is or may be liable to the ~~cross-claimant~~crossclaimant for all or part of a claim asserted in the action against the ~~cross-claimant~~crossclaimant.

(h) ~~**Joinder of**~~**Joining Additional Parties.** ~~Persons other than those made parties to the original action may be made parties~~Rules 19 and 20 govern

the addition of a person as a party to a counterclaim or ~~cross-claim in accordance with the provisions of Rules 19 and 20~~crossclaim.

(i) **Separate Trials~~:~~; Separate Judgments.** If the court orders separate trials ~~as provided in~~under Rule 42(b), it may enter judgment on a counterclaim or ~~cross-claim may be rendered in accordance with the terms of~~crossclaim under Rule 54(b) when ~~the court~~it has jurisdiction ~~so~~ to do so, even if the opposing party's claims ~~of the opposing party~~ have been dismissed or otherwise ~~disposed of~~resolved.

~~RULE~~Advisory Committee Note—2019 Amendment

Consistent with FRCP 13, former NRCP 13(f) is deleted as duplicative; an amendment to a pleading to add a counterclaim may be made under Rule 15.

Rule 14. ~~THIRD-PARTY PRACTICE~~Third-Party Practice

(a) **When ~~Defendant~~a Defending Party May Bring in a Third Party.** ~~At any time after commencement~~

(1) **Timing of the ~~action a~~ Summons and Complaint.** A defending party may, as ~~a~~ third-party plaintiff, ~~may cause~~file a ~~summons and~~third-party complaint ~~to be served upon a person not a party to~~ against a nonparty, the ~~action~~third-party defendant, who is or may be liable to it for all or part of the claim against it. But the third-party plaintiff ~~for all or part of the plaintiff's claim against the third-party plaintiff. The third-party plaintiff need not~~ must, by motion, obtain the court's leave to ~~make the service if~~ file the third-party ~~plaintiff~~complaint if it files the third-party complaint ~~not later~~more than ~~10~~14 days after serving ~~the~~its original answer. ~~Otherwise~~A summons, the complaint, and the third-party ~~plaintiff~~complaint must ~~obtain leave on motion~~

~~upon notice to all parties to the action. The person~~be served ~~with~~on the ~~summons and~~ third-party ~~complaint, hereinafter called~~defendant, or service must be waived.

(2) **Third-Party Defendant's Claims and Defenses.** After being served or waiving service, the third-party defendant~~, shall make~~ :

(A) must assert any ~~defenses to~~defense against the third-party plaintiff's claim ~~as provided in~~under Rule 12 ~~and~~;

(B) must assert any ~~counterclaims~~counterclaim against the third-party plaintiff ~~and cross-claims against other third-party defendants as provided in~~under Rule 13~~. The~~(a), and may assert any counterclaim against the third-party plaintiff under Rule 13(b) or any crossclaim against a defendant or another third-party defendant under Rule 13(g);

(C) may assert against the plaintiff any ~~defenses which~~defense that the third-party plaintiff has to the plaintiff's claim~~. The third-party defendant~~ ; and

(D) may also assert ~~any claim~~ against the plaintiff any claim arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff.

(3) **Plaintiff's Claims Against a Third-Party Defendant.** The plaintiff may assert against the third-party defendant any claim arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff. ~~The plaintiff may assert any claim~~The third-party defendant must then assert any defense under Rule 12 and any counterclaim under Rule 13(a), and may assert any counterclaim under Rule 13(b) or any crossclaim under Rule 13(g).

(4) **Defendant's Claims Against a Third-Party Defendant.** A defendant may assert against the third-party defendant ~~arising out of the~~

~~transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff, and the third-party defendant thereupon shall assert any defenses as provided in Rule 12 and any counterclaims and cross-claims as provided in Rule 13.~~ any crossclaim under Rule 13(g).

(5) **Motion to Strike, Sever, or Try Separately.** Any party may move to strike the third-party claim, ~~or for its severance or separate trial.~~ to sever it, or to try it separately.

(6) **Third-Party Defendant's Claim Against a Nonparty.** A third-party defendant may proceed under this rule against ~~any person not a party to the action~~a nonparty who is or may be liable to the third-party defendant for all or part of ~~the~~any claim ~~made in the action~~ against ~~the third-party defendant~~it.

(b) **When a Plaintiff May Bring in a Third Party.** When a ~~counterclaim~~claim is asserted against a plaintiff, the plaintiff may ~~cause~~bring in a third party ~~to be brought in under circumstances which under~~if this rule would ~~entitle~~allow a defendant to do so.

~~RULE~~Advisory Committee Note—2019 Amendment

The amendments generally conform Rule 14 to FRCP 14. The modifications to Rules 14(a)(2)(B) and 14(a)(4) permit defendants and third-party defendants to bring crossclaims against each other as "coparties" under Rule 13(g).

Rule 15. ~~AMENDED AND SUPPLEMENTAL PLEADINGS~~Amended and Supplemental Pleadings

(a) **Amendments~~.~~ Before Trial.**

(1) **Amending as a Matter of Course.** A party may amend ~~the party's~~its pleading once as a matter of course ~~at any time before~~ within:

(A) 21 days after serving it, or

(B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading ~~is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, the party may so amend it at any time within 20 days after it is served. Otherwise a party may amend the party's~~ or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

(2) **Other Amendments.** In all other cases, a party may amend its pleading only ~~by leave of court or by~~ with the opposing party's written consent ~~of~~or the ~~adverse party; and~~court's leave ~~shall be~~. The court should freely ~~given~~give leave when justice so requires. ~~A party shall plead in~~

(3) **Time to Respond.** Unless the court orders otherwise, any required response to an amended pleading must be made within the time remaining ~~for response~~to respond to the original pleading or within ~~10~~14 days after service of the amended pleading, whichever ~~period may be the longer, unless the court otherwise orders~~is later.

~~**(b) Amendments to Conform to the Evidence.** When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure so to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial~~

(b) **Amendments During and After Trial.**

(1) **Based on** ~~the ground that it~~ **an Objection at Trial.** If, at trial, a party objects that evidence is not within the issues ~~made by~~raised in the pleadings, the court may ~~allow~~permit the pleadings to be amended ~~and shall do so~~. The court should freely permit an amendment when ~~the presentation of~~doing so will aid in presenting the merits ~~of the action will be subserved thereby~~ and the objecting party fails to satisfy the court that the ~~admission of such~~ evidence would prejudice ~~the party in maintaining the~~that party's action or defense ~~upon~~on the merits. The court may grant a continuance to enable the objecting party to meet ~~such~~the evidence.

(2) **For Issues Tried by Consent.** When an issue not raised by the pleadings is tried by the parties' express or implied consent, it must be treated in all respects as if raised in the pleadings. A party may move—at any time, even after judgment—to amend the pleadings to conform them to the evidence and to raise an unpleaded issue. But failure to amend does not affect the result of the trial of that issue.

(c) **Relation Back of Amendments.** ~~Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the~~An amendment to a pleading relates back to the date of the original pleading~~.~~ when:

(1) the amendment asserts a claim or defense that arose out of the conduct, transaction, or occurrence set out—or attempted to be set out—in the original pleading; or

(2) the amendment changes a party or the naming of a party against whom a claim is asserted, if Rule 15(c)(1) is satisfied and if, within the period provided by Rule 4(e) for serving the summons and complaint, the party to be brought in by amendment:

(A) received such notice of the action that it will not be prejudiced in defending on the merits; and

(B) knew or should have known that the action would have been brought against it, but for a mistake concerning the proper party's identity.

(d) **Supplemental Pleadings.** ~~Upon~~On motion ~~of a party the court may, upon~~and reasonable notice ~~and upon such~~, the court may, on just terms ~~as are just~~, permit ~~the~~a party to serve a supplemental pleading setting ~~forth transactions or occurrences or events which have~~ out any transaction, occurrence, or event that happened ~~since~~after the date of the pleading ~~sought~~ to be supplemented. ~~Permission~~The court may ~~be granted~~permit supplementation even though the original pleading is defective in ~~its statement of~~stating a claim ~~for relief~~ or defense. ~~If the~~The court ~~deems it advisable~~may order that the ~~adverse~~opposing party plead to the supplemental pleading within a specified time.

~~**RULE 16. PRETRIAL CONFERENCES; SCHEDULING; MANAGEMENT**~~

Advisory Committee Note—2019 Amendment

Rule 15(a)(1) tracks FRCP 15(a)(1) and permits a plaintiff to amend as a matter of course later than former NRCP 15(a) allowed. Rule 15(c)(2) incorporates text from FRCP 15(c)(1)(C). Rule 15(c) governs relation-back of amendments generally, while Rule 10(d) governs replacing a named party for a fictitiously named party. The express provision Rule 10(d) makes for pleading fictitious defendants, which the FRCP does not have, avoids the problem that has arisen in federal cases attempting to apply FRCP 15(c)(1)(C) to fictitious defendants. While Rule 15(c) and Rule 10(d) are distinct tests, if a fictitious-

party replacement does not meet the Rule 10(d) test, it may be treated as an amendment to add a party under Rule 15 if the standards in Rule 15 are met.

Rule 16. Pretrial Conferences; Scheduling; Management

(a) **Pretrial Conferences; Objectives.** In any action, the court may ~~in its discretion direct~~order the attorneys ~~for the parties~~ and any unrepresented parties to appear ~~before it~~ for ~~a conference~~one or more pretrial conferences ~~before trial~~ for such purposes as:

(1) ~~Expediting the~~expediting disposition of the action;

(2) ~~Establishing~~establishing early and continuing control so that the case will not be protracted because of lack of management;

(3) ~~Discouraging~~discouraging wasteful pretrial activities;

(4) ~~Improving~~improving the quality of the trial through more thorough preparation; and

(5) ~~Facilitating the~~ facilitating settlement ~~of the case~~.

(b) **Scheduling and Planning.**

(1) **Scheduling Order.** Except in categories of actions exempted by ~~district~~ local rule, the court ~~rule as inappropriate, the judge, or a discovery commissioner shall~~must, after consulting with the attorneys for the parties and any unrepresented parties by a scheduling conference, case conference, telephone~~, mail~~ conference, or other suitable means, enter a scheduling order ~~that limits the time:~~.

~~(1) To~~ (2) **Time to Issue.** The court must issue the scheduling order as soon as practicable, but unless the court finds good cause for delay, the court must issue it within 60 days after:

(A) a Rule 16.1 case conference report has been filed; or

(B) the court waives the requirement of a case conference report under Rule 16.1(f).

(3) **Contents of the Order.**

(A) **Required Contents.** The scheduling order must limit the time to join other parties ~~and to~~, amend the pleadings~~;~~

~~(2) To file and hear motions; and~~

~~(3) To~~, complete discovery, and file motions.

(B) **Permitted Contents.** The scheduling order may ~~also include~~:

~~(4) The date or~~ (i) provide for disclosure, discovery, or preservation of electronically stored information;

(ii) direct that before moving for an order relating to discovery, the movant must request a conference with the court;

(iii) set dates for pretrial conferences ~~before trial~~, a final pretrial conference, and for trial; and

~~(5) Any~~ (iv) include any other ~~matters~~ appropriate ~~in the circumstances of the case~~matters.

~~The order shall issue as soon as practicable but in any event within 60 days after the filing of a case conference report pursuant to Rule 16.1 or an order by the discovery commissioner or the court waiving the requirement of a case conference report pursuant to Rule 16.1(f). A schedule shall not be modified except by leave of the judge or a discovery commissioner upon a showing of good cause.~~

(4) **Modifying a Schedule.** A schedule may be modified by the court for good cause.

(c) **Attendance and Subjects to Be Discussed at Pretrial Conferences.** ~~The participants at~~

(1) **Attendance.** A represented party must authorize at least one of its attorneys to make stipulations and admissions about all matters that can reasonably be anticipated for discussion at a pretrial conference. If appropriate, the court may require that a party or its representative be present or reasonably available by other means to consider possible settlement.

(2) **Matters for Consideration.** At any pretrial conference ~~under this rule~~, the court may consider and take appropriate action ~~with respect to~~on the following matters:

~~(1) The formulation~~ (A) formulating and ~~simplification of~~simplifying the issues, ~~including the elimination of~~and eliminating frivolous claims or defenses;

~~(2) The necessity or desirability of amendments to~~ (B) amending the pleadings if necessary or desirable;

~~(3) The possibility of~~ (C) obtaining admissions ~~of fact~~ and ~~of~~stipulations about facts and documents ~~which will~~to avoid unnecessary proof, ~~stipulations regarding the authenticity of documents, and~~ and ruling in advance ~~rulings from the court~~ on the admissibility of evidence;

~~(4) The avoidance of~~ (D) avoiding unnecessary proof and ~~of~~ cumulative evidence, and limiting the use of testimony under ~~NRS 50.275 and pursuant to NRS 47.060;~~NRS 47.060 and NRS 50.275;

~~(5) The~~ (E) determining the appropriateness and timing of summary adjudication under Rule 56;

~~(6) The identification of~~ (F) identifying witnesses and documents, scheduling the ~~need and schedule for~~ filing and ~~exchanging~~exchange of any pretrial briefs, and ~~the date or~~setting dates for further conferences and for trial;

~~(7) The advisability of~~ (G) referring matters to a discovery commissioner or a master;

~~(8) Settlement~~ (H) settling the case and ~~the use of~~using special procedures to assist in resolving the dispute when authorized by statute or local rule;

~~(9) The~~ (I) determining the form and ~~substance~~content of the pretrial order;

~~(10) The disposition~~ (J) disposing of pending motions;

~~(11) The need for~~ (K) adopting special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems;

~~(12) An order for~~ (L) ordering a separate trial ~~pursuant to~~under Rule 42(b) ~~with respect to~~ of a claim, counterclaim, ~~cross-~~crossclaim, third-party claim, or ~~with respect to any~~ particular issue ~~in the case~~;

~~(13) An order~~ (M) establishing a reasonable limit on the time allowed ~~for presenting~~ to present evidence; and

~~(14) Such~~ (N) facilitating in other ~~matters as may facilitate~~ways the just, speedy, and inexpensive disposition of the action.

~~At least one of the attorneys for each party participating in any conference before trial shall have authority to enter into stipulations and to make admissions regarding all matters that the participants reasonably anticipate may be discussed. If appropriate, the court may require that a party or its representative be present or reasonably available by telephone in order to consider possible settlement of the dispute.~~

~~**(d)**~~ (d) **Pretrial Orders.** After any conference under this rule, the court should issue an order reciting the action taken. This order controls the course of the action unless the court modifies it.

(e) **Final Pretrial Conference**~~. Any~~ **and Orders.** The court may hold a final pretrial conference ~~shall~~to formulate a trial plan, including a plan to facilitate the admission of evidence. The conference must be held as close to the ~~time~~start of trial as is reasonable~~ under the circumstances. The participants at any such conference shall formulate a plan for trial, including a program for facilitating the admission of evidence. The conference shall~~, and must be attended by at least one ~~of the attorneys~~ attorney who will conduct the trial for each ~~of the parties~~party and by any unrepresented ~~parties.~~

~~**(c) Pretrial Orders.** After any conference held pursuant to this rule, an order shall be entered reciting any action taken. This order shall control the subsequent course of the action unless modified by a subsequent order. The order following~~party. The court may modify the order issued after a final pretrial conference ~~shall be modified~~ only to prevent manifest injustice.

(f) ~~**Sanction.** If~~**Sanctions.**

(1) **In General.** On motion or on its own, the court may issue any just orders, including those authorized by Rule 37(b)(1), if a party or ~~party's~~its attorney~~-~~:

(A) fails to appear at a scheduling or other pretrial conference;

(B) is substantially unprepared to participate—or does not participate in good faith—in the conference; or

(C) fails to obey a scheduling or ~~pretrial order, or if no appearance is made on behalf of a party at a scheduling or~~ other pretrial ~~conference, or if a party or party's attorney is substantially unprepared to participate in the conference, or if a party or party's attorney fails to participate in good faith, the judge, upon motion or the court's own initiative, may make~~

~~such orders with regard thereto as are just, including any of the orders provided in Rule 37(b)(~~order.

(2~~)(B), (C), (D). In lieu~~) **Imposing Fees and Costs.** Instead of or in addition to any other sanction, the ~~judge shall require~~court must order the party ~~or the~~, its attorney ~~representing the party,~~ or both to pay the reasonable expenses—including attorney fees—incurred because of any noncompliance with this rule, ~~including attorney's fees,~~ unless the ~~judge finds that the~~ noncompliance was substantially justified or ~~that~~ other circumstances make an award of expenses unjust.

~~**RULE 16.1. MANDATORY PRETRIAL DISCOVERY REQUIREMENTS**~~

~~**[Applicable to all civil cases except proceedings in the Family Division of the Second and Eighth Judicial District Courts and domestic relations cases in the judicial districts without a family division.]**~~

Advisory Committee Note—2019 Amendment

Rule 16 parallels FRCP 16, with some Nevada-specific variations. Except as noted, the amendments are stylistic, not substantive.

Subsection (b). Rule 16(b)(1) continues to omit the reference in FRCP 16(b)(1)(A) to FRCP 26(f). The deadline for entry of the scheduling order in Rule 16(b)(2) differs from the federal rule and is calculated from the filing of the case conference report required by Rule 16.1 rather than from the filing of the complaint. As amended, Rule16(b) requires the district court judge to enter the scheduling order. Rule 16(b)(3)(B) omits sections (i), (ii), and (iv) from its federal counterpart and renumbers the remaining sections.

Subsection (c). Rule 16(c) conforms to the federal rule, except that Nevada has not adopted FRCP 16(c)(2)(F) and (N). The remaining sections of the rule have been renumbered.

Rule 16.1. Mandatory Pretrial Discovery Requirements

(a) **Required Disclosures.**

(1) **Initial ~~Disclosures.~~Disclosure.**

(A) **In General.** Except ~~in proceedings~~as exempted by Rule 16.1(a)(1)(B) or ~~to the extent~~as otherwise stipulated or ~~directed~~ordered by ~~order~~the court, a party must, without awaiting a discovery request, provide to the other parties:

~~(A) The~~ (i) the name and, if known, the address and telephone number of each individual likely to have information discoverable under Rule 26(b), including for impeachment or rebuttal, identifying the subjects of the information;

~~(B) A~~ (ii) a copy ~~of,~~ or a description by category and location ~~of~~, all documents, ~~data compilations~~electronically stored information, and tangible things that ~~are~~the disclosing party has in ~~the~~its possession, custody, or control ~~of~~and may use to support its claims or defenses, including for impeachment or rebuttal, and, unless privileged or protected from disclosure, any record, report, or witness statement, in any form, concerning the ~~party and which are discoverable under Rule 26(b);~~incident that gives rise to the lawsuit;

~~(C) A~~ (iii) when personal injury is in issue, the identity of each relevant medical provider so that the opposing party may prepare an appropriate medical authorization for signature to obtain medical records from each provider;

(iv) a computation of ~~any~~each category of damages claimed by the disclosing party~~, making~~ who must make available for inspection and copying as under Rule 34 the documents or other evidentiary

~~matter, not~~material, unless privileged or protected from disclosure, on which ~~such~~each computation is based, including materials bearing on the nature and extent of injuries suffered; and

~~(D) For~~ (v) for inspection and copying as under Rule 34, any insurance agreement under which ~~any person carrying on~~ an insurance business may be liable to satisfy all or part ~~or all~~ of a possible judgment ~~which may be entered~~ in the action or to indemnify or reimburse for payments made to satisfy the judgment and any disclaimer or limitation of coverage or reservation of rights under any such insurance agreement.

~~These~~ (B) **Proceedings Exempt From Initial Disclosure.** The following proceedings are exempt from initial disclosure:

(i) an action within the original, exclusive jurisdiction of the family court, irrespective of whether the district court actually has a separate family court or division;

(ii) an action filed under NRS Title 12 or 13;

(iii) an appeal from a court of limited jurisdiction;

(iv) an action for review on an administrative record;

(v) a forfeiture action in rem arising from a statute;

(vi) a petition for habeas corpus or any other proceeding to challenge a criminal conviction or sentence;

(vii) an action to enforce or quash an administrative summons or subpoena;

(viii) a proceeding ancillary to a proceeding in another court;

(ix) an action to enforce an arbitration award; and

(x) any other action that is not brought against a specific individual or entity.

(C) **Time for Initial Disclosures—In General.** A party must make the initial disclosures ~~must be made~~ at or within 14 days after the parties' Rule 16.1(b) conference unless a different time is set by stipulation or court order, or unless a party objects during the conference that initial disclosures are not appropriate in ~~the circumstances of the~~this action and states the objection in the Rule 16.1(c) case conference report. In ruling on the objection, the court must determine what disclosures~~—~~, if any~~—~~, are to be made~~,~~ and must set the time for disclosure. ~~Any party~~

(D) **Time for Initial Disclosures—For Parties Served or Joined Later.** A party that is first served or otherwise joined after the Rule 16.1(b) conference must make ~~these~~the initial disclosures within 30 days after ~~being served or joined~~filing an answer or a motion under Rule 12, unless a different time is set by stipulation or court order.

(E) **Basis for Initial Disclosure; Unacceptable Excuses.** A party must make its initial disclosures based on the information then reasonably available to it ~~and~~. A party is not excused from making its disclosures because it has not fully ~~completed its investigation of~~investigated the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures.

(2) **Disclosure of Expert Testimony.**

(A) **In General.** In addition to the disclosures required by ~~paragraph (~~Rule 16.1(a)(1), a party ~~shall~~must disclose to the other parties the identity of any ~~person who~~witness it may ~~be used~~use at trial to present evidence under NRS 50.275, 50.285, and 50.305.

(B) ~~Except as~~**Witnesses Who Must Provide a Written Report.** Unless otherwise stipulated or ~~directed~~ordered by the court, this disclosure ~~shall, with respect to a witness who is~~must be accompanied by a

written report—prepared and signed by the witness—if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as ~~an~~the party's employee ~~of the party~~ regularly involve giving expert testimony~~, be accompanied by a written report prepared and signed by the witness.~~. The ~~court, upon good cause shown or by stipulation of the parties, may relieve a party of the duty to prepare a written~~ report ~~in an appropriate case. The report shall~~must contain~~:~~

(i) a complete statement of all opinions ~~to be expressed~~the witness will express, and the basis and reasons ~~therefor;~~ for them;

(ii) the facts or data ~~or other information~~ considered by the witness in forming ~~the opinions;~~ them;

(iii) any exhibits ~~to~~that will be used ~~as a summary of~~to summarize or support ~~for~~ them;

(iv) the ~~opinions; the~~ witness's qualifications ~~of the witness~~, including a list of all publications authored ~~by~~in the ~~witness within the preceding 10~~previous ten years; ~~the compensation to be paid for the study and testimony; and a listing of any~~

(v) a list of all other cases in which, during the previous four years, the witness ~~has~~ testified as an expert at trial or by deposition ~~within the preceding four years.~~; and

(vi) a statement of the compensation to be paid for the study and testimony in the case.

(C) **Witnesses Who Do Not Provide a Written Report.** Unless otherwise stipulated or ordered by the court, if the witness is not required to provide a written report, ~~the initial~~this disclosure must state~~:~~

(i) the subject matter on which the witness is expected

to present evidence under NRS 50.275, 50.285, and 50.305;

(ii) a summary of the facts and opinions to which the witness is expected to testify;

(iii) the qualifications of that witness to present evidence under NRS 50.275, 50.285, and 50.305, which may be satisfied by the production of a ~~resume~~résumé or curriculum vitae; and

(iv) the compensation of the witness for providing testimony at deposition and trial, which is satisfied by production of a fee schedule.

(D) **Treating Physicians.**

(i) **Status.** A treating physician who is retained or specially employed to provide expert testimony in the case, or whose duties as the party's employee regularly involve giving expert testimony on behalf of the party, must provide a written report under Rule 16.1(a)(2)(B). Otherwise, a treating physician who is properly disclosed under Rule 16.1(a)(2)(C) ~~These~~ may be deposed or called to testify without providing a written report. A treating physician is not required to provide a written report under Rule 16.1(a)(2)(B) solely because the physician's testimony may discuss ancillary treatment, or the diagnosis, prognosis, or causation of the patient's injuries, that is not contained within the physician's medical chart, as long as the content of such testimony is properly disclosed under Rule 16.1(a)(2)(C)(i)-(iv).

(ii) **Change in Status.** A treating physician will be deemed a retained expert witness subject to the written report requirement of Rule 16.1(a)(2)(B) if the party is asking the treating physician to provide opinions outside the course and scope of the treatment provided to the patient.

(iii) **Disclosure.** The disclosure regarding a non-retained treating physician must include the information identified in Rule

16.1(a)(2)(C), to the extent practicable. In that regard, appropriate disclosure may include that the physician will testify in accordance with his or her medical chart, even if some records contained therein were prepared by another healthcare provider.

(E) **Time to Disclose Expert Testimony.**

(i) A party must make these disclosures ~~shall be made~~ at the times and in the sequence ~~directed by~~that the court~~.~~

~~(i) In the absence of extraordinary circumstances, and except as~~ orders. Absent a stipulation or a court order otherwise ~~provided in subdivision (2), the court shall direct that~~ , the disclosures ~~shall~~must be made :

(a) at least 90 days before the discovery cut-off date~~.~~; or

~~(ii) If~~ (b) if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under ~~paragraph (~~Rule 16.1(a)(2)(B), ~~the disclosures shall be made~~(C), or (D), within 30 days after the other party's disclosure ~~made by the other party. This later~~.

(ii) The disclosure deadline under Rule 16.1(a)(2)(E)(i)(b) does not apply to any party's witness whose purpose is to contradict a portion of another party's case in chief that should have been expected and anticipated by the disclosing party, or to present any opinions outside of the scope of another party's disclosure.

~~(D)~~ (F) **Supplementing the Disclosure.**

(i) **In General.** The parties must supplement these disclosures when required under Rule 26(e~~)(1~~).

(ii) **Non-Retained Experts.** A non-retained expert, who is not identified at the time the expert disclosures are due, may be

subsequently disclosed in accordance with Rule 26(e). In general, the disclosing party must move to reopen the discovery deadlines or otherwise seek leave of court in order to supplementally disclose a non-retained expert. However, supplementation may be made without first moving to reopen the expert disclosure deadlines or otherwise seeking leave of court, if such disclosure is made:

(a) in accordance with Rule 16.1(a)(2)(C);

(b) within a reasonable time after the non-retained expert's opinions become known to the disclosing party; and

(c) not later than 21 days before the close of discovery.

(3) **Pretrial Disclosures.**

(A) **In General.** In addition to the disclosures required by Rule 16.1(a)(1) and (2), a party must provide to the other parties and promptly file the following information ~~regarding~~about the evidence that it may present at trial, including impeachment and rebuttal evidence:

~~(A) The~~ (i) the name and, if not previously provided, the address and telephone number of each witness~~,~~ separately identifying those ~~whom~~ the party expects to present, those witnesses who have been subpoenaed for trial, and those ~~whom the party~~it may call if the need arises;

~~(B) The~~ (ii) the designation of those witnesses whose testimony ~~is expected~~the party expects to ~~be presented~~present by ~~means of a~~ deposition and, if not taken stenographically, a transcript of the pertinent ~~portions~~parts of the deposition ~~testimony~~; and

~~(C) An appropriate~~ (iii) an identification of each document or other exhibit, including summaries of other evidence~~,~~ separately identifying those ~~which~~items the party expects to offer and those ~~which the~~

~~party~~it may offer if the need arises.

(B) **Time for Pretrial Disclosures; Objections.**

(i) Unless the court orders otherwise ~~directed by the court~~, these disclosures must be made at least 30 days before trial.

(ii) Within 14 days ~~thereafter~~after they are made, unless the court sets a different time ~~is specified by the court, ~~, a party may serve and promptly file a list ~~disclosing (i)~~ of the following objections:

(a) any objections to the use under Rule 32(a) of a deposition designated by another party under ~~subparagraph (B),~~Rule 16.1(a)(3)(A)(ii); and ~~(ii)~~

(b) any objection, together with the grounds ~~therefor~~for it, that may be made to the admissibility of materials identified under ~~subparagraph (C). Objections~~Rule 16.1(a)(3)(A)(iii).

(iii) An objection not so ~~disclosed, other than objections~~made—except for one under NRS 48.025 and 48.035~~, shall be deemed~~—is waived unless excused by the court for good cause ~~shown~~.

(4) **Form of Disclosures.** Unless the court orders otherwise, all disclosures under ~~Rules~~Rule 16.1(a~~)(1) through (3~~) must be ~~made~~ in writing, signed, and served.

(b) ~~**Meet and Confer Requirements.**~~

~~**(1) Attendance at**~~

Early Case Conference~~. Unless~~**; Discovery Plan.** Except as otherwise stated in this rule, all parties who have filed a pleading in the action must participate in an early case conference.

(1) **Exceptions.** Parties are not required to participate in an early case conference if:

(A) the case is ~~in~~ exempt from the initial disclosure

requirements under Rule 16.1(a)(1)(B);

(B) the case is subject to arbitration under Rule 3(A) of the Nevada Arbitration Rules (NAR) and an exemption from arbitration under NAR 5 has been requested but not decided by the court or the commissioner appointed under NAR 2(c);

(C) the case is in the court-annexed arbitration program ~~or~~ ;

(D) the case has been through arbitration and the parties have requested a trial de novo under the NAR;

(E) the case is in the short trial program~~,~~ ; or

(F) the court has entered an order excusing compliance with this requirement.

(2) **Timing.**

(A) **In General.** The early case conference must be held within 30 days after service of an answer by the first answering defendant~~, and thereafter, if requested by a subsequent answering party, the parties shall meet in person to confer and~~ . All parties who have served initial pleadings must participate in the first case conference. If a new party serves its initial pleading after the first case conference, a supplemental case conference must be held within 30 days after service by any party of a written request for a supplemental conference; otherwise, a supplemental case conference is not required.

(B) **Continuances.** The parties may agree to continue the time for the early case conference or a supplemental case conference for an additional period of not more than 90 days. The court, for good cause shown, may also continue the time for any case conference. Absent compelling and extraordinary circumstances, neither the court nor the parties may extend the time for the early case conference involving a particular defendant to a date

more than 180 days after service of the first answer by that defendant.

(3) **Attendance.** A party may attend the case conference in person or by using audio or audiovisual transmission equipment that permits all those appearing or participating to hear and speak to each other, provided that all conversation of all parties is audible to all persons participating. The court may order the parties or attorneys to attend the conference in person.

(4) **Responsibilities.**

(A) **Scheduling.** Unless the parties agree or the court orders otherwise, the plaintiff is responsible for designating the time and place of each conference.

(B) **Content.** At each conference, the parties must do the following:

(i) consider the nature and basis of their claims and defenses ~~and~~;

(ii) consider the possibilities for a prompt settlement or resolution of the case~~, to~~ ;

(iii) make or arrange for the disclosures required by ~~subdivision~~ Rule 16.1(a)(1~~)~~);

(iv) disclose the name of ~~this rule~~each relevant medical provider for each person whose injury is in issue and provide an appropriate signed medical authorization to obtain medical records from each provider, unless an authorization has been given under Rule 16.1(a)(1)(A)(iii);

(v) discuss any issues about preserving and producing discoverable information, including electronically stored information;

(vi) discuss any issues concerning disclosure of trade secrets or other confidential information and whether the parties agree on the need for and form of a confidentiality order or if a motion for a protective order

under Rule 26(c) will be necessary to resolve such issues; and

(vii) develop a proposed discovery plan ~~pursuant to subdivision (b)(2). The attorney for the plaintiff shall designate the time and place of each meeting which must be held in the county where the action was filed, unless the parties agree upon a different location. The attorneys may agree to continue the time for the case conference for an additional period of not more than 90 days.~~ under Rule 16.1(b)(4)(C).

(C) **Discovery Plan.** The ~~court, in its discretion and for good cause shown, may also continue the time for the conference. Absent compelling and extraordinary circumstances, neither the court nor the parties may extend the time to a date more than 180 days after an answer is served by the defendant in question.~~

~~Unless otherwise ordered by the court or the discovery commissioner, parties to any case wherein a timely trial de novo request has been filed subsequent to an arbitration need not hold a further in-person conference, but must file a joint case conference report pursuant to subdivision (c) of this rule within 60 days from the date of the de novo filing, said report to be prepared by the party requesting the trial de novo.~~

~~**(2) Planning for Discovery.** The parties shall develop a~~ discovery plan ~~which shall indicate~~must state the parties' views and proposals ~~concerning~~on:

~~(A) What~~ (i) what changes should be made in the timing, form, or requirement for disclosures under Rule 16.1(a), including a statement as to when disclosures under Rule 16.1(a)(1) were made or will be made;

~~(B) The~~ (ii) the subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused ~~upon~~on particular issues;

~~(C) What~~ (iii) any issues about disclosure, discovery, or preservation of electronically stored information, including the form or forms in which it should be produced;

(iv) any issues about claims of privilege or of protection as trial-preparation materials, including—if the parties agree on a procedure to assert these claims after production—whether to ask the court to include their agreement in an order;

(v) what changes should be made in the limitations on discovery imposed under these rules and what other limitations should be imposed;

~~(D) Any~~ (vi) any other orders that should be entered by the court under Rule 26(c) or under Rule 16(b) and (c); and

~~(E) An~~ (vii) an estimated time for trial.

(c) **Case Conference Report.**

(1) **In General.**

(A) **Joint or Individual Report.** Within 30 days after each case conference, the parties must file a joint case conference report, or~~,~~ if the parties are unable to agree upon the contents of a joint report, each party must serve and file ~~a~~ an individual case conference report ~~which, either as a joint or individual~~ .

(B) **After Supplemental Case Conference.** After a supplemental case conference, the parties must supplement, but need not repeat, the contents of former reports. Notwithstanding the filing of a supplemental case conference report, deadlines set forth in an existing scheduling order remain in effect unless the court modifies the discovery deadlines.

(C) **After Court-Annexed Arbitration.** Unless otherwise

ordered by the court, parties to any case in which a timely request for a trial de novo is filed after arbitration need not hold a further in-person conference, but must file a joint case conference report within 60 days from the date that the request for trial de novo is filed. The report must be prepared by the party filing the request for the trial de novo, unless otherwise stipulated or ordered.

(2) **Content.** Whether a case conference report is filed jointly or individually, it must contain:

~~(1)~~ (A) a brief description of the nature of the action and each claim for relief or defense;

~~(2) A~~ (B) a brief statement of whether the parties did or did not consider settlement and whether settlement of the case may be possible;

(C) a proposed plan and schedule of any additional discovery ~~pursuant to subdivision~~ under Rule 16.1(b)(~~2) of this rule;~~4)(C);

~~(3) A~~ (D) a written list of names exchanged ~~pursuant to subdivision~~ under Rule 16.1(a)(1)(A~~) of this rule;~~)(i);

~~(4) A~~ (E) a written list of all documents provided at or as a result of the case conference ~~pursuant to subdivision~~ under Rule 16.1(a)(1)(~~B) of this rule;~~A)(ii);

~~(5)~~ (F) a written list of the medical providers identified under Rule 16.1(a)(1)(A)(iii);

(G) a statement of the damages computations disclosed under Rule 16.1(a)(1)(A)(iv);

(H) a written list of the insurance agreements disclosed under Rule 16.1(a)(1)(A)(v);

(I) a written list of experts disclosed under Rule 16.1(a)(2), and a statement indicating whether the identified experts will provide or have

provided expert reports;

(J) a statement identifying any issues about preserving discoverable information;

(K) a statement identifying any issues about trade secrets or other confidential information, and whether the parties have agreed upon a confidentiality order or whether a Rule 26(c) motion for a protective order will be made;

(L) a calendar date on which discovery will close;

~~(6) A~~ (M) a calendar date, not later than 90 days before the close of discovery, beyond which the parties ~~shall be~~are precluded from filing motions to amend the pleadings or to add parties unless by court order;

~~(7) A~~ (N) a calendar date by which the parties will make expert disclosures ~~pursuant to subdivision~~ under Rule 16.1(a)(2), with initial disclosures to be made not later than 90 days before the discovery cut-off date and rebuttal disclosures to be made not later than 30 days after the initial disclosure of experts;

~~(8) A~~ (O) a calendar date, not later than 30 days after the discovery cut-off date, by which dispositive motions must be filed;

~~(9) An~~ (P) an estimate of the time required for trial; and

~~(10) A~~ (Q) a statement as to whether ~~or not~~ a jury demand has been filed.

~~After any subsequent case conference, the parties must supplement, but need not repeat, the contents of prior reports.~~ (3) **Objections.** Within 7 days after service of any case conference report, any other party may file a response ~~thereto objecting~~in which it objects to all or a ~~portion~~part of the report or ~~adding~~adds any other matter ~~which~~that is necessary to properly reflect the proceedings ~~occurring~~that occurred at the case conference.

(d) **Automatic Referral of Discovery Disputes.**

~~(1)~~ Where available or unless otherwise ordered by the court, all discovery disputes (except those presented at the pretrial conference or trial) must first be heard by the discovery commissioner under Rule 16.3.

~~(2) Following each discovery motion before a discovery commissioner, the commissioner must prepare and file a report with the commissioner's recommendations for a resolution of each unresolved dispute. The commissioner may direct counsel to prepare the report. The clerk of the court shall forthwith serve a copy of the report on all parties. Within 5 days after being served with a copy, any party may serve and file written objections to the recommendations. Written authorities may be filed with an objection, but are not mandatory.~~

~~(3) Upon receipt of a discovery commissioner's report and any objections thereto, the court may affirm, reverse or modify the commissioner's ruling, set the matter for a hearing, or remand the matter to the commissioner for further action, if necessary.~~

(e) **Failure or Refusal to Participate in Pretrial Discovery; Sanctions.**

(1) **Untimely Case Conference.** If the conference described in Rule 16.1(b) is not held within 180 days after service of an answer by a defendant, the court, on motion or on its own, may dismiss the case ~~may be dismissed~~ as to that defendant ~~upon motion or on the court's own initiative~~, without prejudice, unless there are compelling and extraordinary circumstances for a continuance beyond this period. This provision does not apply to a defendant who serves its answer after the first case conference, unless a party has served a written request for a supplemental conference in accordance with Rule 16.1(b)(2)(A).

(2) **Untimely Case Conference Report.** If the plaintiff does not file a case conference report within 240 days after service of an answer by a defendant, the court, on motion or on its own, may dismiss the case ~~may be dismissed~~ as to that defendant ~~upon motion or on the court's own initiative~~, without prejudice. This provision does not apply to a defendant who serves its answer after the first case conference, unless a party has served a written request for a supplemental conference in accordance with Rule 16.1(b)(2)(A).

(3) **Other Grounds for Sanctions.** If an attorney fails to reasonably comply with any provision of this rule, or if an attorney or a party fails to comply with an order entered ~~pursuant to subsection (d) of this rule~~under Rule 16.3, the court, ~~upon~~on motion or ~~upon~~on its own ~~initiative,~~ ~~shall~~, should impose upon a party or a party's attorney, or both, appropriate sanctions in regard to the failure(s) as are just, including the following:

(A) ~~An~~any of the sanctions available ~~pursuant to Rule~~under Rules 37(b~~)(2~~) and ~~Rule~~ 37(f); or

(B) ~~An~~an order prohibiting the use of any witness, document, or tangible thing ~~which~~that should have been disclosed, produced, exhibited, or exchanged ~~pursuant to~~under Rule 16.1(a).

(f) **Complex Litigation.** In a potentially difficult or protracted action that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems, the court may, upon motion and for good cause shown, waive any or all of the requirements of this rule. If the court waives all the requirements of this rule, it ~~shall~~must also order a conference ~~pursuant to~~under Rule 16 to be conducted by the court ~~or the discovery commissioner~~.

(g) ~~**Proper Person**~~**Self-Represented Litigants.** ~~When a~~The requirements of this rule apply to any self-represented party.

~~**Rule 16.2. Mandatory Prejudgment Discovery Requirements in**~~

~~**Domestic Relations Matters**~~

Advisory Committee Note—2019 Amendment

Subsection (a). Rule 16.1(a) borrows language but differs in key respects from its federal counterpart, FRCP 26(a). Rule 16.1(a)(1)(A)(i) retains Nevada's initial disclosure requirement as to witnesses, which is broader than the federal rule in that it reaches witnesses with knowledge relevant to impeachment or rebuttal. Rule 16.1(a)(1)(A)(ii) incorporates language from the federal rule requiring that a party disclose materials that it may use to support its claims or defenses. However, the disclosure requirement also includes any record, report, or witness statement in any form, including audio or audiovisual form, concerning the incident that gives rise to the lawsuit. The initial disclosure requirement of a "record" or "report" under Rule 16.1(a)(1)(A)(ii) includes but is not limited to: incident reports, records, logs and summaries, maintenance records, former repair and inspection records and receipts, sweep logs, and any written summaries of such documents. Documents identified or produced under Rule 16.1(a)(1)(A)(ii) should include those that are prepared or exist at or near the time of the subject incident. The reasonable time required for production of such documents will depend on the facts and circumstances of each case. A party who seeks to avoid disclosure based on privilege must provide a privilege log.

Rule 16.1(a)(1)(A)(iii) is new. An "appropriate" authorization must comply with the federal Health Insurance Portability and Accountability Act, or HIPAA.

Rule 16.1(a)(1)(B) includes a list of case types that are exempt from the initial disclosure requirements. Family law actions are subject to the mandatory disclosure requirements of Rule 16.2 and Rule 16.205. Probate proceedings are exempted from these requirements as an initial matter; but

under NRS 155.170 and 155.180, courts remain free to apply these provisions as they deem appropriate.

Rule 16.1(a)(2) incorporates the federal rule requirement that the report of a retained expert witness disclose "the facts or data considered by the witness" in forming his or her opinions. The former language—"the data or other information considered by the witness"—has been construed broadly by most federal courts to include drafts of expert reports and virtually any communications between counsel and the expert. The new language avoids that result. The 2019 amendments do not abrogate the 2012 drafter's notes to Rule 16.1.

Rule 16.1(a)(2)(E) has been revised to include cases in which simultaneous disclosure of expert testimony may not be appropriate. In such a case, if the parties are unable to stipulate to the timing of such disclosures, either or both may seek a court order to schedule the disclosures of each expert.

An initial expert may also serve as a rebuttal expert and offer rebuttal opinions so long as those opinions are disclosed at the time of the rebuttal expert disclosure, or as a required supplement in accordance with Rule 26(e)(2).

Unlike its federal counterpart, Rule 16.1(a)(3)(A)(i) retains the requirement that a party's pretrial disclosures identify those witnesses who have been subpoenaed for trial.

Subsection (b). The amendments reorganize Rule 16.1(b) in the style of the federal rules. Rule 16.1(b)(1) is new, and it specifies the circumstances when a case conference is not required. Rule 16.1(b)(2) contains new provisions addressing the timing of supplemental case conferences. Rule 16.1(b)(3) makes clear that parties are not required to attend a case conference in person, although the court can order attendance. Rule 16.1(b)(4) includes the federal

requirements that parties discuss and address issues pertaining to the preservation of discoverable information, including electronically stored information, and issues pertaining to privilege and work-product claims (e.g., inadvertent disclosure).

Subsections (c), (d), (e), and (g). The changes in Rules 16.1(c) and 16.1(e) are stylistic. The amendments relocate the report and recommendation, objection, response, and review sections of the former NRCP 16.1(d) into Rule 16.3. Rule 16.1(g) has been reworded for enhanced clarity.

Drafter's Notes—2012 Amendment

[Subsection (a)(2)(C)] specifies the information that must be included in a disclosure of expert witnesses who are not otherwise required to provide detailed written reports. A treating physician is not a retained expert merely because the patient was referred to the physician by an attorney for treatment. These comments may be applied to other types of non-retained experts by analogy. In the context of a treating physician, appropriate disclosure may include that the witness will testify in accordance with his or her medical chart, even if some records contained therein were prepared by another healthcare provider. A treating physician is not a retained expert merely because the witness will opine about diagnosis, prognosis, or causation of the patient's injuries, or because the witness reviews documents outside his or her medical chart in the course of providing treatment or defending that treatment. However, any opinions and any facts or documents supporting those opinions must be disclosed in accordance with [subsection (a)(2)(C)].

Rule 16.2. Mandatory Prejudgment Discovery Requirements in Family Law Actions (Not Including Paternity or Custody Actions

Between Unmarried Persons)

(a) **Applicability.** This rule ~~applies to~~replaces Rule 16.1 in all divorce, annulment, separate maintenance, and dissolution of domestic partnership actions. Nothing in this rule ~~shall preclude~~precludes a party from conducting discovery ~~pursuant to the Nevada Rules~~under any other of ~~Civil Procedure~~these rules.

(b) **Exemptions.**~~-~~

(1) Either party may file a motion for exemption~~; the~~ from all or a part of this rule.

(2) The court may, sua sponte at the case management conference, exempt all or any portion of a case from application of this rule, in whole or in part, upon a finding of good cause, so long as the exemption is contained in an order of the court. Without limiting the foregoing, good cause may include any case where the parties have negligible assets and debts together with no minor children of the parties.

(c) **Financial Disclosure Forms.**

(1) **General Financial Disclosure Form~~ (GFDF).~~.** In all actions governed by this rule, each party must complete, file, and serve a General Financial Disclosure Form (GFDF~~)~~), Form 4 in the Appendix of Forms, within 30 days of service of the ~~Complaint~~summons and complaint, unless a Detailed Financial Disclosure Form (DFDF), Form 5 in the Appendix of Forms, is required in accordance with Rule 16.2(c)(2) or the court orders the parties, at the case management conference, to complete the ~~Detailed Financial Disclosure Form~~DFDF.

(2) **Detailed Financial Disclosure Form~~ (DFDF). If the Plaintiff~~.**

(A) The plaintiff, concurrently with the filing of the ~~Complaint~~complaint, or the ~~Defendant~~defendant, concurrently with the filing of the ~~Answer~~answer, but no later than ~~15~~14 days after the filing of the ~~Answer, files the "~~answer, may file a Request to Opt-in to Detailed Financial Disclosure Form and Complex Litigation Procedure~~"~~, Form 6 in the Appendix of Forms, certifying that:

~~(A) Either~~ (i) either party's individual gross income, or the combined gross income of the parties, is more than $250,000 per year; or

~~(B) Either~~ (ii) either party is self-employed or the owner, partner, managing or majority shareholder, or managing or majority member of a business; or

~~(C) The~~ (iii) the combined gross value of the assets owned by either party individually or in combination is more than $1,000,000~~;~~. ~~then each party must file the DFDF within~~ (B) Within 45 days of service of ~~the~~a Request to Opt-in, each party must file the DFDF unless otherwise ordered by the court or stipulated by the parties. ~~The~~

(C) If a Request to Opt-in is filed, the case ~~shall then be~~is subject to the ~~Complex Divorce Litigation Procedures, which requires that each party~~following complex divorce litigation procedure. Each party must prepare a ~~Complex Divorce Litigation Plan~~complex divorce litigation plan that ~~shall~~must be filed and served as part of the ~~Early Case Conference Report.~~early case conference report. The plan ~~shall~~must include, in addition to the requirements of Rule 16.2(~~i~~j), any and all proposals concerning the time, manner, and place for needed discovery, proposed conferences and anticipated hearings with the court, and any other special arrangements focused on prompt settlement, trial, or resolution of the case.

(d) **Mandatory Initial Disclosures.** ~~(d) **Mandatory**~~

(1) **Initial ~~Disclosures.~~ Disclosure Requirements.**

(A) Concurrently with the filing of the ~~Financial Disclosure Forms~~financial disclosure form, each party must, without awaiting a discovery request, serve upon the other party written and signed disclosures containing the ~~following~~ information~~:~~

~~**(1) Evidence Supporting Financial Disclosure Form.** For each line item on the GFDF or DFDF, if not already evidenced by the other disclosures required herein, the financial statement(s), document(s), receipt(s), or other information or evidence relied upon to support the figure represented on the form. If no documentary evidence exists, an explanation~~ listed in ~~writing of how the figure was calculated.~~

~~(~~Rule 16.2~~) Evidence of Property, Income,~~(d)(2) and ~~**Earnings as to Both Parties.**~~ (3).

(B) A party must make these initial disclosures based on the information then reasonably available to that party and is not excused from making the disclosures because~~.~~:

(i) the party has not fully completed an investigation of the case~~, because~~ ;

(ii) the party challenges the sufficiency of another party's disclosures~~,~~; or ~~because~~

(iii) another party has not made the required disclosures.

(C) For each ~~requirement~~item set forth in Rule 16.2(d)(~~2)(A) through (P~~3), if the disclosing party is not in possession of the documents, the disclosing party must identify each such asset or debt that exists and disclose where information pertaining to each asset or debt may be found. If no such asset or debt exists, the disclosing party must specifically so state.

(2) **Evidence Supporting Financial Disclosure Form.** For each line item on the GFDF or DFDF, if not already evidenced by the other initial disclosures required herein, a party must provide the financial statement(s), document(s), receipt(s), or other information or evidence relied upon to support the figure represented on the form. If no documentary evidence exists, a party must provide an explanation in writing of how the figure was calculated.

(3) **Evidence of Property, Income, and Earnings as to Both Parties.**

(A) **Bank and Investment Statements.** ~~Copies~~A party must provide copies of all monthly or periodic bank, checking, savings, brokerage, investment, cryptocurrency, and security account statements in which any party has or had an interest for the period commencing 6 months ~~prior to~~before the service of the ~~Summons~~summons and ~~Complaint~~complaint through the date of the disclosure~~;~~.

(B) **Credit Card and Debt Statements.** ~~Copies~~A party must provide copies of credit card statements and debt statements for all parties for all months for the period commencing 6 months ~~prior to~~before the service of the ~~Summons~~summons and ~~Complaint~~complaint through the date of disclosure~~;~~.

(C) **Real Property.** ~~Copies~~A party must provide copies of all deeds, deeds of trust, purchase agreements, escrow documents, settlement sheets, and all other documents that disclose the ownership, legal description, purchase price, and encumbrances of all real property owned by any party~~;~~.

(D) **Property Debts.** ~~Copies~~A party must provide copies of all monthly or periodic statements and documents showing the balances owing on all mortgages, notes, liens, and encumbrances outstanding against all real

property and personal property in which the party has or had an interest for the period commencing 6 months ~~prior to~~before the service of the ~~Summons~~summons and ~~Complaint~~complaint through the date of the disclosure; or if no monthly or quarterly statements are available during this time period, the most recent statements or documents that disclose the information~~;~~.

(E) **Loan Applications.** ~~Copies~~A party must provide copies of all loan applications that a party has signed within 12 months ~~prior to~~before the service of the ~~Summons~~summons and ~~Complaint~~complaint through the date of the disclosure~~;~~.

(F) **Promissory Notes.** ~~Copies~~A party must provide copies of all promissory notes under which a party either owes money or is entitled to receive money~~;~~.

(G) **Deposits.** ~~Copies~~A party must provide copies of all documents evidencing money held in escrow or by individuals or entities for the benefit of either party~~;~~.

(H) **Receivables.** ~~Copies~~A party must provide copies of all documents evidencing loans or monies due to either party from individuals or entities~~;~~.

(I) **Retirement and Other Assets.** ~~Copies~~A party must provide copies of all monthly or periodic statements and documents showing the value of all pension, retirement, stock option, and annuity balances, including individual retirement accounts, 401(k) accounts, and all other retirement and employee benefits and accounts in which any party has or had an interest for the period commencing 6 months ~~prior to~~before the service of the ~~Summons~~summons and ~~Complaint~~complaint through the date of the disclosure; or if no monthly or quarterly statements are available during this

time period, the most recent statements or documents that disclose the information~~;~~.

(J) **Insurance.** ~~Copies~~A party must provide copies of all monthly or periodic statements and documents showing the cash surrender value, face value, and premiums charged for all life insurance policies in which any party has or had an interest for the period commencing 6 months ~~prior to~~before the service of the ~~Summons~~summons and ~~Complaint~~complaint through the date of the disclosure; or if no monthly or quarterly statements are available during this time period, the most recent statements or documents that disclose the information~~;~~.

(K) **Insurance Policies.** ~~Copies~~A party must provide copies of all policy statements and evidence of costs of premiums for health and life insurance policies covering either party or any child of the relationship~~;~~.

(L) **Values.** ~~Copies~~A party must provide copies of all documents that may assist in identifying or valuing any item of real or personal property in which any party has or had an interest for the period commencing 6 months ~~prior to~~before the service of the ~~Summons~~summons and ~~Complaint~~complaint through the date of the disclosure, including any documents that the party may rely upon in placing a value on any item of real or personal property (i.e., appraisals, estimates, or official value guides~~);~~).

(M) **Tax Returns.** ~~Copies~~A party must provide copies of all personal and business tax returns, balance sheets, profit and loss statements, and all documents that may assist in identifying or valuing any business or business interest for the last 5 completed calendar or fiscal years with respect to any business or entity in which any party has or had an interest within the past 12 months~~;~~.

(N) **Proof of Income.** ~~Proof~~A party must provide proof of income of the party from all sources, specifically including W-2, 1099, and K-1 forms, for the past 2 completed calendar years, and year-to-date income information (paycheck stubs, etc.) for the period commencing 6 months ~~prior to~~before the service of the ~~Summons~~summons and ~~Complaint~~complaint through the date of the disclosure~~; and~~.

(O) **Personalty.** A party must provide a list of all items of personal property with an individual value exceeding $200, including, but not limited to, household furniture, furnishings, antiques, artwork, vehicles, jewelry, coins, stamp collections, and similar items in which any party has an interest, together with the party's estimate of current fair market value (not replacement value) for each item.

(P) **Exhibits.** ~~A~~A party must provide a copy of every other document or exhibit, including summaries of other evidence, that a party expects to offer as evidence at trial in any manner.

~~(3~~

(e) **Additional Discovery and Disclosures.**

(1) **Obtaining Discovery.** Any party may obtain discovery by one or more methods provided in Rules 26 through 36, commencing 30 days after service of the ~~Complaint~~summons and complaint.

(~~4~~2) **Additional Discovery.** Nothing in the minimum requirements of this rule ~~shall preclude~~provides a basis for objecting to relevant additional discovery in accordance with ~~the Nevada Rules of Civil Procedure~~these rules.

(~~5~~3) **Disclosure of Expert Witness and Testimony.**~~-~~

(A) A party ~~shall~~must disclose the identity of any person who may be used at trial to present evidence ~~pursuant to~~under NRS 50.275, 50.285,

and 50.305. These disclosures must be made within 90 days after the initial financial disclosure form is required to be filed and served under Rule 16.2(c) or, if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party, within 21 days after the disclosure made by the other party. The parties ~~shall~~must supplement these disclosures when required under Rule 26(e)(1).

(~~A~~B) Except as otherwise stipulated or directed by the court, a party who retains or specially employs a witness to provide expert testimony in the case, or whose duties as an employee of the party regularly involve giving expert testimony, ~~shall~~must deliver to the opposing party a written report prepared and signed by the witness within 60 days of the close of discovery. The court, upon good cause shown or by stipulation of the parties, may extend the deadline for exchange of the expert reports or relieve a party of the duty to prepare a written report in an appropriate case. The report ~~shall~~must contain a complete statement of all opinions to be expressed and the basis and reasons therefor, the data or other information considered by the witness in forming the opinions, any exhibits to be used as a summary of or support for the opinions, and the qualifications of the witness.

(~~6~~4) **Nonexpert Witness.** ~~The~~A party must disclose the name and, if known, the address and telephone number of each individual who has information or knowledge relevant to the value of assets or debts or to the claims or defenses set forth in the pleadings, or who may be called as a witness, at any stage of the proceedings, including for impeachment or rebuttal, identifying the subjects of the information and a brief description of the testimony for which the individual may be called. Absent a court order or written stipulation of the parties, a party ~~shall~~must not be allowed to call a witness at trial who has not been disclosed at least 45 days before trial.

(~~7~~5) **Authorizations for Discovery.** If a party believes it necessary to obtain information within the categories under Rule 16.2(d)(~~2)(A) through (d)(2)(P),~~3) from an individual or entity not a party to the action, the party seeking the information may present to the other party a form of authorization, permitting release, disclosure, and production of the information. The party who was requested to sign the authorization must do so within ~~10~~14 days of receipt of the authorization form. If the party who was requested to sign the authorization refuses to sign the authorization without good cause, a motion to compel may be filed. If the court or discovery commissioner finds that the objecting party is without legitimate factual or legal objection to the signing of the authorization, a motion to compel ~~shall~~must be granted and the objecting party ~~shall~~must be made to pay reasonable attorney fees and costs.

(~~e~~f) **Continuing Duty to Supplement and Disclose.** The duty described in this rule ~~shall be~~is a continuing duty, and each party ~~shall~~must make additional or amended disclosures whenever new or different information is discovered or revealed. Such additional or amended disclosures, including corrections to a party's financial disclosure form, ~~shall~~must be made not more than 14 days after the party acquires additional information or otherwise learns that in some material respect the party's disclosure is incomplete or incorrect. However, if a hearing, deposition, case management conference, or other calendared event is scheduled less than 14 days from the discovery date, then the update must be filed and served within 24 hours of the discovery of new information.

(~~f~~g) **Failure to File or Serve Financial Disclosure Form or to Produce Required Disclosures.**~~-~~

(1) If a party fails to timely file or serve the appropriate financial disclosure form required by this rule, or the required information and disclosures under this rule, the court ~~shall~~must impose an appropriate sanction upon the party, the party's attorney, or both, unless specific affirmative findings of fact are made that the violating party has proven: ~~(1)~~

(A) either good cause for the failure by a preponderance of the evidence or that the violating party would experience an undue hardship if the penalty is applied; and ~~(2) that other means fully compensate the nonviolating party for any losses, delays, and expenses suffered as a result of the violation.~~

~~**(1) Sanctions.**~~

~~(A~~ (B) that other means fully compensate the nonviolating party for any losses, delays, and expenses suffered as a result of the violation.

(2) Sanctions may include an order finding the violating party in civil contempt of court, an order requiring the violating party to timely file and serve the disclosures, to pay the opposing party's reasonable expenses, including attorney fees and costs incurred as a result of the failure, and any other sanction the court deems just and proper~~;~~.

~~(B~~(3) Sanctions may additionally include an order refusing to allow the violating party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence, and/or any other sanction the court deems just and proper. These discretionary sanctions are ~~authorized~~encouraged for repeat or egregious violations.

(~~g~~h) **Failure to Include an Asset or Liability or Accurately Report Income.**

(1) If a party intentionally fails to disclose a material asset or liability or to accurately report income, the court ~~shall~~must impose an appropriate sanction upon the party or the party's attorney, or both, if the other party establishes by a preponderance of the evidence that there is not good cause for the failure.

(~~1) Sanctions.~~

(~~A~~2) Sanctions may include an order finding the violating party in civil contempt of court, an award of reasonable attorney fees and costs to the nonviolating party, and any other sanction the court deems just and proper~~;~~.

(~~B~~(3) Sanctions may include an order awarding the omitted asset to the opposing party as his or her separate property or making another form of unequal division of community property, and/or any other sanction the court deems just and proper. These discretionary sanctions are encouraged for repeat or egregious violations.

(~~h~~i) **Objections to Authenticity or Genuineness.** Any objection to the authenticity or genuineness of documents ~~is to~~must be made in writing within 21 days of the date the receiving party receives them. Absent such an objection, the documents ~~shall~~must be presumed authentic and genuine and ~~shall~~may not be excluded from evidence on these grounds.

~~(i) Case Management Conferences.~~

~~(1) **Attendance at Early Case Conference.** Within 45 days after service of the Answer, the parties and the attorneys for the parties shall confer for the purpose of complying with Rule 16.2(d). The Plaintiff shall designate the time and place of each meeting, which must be held in the county where the action was filed, unless the parties agree upon a different location. The parties may submit a Stipulation and Order to continue the~~

~~time for the case conference for an additional period of not more than 60 days, which the court may, in its discretion and for good cause shown, enter. Absent compelling and extraordinary circumstances, neither the court nor the parties may extend the time to a day more than 90 days after service of the Answer. The time for holding a case conference with respect to a defendant who has filed a motion pursuant to Rule 12(b)(2) (4) is tolled until entry of an order denying the motion.~~

~~(2) **Early Case Conference Report.** Within 15 days after each case conference, but not later than 5 days prior to the scheduled case management conference, the parties must file a joint early case conference report, or if the parties are unable to agree upon the contents of a joint report, each party must serve and file an early case conference report, which, either as a joint or individual report, must contain:~~

~~(A) A statement of jurisdiction;~~

~~(B) A brief description of the nature of the action and each claim for relief or defense;~~

~~(C) If custody is at issue in the case, a proposed custodial timeshare and a proposed holiday, special day, and vacation schedule;~~

~~(D) A written list of all documents provided at or as a result of the case conference, together with any objection that the document is not authentic or genuine. The failure to state any objection to the authenticity or genuineness of a document constitutes a waiver of such objection at a subsequent hearing or trial. For good cause, the court may permit the withdrawal of a waiver and the assertion of an objection;~~

~~(E) A written list of all documents not provided under Rule 16.2(d), together with the explanation as to why each document was not provided;~~

(F) For each issue in the case, a statement of what information and/or documents are needed, along with a proposed plan and schedule of any additional discovery;

(G) A list of the property (including pets, vehicles, real estate, retirement accounts, pensions, etc.) that each litigant seeks to be awarded in this action;

(H) The list of witnesses exchanged in accordance with Rule 16.2(d)(5) and (d)(6);

(I) Identification of each specific issue preventing immediate global resolution of the case along with a description of what action is necessary to resolve each issue identified;

(J) A litigation budget; and

(K) Proposed trial dates.

(3) **Attendance at Case Management Conference.** The district court shall conduct a case management conference with counsel and the parties within 90 days after the filing of the Answer. The court, in its discretion, and for good cause shown, may continue the time for the case management conference. Absent compelling and extraordinary circumstances, neither the court nor the parties may extend the time to a day more than 120 days after filing of the Answer to the Complaint.

At the case management conference, the court, counsel, and the parties shall:

(A) Confer and consider the nature and basis of the claims and defenses, the possibilities for a prompt settlement or resolution of the case, and any other orders that should be entered setting the case for settlement conference and/or for trial;

~~(B) Make or arrange for the disclosures required under this rule and to develop a discovery plan, which may include limitations on discovery or changes in the timing of discovery requirements required in this rule;~~

~~(C) Recite stipulated terms on the record pursuant to local district court rules;~~

~~(D) Enter interim orders sufficient to keep the peace and allow the case to progress; for matters that are claimed to be in contest, directions by the court as to which party will have which burden of proof;~~

~~(E) Discuss the litigation budget and its funding; and~~

~~(F) Enter a scheduling order.~~

~~In the event a party fails to attend the case management conference and the judge believes that some or any actions cannot be taken in the absence of the missing party, the court shall reschedule the case management conference and make an appropriate award of fees imposed on the nonappearing party, measured by the cost of the attendance of the complying party.~~

~~(4)~~ ~~**Case Management Order.** Within 30 days after the case management conference, the court shall enter an order that contains:~~

~~(A) A brief description of the nature of the action;~~

~~(B) The stipulations of the parties, if any;~~

~~(C) Any interim orders made by the court, including those pertaining to discovery and burdens of proof;~~

~~(D) Any changes to the timelines of this rule as stipulated by the parties and/or ordered by the court;~~

~~(E) A deadline on which discovery will close;~~

~~(F) A deadline beyond which the parties shall be precluded from filing motions to amend the pleadings or to add parties unless by court order;~~

~~(G) A deadline by which dispositive motions must be filed; and~~

~~(H) Any other orders the court deems necessary during the pendency of the action, including interim custody, child support, maintenance, and NRS 125.040 orders.~~

~~If the court orders one of the parties to prepare the foregoing case management order, that party shall submit the order to the other party for signature within 10 calendar days after the case management conference. The order shall be submitted to the court for entry within 20 calendar days after the case management conference.~~

(j~~) **Discovery Disputes.**~~

~~(1) Where available and unless otherwise directed by the court, all discovery disputes made upon written motion must first be heard by the discovery commissioner if available in that district.~~

~~(2) Following each discovery motion before a discovery commissioner, the commissioner must prepare and file a report with the commissioner's recommendations for a resolution of each unresolved dispute. The commissioner may direct counsel to prepare the report. The clerk of the court shall forthwith serve a copy of the report on all parties. Within 5 judicial days after being served with a copy, any party may serve and file written objections to the recommendations. Written authorities may be filed with an objection, but are not mandatory.~~

~~(3) Upon receipt of a discovery commissioner's report and any objections thereto, the court may affirm, reverse, or modify the~~

~~commissioner's ruling, set the matter for a hearing, or remand the matter to the commissioner for further action, if necessary.~~

~~Rule 16.205. Mandatory Prejudgment Discovery Requirements in Paternity and Custody Matters~~

~~(a) **Applicability.** This rule applies to all paternity and custody actions between unmarried parties. Nothing in this rule shall preclude a party from conducting discovery pursuant to the Nevada Rules of Civil Procedure.~~

~~(b) **Exemptions.** Either party may file a motion for exemption; the court may, sua sponte at the case management conference, exempt all or any portion of a case from application of this rule, in whole or in part, upon a finding of good cause, so long as the exemption is contained in an order of the court.~~

~~(c) **Financial Disclosure Forms.**~~

~~(1) **General Financial Disclosure Form (GFDF).** In all actions governed by this rule, each party must complete, file, and serve the cover sheet, income schedule and expense schedule of the General Financial Disclosure Form (GFDF) within 30 days of service of the Complaint, unless a Detailed Financial Disclosure Form is required in accordance with Rule 16.205(c)(2) or the court orders the parties, at the case management conference, to complete the Detailed Financial Disclosure Form.~~

~~(2) **Detailed Financial Disclosure Form (DFDF).** If the Plaintiff, concurrently with the filing of the Complaint, or the Defendant, concurrently with the filing of the Answer, but no later than 15 days after the filing of the Answer, files the "Request to Opt-in to Detailed Financial Disclosure Form and Complex Litigation Procedure" certifying that:~~

(A) Either party's individual gross income, or the combined gross income of the parties, is more than $250,000 per year; or

(B) Either party is self-employed or the owner, partner, managing or majority shareholder, or managing or majority member of a business;

then each party must file the DFDF within 45 days of service of the Request to Opt-in, unless otherwise ordered by the court or stipulated by the parties. The case shall then be subject to the Complex Divorce Litigation Procedures, which requires that each party prepare a Complex Divorce Litigation Plan that shall be filed and served as part of the Early Case Conference Report. The plan shall include, in addition to the requirements of Rule 16.205(i), any and all proposals concerning the time, manner, and place for needed discovery, proposed conferences and anticipated hearings with the court, and any other special arrangements focused on prompt settlement, trial, or resolution of the case.

(d) **Mandatory Initial Disclosures.** Concurrently with the filing of the Financial Disclosure Forms, each party must, without awaiting a discovery request, serve upon the other party written and signed disclosures containing the following information:

(1) Evidence Supporting Financial Disclosure Form. For each line item on the GFDF or DFDF, if not already evidenced by the other disclosures required herein, the financial statement(s), document(s), receipt(s), or other information or evidence relied upon to support the figure represented on the form. If no documentary evidence exists, an explanation in writing of how the figure was calculated.

(2) Evidence of Income and Earnings as to Both Parties. A party must make these initial disclosures based on the information then reasonably available to that party and is not excused from making the

disclosures because the party has not fully completed an investigation of the case, because the party challenges the sufficiency of another party's disclosures, or because another party has not made the required disclosures. For each requirement set forth in Rule 16.205(d)(2)(A) through (E), if the disclosing party is not in possession of the documents, the disclosing party must identify each such asset or debt that exists and disclose where information pertaining to each asset or debt may be found. If no such asset or debt exists, the disclosing party must specifically so state.

(A) **Bank, Investment, and Other Periodic Statements.** Copies of all monthly or periodic bank, checking, savings, brokerage, investment, security account, or other statements evidencing income from interest, dividends, royalties, distributions, or any other income for the period commencing 6 months prior to the service of the Summons and Complaint through the date of the disclosure;

(B) **Insurance Policies.** Copies of all policy statements and evidence of costs of premiums for health and life insurance policies covering either party or any child of the relationship;

(C) **Tax Returns.** Copies of all personal and business tax returns, balance sheets, profit and loss statements, and all documents that may assist in identifying or valuing any business or business interest for the last 3 completed calendar or fiscal years with respect to any business or entity in which any party has or had an interest within the past 12 months;

(D) **Proof of Income.** Proof of income of the party from all sources, specifically including W-2, 1099, and K-1 forms, for the past 2 completed calendar years, and year-to-date income information (paycheck stubs, etc.) for the period commencing 6 months prior to the service of the Summons and Complaint through the date of the disclosure; and

(E) **Exhibits.** A copy of every other document or exhibit, including summaries of other evidence, that a party expects to offer as evidence at trial in any manner.

(3) Obtaining Discovery. Any party may obtain discovery by one or more methods provided in Rules 26 through 36, commencing 30 days after service of the Complaint.

(4) Additional Discovery. Nothing in the minimum requirements of this rule shall preclude relevant additional discovery in accordance with the Nevada Rules of Civil Procedure.

(5) Disclosure of Expert Witness and Testimony. A party shall disclose the identity of any person who may be used at trial to present evidence pursuant to NRS 50.275, 50.285, and 50.305. These disclosures must be made within 90 days after the initial financial disclosure form is required to be filed and served under Rule 16.205(c) or, if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party, within 21 days after the disclosure made by the other party. The parties shall supplement these disclosures when required under Rule 26(e)(1).

(A) Except as otherwise stipulated or directed by the court, a party who retains or specially employs a witness to provide expert testimony in the case, or whose duties as an employee of the party regularly involve giving expert testimony, shall deliver to the opposing party a written report prepared and signed by the witness within 60 days of the close of discovery. The court, upon good cause shown or by stipulation of the parties, may extend the deadline for exchange of the expert reports or relieve a party of the duty to prepare a written report in an appropriate case. The report shall contain a complete statement of all opinions to be expressed and the

basis and reasons therefor, the data or other information considered by the witness in forming the opinions, any exhibits to be used as a summary of or support for the opinions, and the qualifications of the witness.

(6) **Nonexpert Witness.** The name and, if known, the address and telephone number of each individual who has information or knowledge relevant to the claims or defenses set forth in the pleadings, or who may be called as a witness, at any stage of the proceedings, including for impeachment or rebuttal, identifying the subjects of the information and a brief description of the testimony for which the individual may be called. Absent a court order or written stipulation of the parties, a party shall not be allowed to call a witness at trial who has not been disclosed at least 45 days before trial.

(7) **Authorizations for Discovery.** If a party believes it necessary to obtain information within the categories under Rule 16.205(d)(2)(A) through (d)(2)(E), from an individual or entity not a party to the action, the party seeking the information may present to the other party a form of authorization, permitting release, disclosure, and production of the information. The party who was requested to sign the authorization must do so within 10 days of receipt of the authorization form. If the party who was requested to sign the authorization refuses to sign the authorization without good cause, a motion to compel may be filed. If the court or discovery commissioner finds that the objecting party is without legitimate factual or legal objection to the signing of the authorization, a motion to compel shall be granted and the objecting party shall be made to pay reasonable attorney fees and costs.

(c) **Continuing Duty to Supplement and Disclose.** The duty described in this rule shall be a continuing duty, and each party shall make

additional or amended disclosures whenever new or different information is discovered or revealed. Such additional or amended disclosures, including corrections to a party's financial disclosure form, shall be made not more than 14 days after the party acquires additional information or otherwise learns that in some material respect the party's disclosure is incomplete or incorrect. However, if a hearing, deposition, case management conference, or other calendared event is scheduled less than 14 days from the discovery date, then the update must be filed and served within 24 hours of the discovery of new information.

(f) **Failure to File or Serve Financial Disclosure Form or to Produce Required Disclosures.** If a party fails to timely file or serve the appropriate financial disclosure form required by this rule, or the required information and disclosures under this rule, the court shall impose an appropriate sanction upon the party, the party's attorney, or both, unless specific affirmative findings of fact are made that the violating party has proven: (1) either good cause for the failure by a preponderance of the evidence or that the violating party would experience an undue hardship if the penalty is applied; and (2) that other means fully compensate the nonviolating party for any losses, delays, and expenses suffered as a result of the violation.

(**1) Sanctions.**

(A) Sanctions may include an order finding the violating party in civil contempt of court, an order requiring the violating party to timely file and serve the disclosures, to pay the opposing party's reasonable expenses, including attorney fees and costs incurred as a result of the failure, and any other sanction the court deems just and proper;

~~(B) Sanctions may additionally include an order refusing to allow the violating party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence, and/or any other sanction the court deems just and proper. These discretionary sanctions are authorized for repeat or egregious violations.~~

~~(g) **Failure to Accurately Report Income.** If a party intentionally fails to accurately report income, the court shall impose an appropriate sanction upon the party or the party's attorney, or both, if the other party establishes by a preponderance of the evidence that there is not good cause for the failure.~~

~~(**1) Sanctions.**~~

~~(A) Sanctions may include an order finding the violating party in civil contempt of court, an award of reasonable attorney fees and costs to the nonviolating party, and any other sanction the court deems just and proper;~~

~~(B) These discretionary sanctions are encouraged for repeat or egregious violations.~~

~~(**h) Objections to Authenticity or Genuineness.** Any objection to the authenticity or genuineness of documents is to be made in writing within 21 days of the date the receiving party receives them. Absent such an objection, the documents shall be presumed authentic and genuine and shall not be excluded from evidence on these grounds.~~

~~(i~~) **Case Management Conferences.**

(1) **Attendance at Early Case Conference.** Within 45 days after service of ~~the Answer~~an answer, the parties and the attorneys for the parties ~~shall~~must confer for the purpose of complying with ~~Section~~ Rule 16.2(d~~)~~ ~~of this rule.)~~. The ~~Plaintiff shall~~plaintiff may designate the time and place of

each meeting, which must be held in the county where the action was filed, unless the parties agree upon a different location. The parties may submit a ~~Stipulation~~stipulation and ~~Order~~order to continue the time for the case conference for an additional period of not more than 60 days, which the court may, ~~in its discretion and~~ for good cause shown, enter. Absent compelling and extraordinary circumstances, neither the court nor the parties may extend the time to a day more than 90 days after service of the ~~Answer~~answer. The time for holding a case conference with respect to a defendant who has filed a motion ~~pursuant to~~under Rule 12(b)(2)-(4) is tolled until entry of an order denying the motion.

(2) **Early Case Conference Report.** Within ~~15~~14 days after each case conference, but not later than ~~5~~7 days ~~prior to~~before the scheduled case management conference, the parties must file a joint early case conference report, or if the parties are unable to agree upon the contents of a joint report, each party must serve and file an early case conference report, which, either as a joint or individual report, must contain:

(A) ~~A~~a statement of jurisdiction;

(B) ~~A~~a brief description of the nature of the action and each claim for relief or defense;

(C) ~~A~~if custody is at issue in the case, a proposed custodial timeshare and a proposed holiday, special day, and vacation schedule;

(D) ~~A~~a written list of all documents provided at or as a result of the case conference, together with any objection that the document is not authentic or genuine. The failure to state any objection to the authenticity or genuineness of a document constitutes a waiver of such objection at a subsequent hearing or trial. For good cause, the court may permit the withdrawal of a waiver and the assertion of an objection;

(E) ~~A~~a written list of all documents not provided under Rule 16.~~205~~2(d), together with the explanation as to why each document was not provided;

(F) ~~For~~for each issue in the case, a statement of what information and/or documents are needed, along with a proposed plan and schedule of any additional discovery;

(G) a list of the property (including pets, vehicles, real estate, retirement accounts, pensions, etc.) that each litigant seeks to be awarded in this action;

~~The~~ (H) the list of witnesses exchanged in accordance with Rule 16.~~205(d)(5~~2(e)(3) and (~~d)(6~~4);

(~~H) Identification~~I) identification of each specific issue preventing immediate global resolution of the case along with a description of what action is necessary to resolve each issue identified;

(~~I) A~~J) a litigation budget; and

(~~J) Proposed~~K) proposed trial dates.~~–~~

(3) **Attendance at Case Management Conference.** The ~~district~~ court ~~shall~~must conduct a case management conference with counsel and the parties within 90 days after the filing of the ~~Answer~~answer. The court, ~~in its discretion, and~~ for good cause shown, may continue the time for the case management conference. Absent compelling and extraordinary circumstances, neither the court nor the parties may extend the time to a day more than 120 days after filing of the ~~Answer to the Complaint~~answer.

(A) At the case management conference, the court, counsel, and the parties ~~shall~~must:

~~(A) Confer~~ (i) confer and consider the nature and basis of the claims and defenses, the possibilities for a prompt settlement or resolution

of the case, and ~~any other~~whether orders ~~that~~ should be entered setting the case for settlement conference and/or for trial;

~~(B) Make~~ (ii) make or arrange for the disclosures required under this rule and to develop a discovery plan, which may include limitations on discovery or changes in the timing of discovery requirements required in this rule; and

~~(C) Recite~~ (iii) recite stipulated terms on the record ~~pursuant to~~under local ~~district~~rules.

(B) The court ~~rules;~~should also:

~~(D) Enter~~ (i) enter interim orders sufficient to keep the peace and allow the case to progress;

(ii) for matters that are claimed to be in contest, ~~directions by the court~~give direction as to which party will have which burden of proof;

~~(E) Discuss~~ (iii) discuss the litigation budget and its funding; and

~~(F) Enter~~ (iv) enter a scheduling order.

(C) In the event a party fails to attend the case management conference and the ~~judge~~court believes that some or any actions cannot be taken in the absence of the missing party, the court ~~shall~~must reschedule the case management conference and ~~make an appropriate award of fees imposed on~~ may order the nonappearing party~~, measured by the cost of the attendance of~~ to pay the complying ~~party~~party's attorney fees incurred to appear at the case management conference.

(4) **Case Management Order.**~~-~~

(A) Within 30 days after the case management conference, the court ~~shall~~must enter an order that contains:

~~(A) A~~ (i) a brief description of the nature of the action;

~~(B) The~~ (ii) the stipulations of the parties, if any;

~~(C) Any~~ (iii) any interim orders made by the court, including those pertaining to discovery and burdens of proof;

~~(D) Any~~ (iv) any changes to the timelines of this rule as stipulated by the parties and/or ordered by the court;

~~(E) A~~ (v) a deadline on which discovery will close;

~~(F) A~~ (vi) a deadline beyond which the parties ~~shall~~will be precluded from filing motions to amend the pleadings or to add parties unless by court order;

~~(G) A~~ (vii) a deadline by which dispositive motions must be filed; and

~~(H) Any~~ (viii) any other orders the court deems necessary during

the pendency of the action, including interim custody ~~and~~, child support, maintenance, and NRS 125.040 orders.

(B) If the court orders one of the parties to prepare the foregoing case management order, that party ~~shall~~must submit the order to the other party for signature within ~~10 calendar~~14 days after the case management conference. The order ~~shall~~must be submitted to the court for entry within ~~20 calendar~~21 days after the case management conference.

~~(j)~~ (k) **Automatic Referral of Discovery Disputes.**

~~(1)~~ Where available and unless otherwise directed by the court, all discovery disputes made upon written motion must first be heard by the discovery commissioner ~~if available in that district~~under Rule 16.3.

Rule 16.205. Mandatory Prejudgment Discovery Requirements in

Paternity or Custody Actions Between Unmarried Persons

(a) **Applicability.** This rule replaces Rules 16.1 and 16.2 in all paternity and custody actions between unmarried parties. Nothing in this rule precludes a party from conducting discovery under any other of these rules.

(b) **Exemptions.**

(1) Either party may file a motion for exemption from all or a part of this rule.

(2) The court may, sua sponte at the case management conference, exempt all or any portion of a case from application of this rule, in whole or in part, upon a finding of good cause, so long as the exemption is contained in an order of the court.

(c) **Financial Disclosure Forms.**

(1) **General Financial Disclosure Form.** In all actions governed by this rule, each party must complete, file, and serve the cover sheet, income schedule and expense schedule of the General Financial Disclosure Form (GFDF), Form 4 in the Appendix of Forms, within 30 days of service of the summons and complaint, unless a Detailed Financial Disclosure Form (DFDF), Form 5 in the Appendix of Forms, is required in accordance with Rule 16.205(c)(2) or the court orders the parties at the case management conference to complete the DFDF.

(2) **Detailed Financial Disclosure Form.**

(A) The plaintiff, concurrently with the filing of the complaint, or the defendant, concurrently with the filing of the answer, but no later than 14 days after the filing of the answer, may file a Request to Opt-in to Detailed Financial Disclosure Form and Complex Litigation Procedure, Form 6 in the Appendix of Forms, certifying that:

(i) either party's individual gross income, or the combined gross income of the parties, is more than $250,000 per year; or

(ii) either party is self-employed or the owner, partner, managing or majority shareholder, or managing or majority member of a business.

(B) Within 45 days of service of a Request to Opt-in, each party must file the DFDF unless otherwise ordered by the court or stipulated by the parties.

(C) If a Request to Opt-in is filed, the case is subject to the following complex divorce litigation procedure. Each party must prepare a complex divorce litigation plan that must be filed and served as part of the early case conference report. The plan must include, in addition to the requirements of Rule 16.205(j), any and all proposals concerning the time, manner, and place for needed discovery, proposed conferences and anticipated hearings with the court, and any other special arrangements focused on prompt settlement, trial, or resolution of the case.

(d) **Mandatory Initial Disclosures.**

(1) **Initial Disclosure Requirements.**

(A) Concurrently with the filing of the financial disclosure form, each party must, without awaiting a discovery request, serve upon the other party written and signed disclosures containing the information listed in Rule 16.205(d)(2) and (3).

(B) A party must make these initial disclosures based on the information then reasonably available to that party and is not excused from making the disclosures because:

(i) the party has not fully completed an investigation of the case;

(ii) the party challenges the sufficiency of another party's disclosures; or

(iii) another party has not made the required disclosures.

(C) For each item set forth in Rule 16.205(d)(3), if the disclosing party is not in possession of the documents, the disclosing party must identify each such asset or debt that exists and disclose where information pertaining to each asset or debt may be found. If no such asset or debt exists, the disclosing party must specifically so state.

(2) ~~Following~~ **Evidence Supporting Financial Disclosure Form.** For each line item on the GFDF or DFDF, if not already evidenced by the other initial disclosures required herein, a party must provide the financial statement(s), document(s), receipt(s), or other information or evidence relied upon to support the figure represented on the form. If no documentary evidence exists, a party must provide an explanation in writing of how the figure was calculated.

(3) **Evidence of Income and Earnings as to Both Parties.**

(A) **Bank, Investment, and Other Periodic Statements.** A party must provide copies of all monthly or periodic bank, checking, savings, brokerage, investment, cryptocurrency, security account, or other statements evidencing income from interest, dividends, royalties, distributions, or any other income for the period commencing 6 months before the service of the summons and complaint through the date of the disclosure.

(B) **Insurance Policies.** A party must provide copies of all policy statements and evidence of costs of premiums for health and life insurance policies covering either party or any child of the relationship.

(C) **Tax Returns.** A party must provide copies of all personal and business tax returns, balance sheets, profit and loss statements, and all documents that may assist in identifying or valuing any business or business interest for the last 3 completed calendar or fiscal years with respect to any business or entity in which any party has or had an interest within the past 12 months.

(D) **Proof of Income.** A party must provide proof of income of the party from all sources, specifically including W-2, 1099, and K-1 forms, for the past 2 completed calendar years, and year-to-date income information (paycheck stubs, etc.) for the period commencing 6 months before the service of the summons and complaint through the date of the disclosure.

(E) **Exhibits.** A party must provide a copy of every other document or exhibit, including summaries of other evidence, that a party expects to offer as evidence at trial in any manner.

(e) **Additional Discovery and Disclosures.**

(1) **Obtaining Discovery.** Any party may obtain discovery ~~motion before a~~ by one or more methods provided in Rules 26 through 36, commencing 30 days after service of the summons and complaint.

(2) **Additional Discovery.** Nothing in the minimum requirements of this rule provides a basis for objecting to relevant additional discovery in accordance with these rules.

(3) **Disclosure of Expert Witness and Testimony.**

(A) A party must disclose the identity of any person who may be used at trial to present evidence under NRS 50.275, 50.285, and 50.305. These disclosures must be made within 90 days after the initial financial disclosure form is required to be filed and served under Rule 16.205(c) or, if the evidence is intended solely to contradict or rebut evidence on the same subject

matter identified by another party, within 21 days after the disclosure made by the other party. ~~commissioner, the commissioner must~~ The parties must supplement these disclosures when required under Rule 26(e)(1).

(B) Except as otherwise stipulated or directed by the court, a party who retains or specially employs a witness to provide expert testimony in the case, or whose duties as an employee of the party regularly involve giving expert testimony, must deliver to the opposing party a written report prepared and signed by the witness within 60 days of the close of discovery. The court, upon good cause shown or by stipulation of the parties, may extend the deadline for exchange of the expert reports or relieve a party of the duty to prepare a written report in an appropriate case. The report must contain a complete statement of all opinions to be expressed and the basis and reasons therefor, the data or other information considered by the witness in forming the opinions, any exhibits to be used as a summary of or support for the opinions, and the qualifications of the witness.

(4) **Nonexpert Witness.** A party must disclose the name and, if known, the address and telephone number of each individual who has information or knowledge relevant to the claims or defenses set forth in the pleadings, or who may be called as a witness, at any stage of the proceedings, including for impeachment or rebuttal, identifying the subjects of the information and a brief description of the testimony for which the individual may be called. Absent a court order or written stipulation of the parties, a party must not be allowed to call a witness at trial who has not been disclosed at least 45 days before trial.

(5) **Authorizations for Discovery.** If a party believes it necessary to obtain information within the categories under Rule 16.205(d)(3) from an individual or entity not a party to the action, the party seeking the

information may present to the other party a form of authorization, permitting release, disclosure, and production of the information. The party who was requested to sign the authorization must do so within 14 days of receipt of the authorization form. If the party who was requested to sign the authorization refuses to sign the authorization without good cause, a motion to compel may be filed. If the court or discovery commissioner finds that the objecting party is without legitimate factual or legal objection to the signing of the authorization, a motion to compel must be granted and the objecting party must be made to pay reasonable attorney fees and costs.

(f) **Continuing Duty to Supplement and Disclose.** The duty described in this rule is a continuing duty, and each party must make additional or amended disclosures whenever new or different information is discovered or revealed. Such additional or amended disclosures, including corrections to a party's financial disclosure form, must be made not more than 14 days after the party acquires additional information or otherwise learns that in some material respect the party's disclosure is incomplete or incorrect. However, if a hearing, deposition, case management conference, or other calendared event is scheduled less than 14 days from the discovery date, then the update must be filed and served within 24 hours of the discovery of new information.

~~and~~ (g) **Failure to File or Serve Financial Disclosure Form or to Produce Required Disclosures.**

(1) If a party fails to timely file or serve the appropriate financial disclosure form required by this rule, or the required information and disclosures under this rule, the court must impose an appropriate sanction upon the party, the party's attorney, or both, unless specific affirmative findings of fact are made that the violating party has proven:

(A) either good cause for the failure by a preponderance of the evidence or that the violating party would experience an undue hardship if the penalty is applied; and

(B) that other means fully compensate the nonviolating party for any losses, delays, and expenses suffered as a result of the violation.

(2) Sanctions may include an order finding the violating party in civil contempt of court, an order requiring the violating party to timely file and serve the disclosures, to pay the opposing party's reasonable expenses, including attorney fees and costs incurred as a result of the failure, and any other sanction the court deems just and proper.

(3) Sanctions may additionally include an order refusing to allow the violating party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence, and/or any other sanction the court deems just and proper. These discretionary sanctions are encouraged for repeat or egregious violations.

(h) **Failure to Accurately Report Income.**

(1) If a party intentionally fails to accurately report income, the court must impose an appropriate sanction upon the party or the party's attorney, or both, if the other party establishes by a preponderance of the evidence that there is not good cause for the failure.

(2) Sanctions may include an order finding the violating party in civil contempt of court, an award of reasonable attorney fees and costs to the nonviolating party, and any other sanction the court deems just and proper.

(3) These discretionary sanctions are encouraged for repeat or egregious violations.

(i) **Objections to Authenticity or Genuineness.** Any objection to the authenticity or genuineness of documents must be made in writing within 21

days of the date the receiving party receives them. Absent such an objection, the documents must be presumed authentic and genuine and may not be excluded from evidence on these grounds.

(j) **Case Management Conferences.**

(1) **Attendance at Early Case Conference.** Within 45 days after service of an answer, the parties and the attorneys for the parties must confer for the purpose of complying with Rule 16.205(d). The plaintiff may designate the time and place of each meeting, which must be held in the county where the action was filed, unless the parties agree upon a different location. The parties may submit a stipulation and order to continue the time for the case conference for an additional period of not more than 60 days, which the court may, for good cause shown, enter. Absent compelling and extraordinary circumstances, neither the court nor the parties may extend the time to a day more than 90 days after service of the answer. The time for holding a case conference with respect to a defendant who has filed a motion under Rule 12(b)(2)-(4) is tolled until entry of an order denying the motion.

(2) **Early Case Conference Report.** Within 14 days after each case conference, but not later than 7 days before the scheduled case management conference, the parties must file a joint early case conference report, or if the parties are unable to agree upon the contents of a joint report, each party must serve and file an early case conference report, which, either as a joint or individual report, must contain:

(A) a statement of jurisdiction;

(B) a brief description of the nature of the action and each claim for relief or defense;

(C) a proposed custodial timeshare and a proposed holiday, special day, and vacation schedule;

(D) a written list of all documents provided at or as a result of the case conference, together with any objection that the document is not authentic or genuine. The failure to state any objection to the authenticity or genuineness of a document constitutes a waiver of such objection at a subsequent hearing or trial. For good cause, the court may permit the withdrawal of a waiver and the assertion of an objection;

~~a report with the commissioner's recommendations for a~~ (E) a written list of all documents not provided under Rule 16.205(d), together with the explanation as to why each document was not provided;

(F) for each issue in the case, a statement of what information and/or documents are needed, along with a proposed plan and schedule of any additional discovery;

(G) the list of witnesses exchanged in accordance with Rule 16.205(e)(3) and (4);

(H) identification of each specific issue preventing immediate global resolution of ~~each unresolved dispute. The commissioner may direct~~the case along with a description of what action is necessary to resolve each issue identified;

(I) a litigation budget; and

(J) proposed trial dates.

(3) **Attendance at Case Management Conference.** The court must conduct a case management conference with counsel and the parties within 90 days after the filing of the answer. The court, for good cause shown, may continue the time for the case management conference. Absent compelling and extraordinary circumstances, neither the court nor the parties may extend the time to a day more than 120 days after filing of the answer.

(A) At the case management conference, the court, counsel, and the parties must:

(i) confer and consider the nature and basis of the claims and defenses, the possibilities for a prompt settlement or resolution of the case, and whether orders should be entered setting the case for settlement conference and/or for trial;

(ii) make or arrange for the disclosures required under this rule and to develop a discovery plan, which may include limitations on discovery or changes in the timing of discovery requirements required in this rule; and

(iii) recite stipulated terms on the record under local rules.

(B) The court should also:

(i) enter interim orders sufficient to keep the peace and allow the case to progress;

(ii) for matters that are claimed to be in contest, give direction as to which party will have which burden of proof;

(iii) discuss the litigation budget and its funding; and

(iv) enter a scheduling order.

(C) In the event a party fails to attend the case management conference and the court believes that some or any actions cannot be taken in the absence of the missing party, the court must reschedule the case management conference and may order the nonappearing party to pay the complying party's attorney fees incurred to appear at the case management conference.

(4) **Case Management Order.**

(A) Within 30 days after the case management conference,

the court must enter an order that contains:

(i) a brief description of the nature of the action;

(ii) the stipulations of the parties, if any;

(iii) any interim orders made by the court, including those pertaining to discovery and burdens of proof;

(iv) any changes to the timelines of this rule as stipulated by the parties and/or ordered by the court;

(v) a deadline on which discovery will close;

(vi) a deadline beyond which the parties will be precluded from filing motions to amend the pleadings or to add parties unless by court order;

(vii) a deadline by which dispositive motions must be filed; and

(viii) any other orders the court deems necessary during the pendency of the action, including interim custody and child support orders.

(B) If the court orders one of the parties to prepare the ~~report. The clerk of the court shall forthwith serve a copy of the report on all parties. Within 5 judicial days after being served with a copy, any party may serve and file written objections to the recommendations. Written authorities may be filed with an objection, but are not mandatory~~foregoing case management order, that party must submit the order to the other party for signature within 14 days after the case management conference. The order must be submitted to the court for entry within 21 days after the case management conference.

~~(3) Upon receipt~~(k) **Automatic Referral of** ~~a discovery commissioner's report~~**Discovery Disputes.** Where available and ~~any~~

~~objections thereto,~~unless otherwise directed by the court~~ may affirm, reverse, or modify~~, all discovery disputes made upon written motion must first be heard by the ~~commissioner's ruling, set the matter for a hearing, or remand the matter to the~~ discovery commissioner ~~for further action, if necessary~~under Rule 16.3.

~~RULE~~Rule 16.21. ~~POSTJUDGMENT DISCOVERY IN DOMESTIC RELATIONS MATTERS~~Postjudgment Discovery in Family Law Actions

~~Unless the court orders otherwise~~ (a) Except as provided by this rule, parties ~~are prohibited from conducting discovery in~~ must not conduct postjudgment ~~domestic relations matters. For~~ discovery in a family law action.

(b) Parties may conduct postjudgment discovery in family law actions when:

(1) the court orders an evidentiary hearing in a postjudgment custody matter; or

(2) on motion or on its own, the court, for good cause~~ shown, however, a court may~~, orders postjudgment discovery.

~~**RULE**~~ (c) Postjudgment discovery is governed by Rule 16.2, by Rule 16.205 for paternity or custody matters, or as otherwise directed by the court.

Advisory Committee Note—2019 Amendment

The amendments to Rule 16.21 permit postjudgment discovery in certain situations. Rule 16.21(b)(1) automatically permits discovery under Rule 16.205 upon the court's entry of a postjudgment order setting an evidentiary hearing in a custody action. Rule 16.21(b)(2) permits postjudgment discovery in any

action if ordered by the court.

Rule 16.215. ~~CHILD WITNESSES~~Child Witnesses in Custody Proceedings

~~**(a) General Guidelines.**~~ (a) **In General.** The court must use these procedures and considerations in child custody proceedings. When determining the scope of a child's participation in custody proceedings, the court should find a balance between protecting the child, the statutory duty to consider the wishes of the child, and the probative value of the child's input while ensuring to all parties their due process rights to challenge evidence relied upon by the court in making custody decisions.

(b) **Definitions.**

(1) **"Alternative Method."** As used in this rule, "alternative method" ~~shall be~~is defined as prescribed in NRS 50.520.

(2) **"Child Witness."** As used in this rule, "child witness" ~~shall be~~is defined as prescribed in NRS 50.530.

(3) **"Third-Party Outsourced Provider."** As used in this rule, "third-party outsourced provider" means any third party ordered by the court to interview or examine a child outside of the presence of the court for the purpose of eliciting information from the child for the court.

(c) **Procedure.**

(1) **Identifying Witnesses.** A party ~~shall~~must identify and disclose any potential child witness whom ~~they intend~~the party intends to call as a witness during the case~~ either at the time of the Case Management Conference/Early Case Evaluation, or through the filing of a Notice of Child Witness if the determination to call a child witness is made subsequent to the Case Management Conference/Early Case Evaluation.~~:

(A) at the time of the case management conference/early case evaluation; or

(B) by filing a Notice of Child Witness if the determination to call a child witness is made after the case management conference/early case evaluation.

(2) **Notice of Child Witness.** ~~In the event a child witness is not identified and disclosed at the Case Management Conference/Early Case Evaluation, or in the event of a post-judgment proceeding, a Notice of Child Witness shall~~A notice of child witness must be filed no later than 60 days ~~prior to~~before the hearing in which a child may be called as a witness unless otherwise ordered by the court. Such notice ~~shall~~must detail the scope of the ~~child's~~child witness's intended testimony and provide an explanation as to why the ~~child's~~child witness's testimony would aid the trier of fact under the circumstances of the case. Any party filing a ~~Notice~~notice of ~~Child Witness shall~~child witness must also deliver a courtesy copy of the notice to the court.

(3) **Testimony by Alternative Methods.** ~~In the event that~~If a party desires to perpetuate the testimony of a child witness ~~through~~by an ~~alternate~~alternative method, ~~he or she shall~~the party must file a Motion to Permit Child Testimony ~~Through Alternate Means, pursuant to~~by Alternative Methods, under the Uniform Child Witness Testimony by Alternative Methods Act contained in NRS 50.500 *et seq.*, at the same time as the notice of child witness, or no later than 60 days ~~prior to~~before the hearing in which the child witness may be called ~~as a witness~~to testify or ~~15~~14 days after the timely filing of a ~~Notice~~notice of ~~Child Witness~~child witness, whichever period last expires, unless otherwise ordered by the court. The court may also issue an order to show cause why a child witness should not testify by an alternative method or address the issue at any case management conference.

(d) **Alternative Methods.**

(1) **Available Alternative Methods.** If the court determines ~~pursuant to~~under NRS 50.580 that an alternative method of testimony is necessary, the court ~~shall~~must consider the following alternative methods, in addition to any other alternative methods the court considers appropriate ~~pursuant to~~under the Uniform Child Witness Testimony by Alternative Methods Act contained in NRS 50.500 *et seq*~~.~~.

(A) ~~In the event~~If all parties are represented by counsel, the court may~~-~~:

(i)~~-~~ interview the child witness outside of the presence of the parties, with the parties' counsel present~~, or (ii) allow the parties' counsel to question the child witness in the presence of the court without the parties present;~~;

~~(B) In the event all parties are represented by counsel, the court may~~ (ii) interview the child witness outside of the presence of the parties, with the parties' counsel simultaneously viewing the interview via an electronic method; or

~~(C~~ (iii) allow the parties' counsel to question the child witness in the presence of the court without the parties present.

(B) Regardless of whether the parties are represented by counsel, the court may~~-~~:

(i) interview the child witness with no parties present, but~~ may~~ allow the parties to simultaneously view the interview via an electronic method if the court determines that the viewing is not contrary to the child's best interest; ~~and~~or

~~(D) The court may~~ (ii) have the child witness interviewed by a third-party ~~outsource~~outsourced provider.

(2) **Alternative Method Considerations.** In determining which alternative method should be utilized in any particular case, the court should balance the necessity of taking the child witness's testimony in the courtroom with ~~parents~~the parties and attorneys present with the need to create an environment in which the child witness can be open and honest. In each case in which a child witness's testimony will be taken, ~~courts~~the court should consider:

(A) ~~Where~~where the testimony will be taken, including the possibility of closing the courtroom to the public or hearing from the child witness on the record in chambers;

(B) ~~Who~~who should be present when the testimony is taken, such as both ~~parents~~parties and their attorneys, only the attorneys ~~in the case in which~~when both ~~parents~~parties are represented by counsel, the child witness's attorney and ~~parents~~the parties, or only a court reporter;

(C) ~~How~~how the child witness will be questioned, ~~such as~~including whether only the court will pose questions that the parties have submitted, whether the parties or their attorneys ~~or parties~~ will be permitted to cross-examine the child witness, or whether a child advocate or expert in child development will ask the questions in the presence of the court and ~~parties or a~~the court reporter, with or without the parties or their attorneys; and

(D) ~~Whether~~whether it will be possible to provide an electronic method so that testimony taken in chambers may be heard simultaneously by the ~~parents~~parties and their attorneys in the courtroom.

(3) **Protections for Child Witness.** In taking testimony from a child witness, the court ~~shall~~must take special care to protect the child witness from harassment or embarrassment and to restrict the unnecessary repetition

of questions. The interviewer must also take special care to ensure that questions are stated in a form that is appropriate given the child witness's age or cognitive level. The interviewer must inform the child witness in an age-appropriate manner about the limitations on confidentiality and that the information provided to the court will be on the record and provided to the parties in the case. In the process of listening to and inviting the child witness's input, the interviewer may allow, but should not require, the child witness to state a preference regarding custody or visitation and should, in an age-appropriate manner, provide information about the process by which the court will make a decision.

(e) **Due Process Rights.** Any alternative method ~~shall~~must afford all parties a right to participate in the questioning of the child witness, which, at a minimum, ~~shall~~must include an opportunity to submit potential questions or areas of inquiry to the court or other interviewer ~~prior to~~before the interview of the child witness.

(f) **Preservation of Record.** Any alternative method of testimony ordered by the court ~~shall~~must be preserved by audio or ~~audio and visual~~audiovisual recording to ensure that such testimony is available for review for future proceedings.

(g) **Review of Record.** Any party may review the audio or ~~audio and visual~~audiovisual recording of testimony procured from a child witness by an ~~alternate~~alternative method upon written motion to the court or stipulation of the parties, unless the court finds by clear and convincing evidence that review by a party would pose a risk of substantial harm to the child ~~involved~~witness.

(h) **Stipulation.** The court may deviate from any of the provisions of this rule upon stipulation of the parties. The ~~district courts~~judicial districts of this state ~~shall~~should promulgate a uniform canvass to be provided to

~~litigants~~the parties to ensure that they are aware of their rights to a full and fair opportunity for examination or cross-examination of a child witness ~~prior to~~before entering into any stipulation that would permit the interview or examination of a ~~minor~~ child witness by an alternative method~~ and/or~~, including a third-party outsourced provider.

(i) **Retention of Recordings.** Original recordings of an interview or examination of a child ~~interviews shall~~witness must be retained by the interviewer for a period of 7 years from the date of their recording, or until 6 months after the child witness emancipates, whichever is later, unless otherwise ordered by the court.

~~**RULE 16.3. DISCOVERY COMMISSIONERS**~~

Rule 16.22. Custody Evaluations in Family Law Actions

(a) **Applicability; Motion; Notice.**

(1) This rule governs custody evaluations in family law actions.

(2) On motion or on its own, and after notice to all parties, the court may for good cause order a custody evaluation.

(3) The court may specify the individuals to be examined or permit the examiner to do so.

(b) **Order.**

(1) **In General.** The order must specify the time, place, manner, conditions, and scope of the examination, as well as each examiner who will perform it.

(2) **Examiner; Location.** An examiner must be suitably licensed or certified. The examination must take place in an appropriate professional setting and in the judicial district in which the case is pending, unless the court orders the examination to occur in a different location.

(3) **Persons Examined.** The court may require a party to produce for examination a person who is in the party's custody or under the party's legal control.

(4) **Costs.** The court may assign the cost of the examination to one or more parties and may redistribute those costs as appropriate.

(5) **Modification.** The court, for good cause, may alter the provisions of this rule.

(c) **Recording.** A custody evaluation may be recorded only by the examiner, who must inform the parties if the examiner elects to record the examination. The examiner must keep the recording confidential. On motion, and for good cause, the court may order that a copy of the recording be provided to the court and placed under seal, be provided to the parties subject to appropriate restrictions upon its release and use, or both.

(d) **Observers.** The parties may not have an observer present at a custody evaluation.

(e) **Examiner's Report.**

(1) **Providing the Report to the Court.** The examiner must provide a custody evaluation report to the court, and the report must be placed under seal. The court must notify all parties when it receives the report. A party and the party's attorney may review the report in court, but may not obtain a copy of the report except under Rules 16.22(e)(2) or (3).

(2) **Providing the Report to the Parties' Attorneys.** A party's attorney may obtain a copy of the report, which the attorney must keep confidential and may not distribute without a court order under Rule 16.22(e)(3). The party may review the report if it is obtained by the party's attorney, but the report must remain in the attorney's possession and the attorney must not provide a copy of the report to the party without a court

order under Rule 16.22(e)(3).

(3) **Distribution of the Report.** On motion, and for good cause, the court may permit distribution of the report, which must include appropriate restrictions on its release and use.

(4) **Contents.** The report must be in writing and must set out in detail the examiner's findings, including diagnoses, conclusions, and the results of any tests.

(5) **Request by the Moving Party.** After the examiner provides the report to the court, the party who moved for the examination may request—and is entitled to receive—from any party, like reports of all earlier or later examinations of the same condition, which are in the possession of that party. But those reports need not be delivered by a party with custody or control of the person examined if the party shows that it cannot obtain them. Any reports in the care or custody of a court, as specified in this rule, must be sought from that court. The grant of either review or receipt of those reports is subject to the court's discretion and the conditions in this rule.

(6) **Scope.** This rule does not preclude obtaining an examiner's report or deposing an examiner under other rules, unless excluded by this rule.

(f) **Stipulations.** The parties may, by stipulation approved by the court, agree upon the custody evaluation, the conditions or limitations of the evaluation, and the examiner. This rule applies to any examinations agreed to by stipulation, unless the court approves a stipulation stating otherwise.

Advisory Committee Note—2019 Amendment

Rule 16.22 is new and provides procedures for custody evaluations in family law actions.

Rule 16.23. Physical and Mental Examinations of Minors in Family Law Actions

(a) **Applicability; Motion; Notice.**

(1) This rule governs a physical or mental examination of a minor in family law actions.

(2) When ordering a physical or mental examination of a minor, the court may proceed under this rule or Rule 35. The court's order must state the court's reasoning for proceeding under either rule and must include findings as to the best interests of the child.

(3) Upon motion and after notice to all parties and, if the minor is 14 years of age or older, to the minor to be examined, a court may for good cause order an examination of a minor's mental or physical condition.

(b) **Order.** The provisions of Rule 16.22(b) apply to orders under this rule.

(c) **Recording.** In a motion requesting an examination or an opposition thereto, the parties may request that an examination be recorded by audio or audiovisual means. When considering whether to approve a recording, the court may appoint a guardian ad litem for the minor, hold a hearing, or both. The court may grant a request to record the examination if making the recording is in the child's best interest. Any recording must be provided to the court and placed under seal. On motion, and for good cause, the court may permit distribution of the recording, which must include appropriate restrictions on its release and use.

(d) **Observers.**

(1) **In General.** In a motion requesting an examination or an opposition thereto, the parties may request that an observer be present at the examination. When considering whether to approve a request for an observer,

the court may appoint a guardian ad litem for the minor, hold a hearing, or both. The court may grant a request for an observer if the observer's presence is in the child's best interest and would not compromise the examination. The observer may not be a party, a party's attorney, or anyone employed by a party or a party's attorney. If the minor is of sufficient age and maturity, the court may consider the child's preference in choosing the observer. The court must approve the observer before the examination, and the observer must not in any way interfere with, obstruct, or participate in the examination.

(2) **Parents.** If ordered by the court, the parents or guardian of a minor may observe a physical examination, but may not interfere with, obstruct, or participate in the examination.

(e) **Examiner's Report.** The examiner's report and access to it must comply with Rule 16.22(e)(1) and (3)-(6).

(f) **Stipulations.** Any stipulation for a minor's examination must comply with Rule 16.22(f).

Advisory Committee Note—2019 Amendment

Rule 16.23 is new and provides alternative procedures to Rule 35 for mental or physical examinations of minors in family law actions.

Rule 16.3. Discovery Commissioners

(a) **Appointment and Compensation.** ~~The court~~A judicial district may appoint one or more discovery commissioners to serve at the pleasure of the court. In multi-judge judicial districts, appointment ~~shall~~must be by the concurrence of a majority of all ~~the~~ judges ~~of such~~in the judicial district. The compensation of a discovery commissioner ~~may~~must not be taxed against the parties~~,~~ but, when fixed by the court, must be paid out of appropriations made

for the expenses of the judicial district ~~court~~.

(b) **Powers ~~and Duties.~~ .**

(1) A discovery commissioner may administer oaths and affirmations.

(2) As directed by the court, or as authorized by these rules or local rules, a discovery commissioner may ~~enter scheduling orders pursuant to Rule 16(b) and~~ :

(A) preside at ~~the case conferences and~~ discovery resolution conferences ~~required by Rule 16.1 or 16.2. A discovery commissioner also may conduct settlement conferences pursuant to an agreement by the parties or an order~~;

(B) preside over discovery motions;

(C) preside at any other proceeding or conference in furtherance of the ~~district court. The discovery commissioner has and shall exercise the power to administer oaths and affirmations, to~~ discovery commissioner's duties;

(D) regulate all proceedings ~~in every conference~~ before ~~him,~~the discovery commissioner; and ~~to do all acts and~~

(E) take ~~all measures~~any other action necessary or proper for the efficient performance of ~~his~~the discovery commissioner's duties.

(3) If agreed by the parties or ordered by the court, a discovery commissioner also may conduct settlement conferences.

(c) **Report and Recommendation; Objections.**

(1) **Report and Recommendation.** After a discovery motion or other contested matter is heard by or submitted to a discovery commissioner, the discovery commissioner must prepare a report with the discovery commissioner's recommendations for a resolution of each unresolved dispute.

The discovery commissioner may direct counsel to prepare the report. The discovery commissioner must file the report with the court and serve a copy of it on each party.

(2) **Objections.** Within 14 days after being served with a report, any party may file and serve written objections to the recommendations. Written authorities may be filed with an objection but are not mandatory. If written authorities are filed, any other party may file and serve responding authorities within 7 days after being served with the objections.

(3) **Review.** Upon receipt of a discovery commissioner's report, any objections, and any response, the court may:

(A) affirm, reverse, or modify the discovery commissioner's ruling without a hearing;

(B) set the matter for a hearing; or

(C) remand the matter to the discovery commissioner for reconsideration or further action.

Advisory Committee Note—2019 Amendment

The amendments generally restate Rule 16.3(a) and (b) from the former NRCP 16.3. The amendments make clear that discovery commissioners may hear discovery motions, but also require the district court to conduct case conferences and issue scheduling orders. Rule 16.3(c) relocates the text of the former NRCP 16.1(d)(2), NRCP 16.2(j)(2), and NRCP 16.205(j)(2) into this rule. The court reviews a discovery commissioner's report and recommendation de novo. However, an objecting party may not raise new arguments in support of an objection that could have been raised before the discovery commissioner but were not. *See Valley Health Sys., LLC v. Eighth Judicial Dist. Court*, 127 Nev. 167, 173, 252 P.3d 676, 680 (2011).

IV. PARTIES

~~**RULE 17. PARTIES PLAINTIFF AND DEFENDANT; CAPACITY**~~

Rule 17. Plaintiff and Defendant; Capacity; Public Officers

(a) **Real Party in Interest.** ~~Every~~

(1) **Designation in General.** An action ~~shall~~must be prosecuted in the name of the real party in interest. ~~An~~The following may sue in their own names without joining the person for whose benefit the action is brought:

(A) an executor~~,~~;

(B) an administrator~~,~~;

(C) a guardian~~,~~;

(D) a bailee~~,~~;

(E) a trustee of an express trust~~, ~~;

(F) a party with whom or in whose name a contract has been made for ~~the~~another's benefit ~~of another, or ~~; and

(G) a party authorized by statute ~~may sue in that person's own name without joining the party for whose benefit the action is brought; and when~~.

(2) **Action in the Name of the State of Nevada for Another's Use or Benefit.** When a statute so provides, an action for ~~the~~another's use or benefit ~~of another shall~~must be brought in the name of the State. ~~No~~

(3) **Joinder of the Real Party in Interest.** The court may not dismiss an action ~~shall be dismissed on the ground that it is not prosecuted~~for failure to prosecute in the name of the real party in interest until, after an objection, a reasonable time has been allowed ~~after objection for~~for the real party in interest to ratify, join, or be substituted into the action. After ratification ~~of commencement of the action by, or ~~, joinder, or substitution ~~of,~~

~~the real party in interest; and such ratification, joinder, or substitution shall have the same effect as if~~ , the action proceeds as if it had been originally commenced ~~in the name of~~ by the real party in interest.

(b) **Capacity to Sue or Be Sued.** ~~The capacity of~~Capacity to sue or be sued is determined as follows:

(1) for an individual, including one acting in a representative capacity, ~~to sue or be sued shall be determined~~ by the law of this ~~State. The capacity of~~state;

(2) for a corporation ~~to sue or be sued shall be determined~~, by the law under which it was organized, unless ~~a statute~~the law of this ~~State~~state provides ~~to the contrary.~~otherwise; and

(3) for all other parties, by the law of this state.

(c) ~~**Infants**~~**Minor or Incapacitated Person.**

(1) **With a Representative.** The following representatives may sue or defend on behalf of a minor or ~~**Incompetent Persons.** Whenever an infant or incompetent person has a representative, such as~~ an incapacitated person:

(A) a general guardian~~,~~;

(B) a committee~~,~~;

(C) a conservator~~,~~; or ~~other~~

(D) a like fiduciary~~, the representative may sue or defend on behalf of the infant or incompetent person. An infant or incompetent~~.

(2) **Without a Representative.** A minor or an incapacitated person who does not have a duly appointed representative may sue by a next friend or by a guardian ad litem. The court ~~shall~~must appoint a guardian ad litem ~~for an infant or~~ or ~~incompetent~~issue another appropriate order to protect a minor or incapacitated person who is not ~~otherwise~~ represented in an

action ~~or shall make such other order as it deems proper for the protection of the infant or incompetent person~~.

~~**RULE**~~ (d) **Public Officer's Title and Name.** A public officer who sues or is sued in an official capacity may be designated by official title rather than by name, but the court may order that the officer's name be added.

Advisory Committee Note—2019 Amendment

The amendments generally conform Rule 17 to FRCP 17. Rule 17(b) is Nevada specific—Nevada law will determine a party's capacity to sue or be sued, except where this rule, choice of law, or other applicable principles provide otherwise. Rule 17(d) relocates the former NRCP 25(d)(2) into this rule.

Rule 18. ~~JOINDER OF CLAIMS AND REMEDIES~~

~~(a)~~ Joinder of Claims~~.~~

(a) **In General.** A party asserting a claim ~~to relief as an original claim~~, counterclaim, ~~cross-claim~~crossclaim, or third-party claim~~,~~ may join, ~~either~~ as independent or ~~as alternate~~alternative claims, as many claims~~, legal or equitable or both as the party~~ as it has against an opposing party.

(b) **Joinder of ~~Remedies; Fraudulent Conveyances.~~** ~~Whenever a claim is one heretofore cognizable only after another claim has been prosecuted to a conclusion, the~~ **Contingent Claims.** A party may join two claims ~~may be joined in a single action~~even though one of them is contingent on the disposition of the other; but the court ~~shall~~may grant relief ~~in that action~~ only in accordance with the parties' relative substantive rights ~~of the parties.~~. In particular, a plaintiff may state a claim for money and a claim to ~~have~~ set aside

a conveyance that is fraudulent as to that plaintiff, without first ~~having obtained~~ obtaining a judgment ~~establishing the claim~~ for the money.

~~RULE 19. JOINDER OF PERSONS NEEDED FOR JUST ADJUDICATION~~

Rule 19. Required Joinder of Parties

(a) **Persons Required to Be Joined if Feasible.**

(1) **Required Party.** A person who is subject to service of process and whose joinder will not deprive the court of subject-matter jurisdiction ~~over the subject matter of the action shall~~must be joined as a party ~~in the action~~ if ~~(1)~~ :

(A) in ~~the~~that person's absence, the court cannot accord complete relief ~~cannot be accorded~~ among ~~those already~~existing parties~~,~~; or ~~(2) the~~

(B) that person claims an interest relating to the subject of the action and is so situated that ~~the disposition~~disposing of the action in the person's absence may~~-~~:

(i)~~-~~ as a practical matter impair or impede the person's ability to protect ~~that~~the interest; or

(ii)~~-~~ leave ~~any of the persons already parties~~an existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations ~~by reason~~because of the ~~claimed~~ interest.

(2) **Joinder by Court Order.** If ~~the~~a person has not been ~~so~~ joined as required, the court ~~shall~~must order that the person be made a party. ~~If the~~A person ~~should~~ who refuses to join as a plaintiff ~~but refuses to do so, the person~~ may be made either a defendant~~,~~ or, in a proper case, an involuntary plaintiff.

(b) **~~Determination by Court Whenever~~When Joinder Is Not Feasible.** If a person ~~as described in subdivision (a)(1)-(2) hereof~~who is required to be joined if feasible cannot be ~~made a party~~joined, the court ~~shall~~must determine whether, in equity and good conscience, the action should proceed among the existing parties ~~before it,~~ or should be dismissed~~, the absent person being thus regarded as indispensable.~~. The factors ~~to be considered by~~for the court to consider include: ~~first, to what~~

(1) the extent to which a judgment rendered in the person's absence might ~~be prejudicial to the~~ prejudice that person or ~~those already~~the existing parties; ~~second,~~

(2) the extent to which~~,~~ any prejudice could be lessened or avoided by~~:~~

(A) protective provisions in the judgment~~, by the~~;

(B) shaping ~~of~~the relief~~,~~; or

(C) other measures~~, the prejudice can be lessened or avoided; third,~~ ;

(3) whether a judgment rendered in the person's absence ~~will~~would be adequate; ~~fourth,~~ and

(4) whether the plaintiff ~~will~~would have an adequate remedy if the action ~~is~~were dismissed for nonjoinder.

(c) **Pleading the Reasons for Nonjoinder.** ~~A pleading~~When asserting a claim for relief ~~shall~~, a party must state~~:~~

(1) the ~~names~~name, if known, of any person who is required to ~~the pleader, of any persons as described in subdivision (a)(1)-(2) hereof who are~~be joined if feasible but is not joined~~,~~; and

(2) the reasons ~~why they are~~for not ~~joined~~joining that person.

(d) **Exception ~~of~~for Class Actions.** This rule is subject to ~~the provisions of~~ Rule 23.

~~RULE~~Advisory Committee Note—2019 Amendment

The amendments generally conform Rule 19 to FRCP 19. Persons joined in an action in Nevada retain any rights they may have to move to change the venue under NRS Chapter 13 or to move to dismiss under forum non conveniens.

Rule 20. ~~PERMISSIVE JOINDER OF PARTIES~~

~~(a)~~ Permissive Joinder~~. All persons~~ of Parties

(a) **Persons Who May Join or Be Joined.**

(1) **Plaintiffs.** Persons may join in one action as plaintiffs if~~.~~:

(A) they assert any right to relief jointly, severally, or in the alternative ~~in~~with respect ~~of~~to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and ~~if~~

(B) any question of law or ~~of~~ fact common to all ~~these persons~~ plaintiffs will arise in the action. ~~All persons~~

(2) **Defendants.** Persons may be joined in one action as defendants if ~~there~~ :

(A) any right to relief is asserted against them jointly, severally, or in the alternative~~, any right to relief in~~ with respect ~~of~~to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and ~~if~~

(B) any question of law or fact common to all defendants will arise in the action. ~~A~~

(3) **Extent of Relief.** Neither a plaintiff ~~or~~nor a defendant need ~~not~~ be interested in obtaining or defending against all the relief demanded. ~~Judgment~~The court may ~~be given for~~grant judgment to one or more ~~of the~~ plaintiffs according to their ~~respective~~ rights ~~to relief~~, and against one or more defendants according to their ~~respective~~ liabilities.

(b) ~~**Separate Trials.**~~**Protective Measures.** The court may ~~make such~~issue orders ~~as will prevent a party from being embarrassed, delayed, or put to expense by the inclusion of~~—including an order for separate trials—to protect a party against embarrassment, delay, expense, or other prejudice that arises from including a person against whom the party asserts no claim and who asserts no claim against the party~~, and may order separate trials or make other orders to prevent delay or prejudice~~.

~~RULE 21. MISJOINDER AND NONJOINDER OF PARTIES~~

Rule 21. Misjoinder and Nonjoinder of Parties

Misjoinder of parties is not a ground for ~~dismissal of~~dismissing an action. ~~Parties may be dropped or added by order of the court on~~On motion ~~of any party~~ or ~~of~~on its own ~~initiative~~, the court may at any ~~stage of the action and~~time, on ~~such~~just terms ~~as are just. Any~~, add or drop a party. The court may also sever any claim against a party ~~may be severed and proceeded with separately~~.

~~RULE~~Rule 22. ~~INTERPLEADER~~Interpleader

(a) **Grounds.**

(1) **By a Plaintiff.** Persons ~~having~~with claims ~~against the~~that may expose a plaintiff to double or multiple liability may be joined as defendants and required to interplead ~~when their claims are such that the~~

~~plaintiff is or may be exposed to double or multiple liability. It is not ground for objection to the joinder that~~ . Joinder for interpleader is proper even though:

(A) the claims of the several claimants, or the titles on which their claims depend ~~do not have~~, lack a common origin or are ~~not identical but are~~ adverse ~~to~~ and independent ~~of one another,~~rather than identical; or ~~that~~

(B) the plaintiff ~~avers that the plaintiff is not liable~~denies liability in whole or in part to any or all of the claimants.

(2) **By a Defendant.** A defendant exposed to similar liability may ~~obtain such~~seek interpleader ~~by way of cross-claim~~through a crossclaim or counterclaim~~. The provisions of this rule supplement **and** do not in any way limit the joinder of parties permitted in Rule 20~~.

~~**RULE**~~ (b) **Relation to Other Rules and Statutes.** This rule supplements—and does not limit—the joinder of parties allowed by Rule 20. The remedy this rule provides is in addition to—and does not supersede or limit—the remedy provided by any Nevada statute authorizing interpleader. These rules apply to any action brought under statutory interpleader provisions, except as otherwise provided by Rule 81.

Rule 23. ~~CLASS ACTIONS~~Class Actions

(a) **Prerequisites to a Class Action.** One or more members of a class may sue or be sued as representative parties on behalf of all only if ~~-~~:

(1) ~~–~~ the class is so numerous that joinder of all members is impracticable~~, –~~;

(2) ~~-~~ there are questions of law or fact common to the class~~, –~~;

(3) ~~-~~ the claims or defenses of the representative parties are typical of the claims or defenses of the class~~, and (4) the representative parties will~~

~~fairly and adequately protect the interests of the class.~~; and

~~(b~~ (4) the representative parties will fairly and adequately protect the interests of the class.

(b) **Aggregation.** The representative parties may aggregate the value of the individual claims of all potential class members to establish district court jurisdiction over a class action.

(c) **Class Actions Maintainable.** An action may be maintained as a class action if the prerequisites of ~~subdivision~~ Rule 23(a) are satisfied, and in addition:

(1) the prosecution of separate actions by or against individual members of the class would create a risk of:

(A) inconsistent or varying adjudications with respect to individual members of the class ~~which~~that would establish incompatible standards of conduct for the party opposing the class~~,~~; or

(B) adjudications with respect to individual members of the class ~~which~~that would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests; ~~or~~

(2) the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole; or

(3) the court finds that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy. The matters pertinent to the findings include:

(A) the interest of members of the class in individually controlling the prosecution or defense of separate actions;

(B) the extent and nature of any litigation concerning the controversy already commenced by or against members of the class;

(C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; ~~(D) the difficulties likely to be encountered in the management of a class action.~~and

~~(c~~ (D) the difficulties likely to be encountered in the management of a class action.

(d) **Determination by Order Whether Class Action to Be Maintained; Notice; Judgment; Actions Conducted Partially as Class Actions.**

(1) As soon as practicable after the commencement of an action brought as a class action, the court ~~shall~~must determine by order whether it is to be so maintained. ~~An~~The order ~~under this subdivision~~ may be conditional, and may be altered or amended before the decision on the merits.

~~(2) In any class action maintained under subdivision (b)(3), the court shall~~ (2) When determining whether an action may be maintained as a class action, the representative party's rejection of an offer made under Rule 68 or other offer of compromise that offers to resolve less than all of the class claims asserted by or against the representative party has no impact on the representative party's ability to satisfy the requirements of Rule 23(a)(4). When the representative party is unable or unwilling to continue as the class representative, the court must permit class members an opportunity to substitute a class representative meeting the requirements of Rule 23(a)(4), except in cases where the representative party has been sued.

(3) In any class action maintained under Rule 23(c)(3), the court

should direct to the members of the class the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice ~~shall~~must advise each member that~~-~~:

(A)~~-~~ the court will exclude the member from the class if the member so requests by a specified date;

(B)~~-~~ the judgment, whether favorable or not, will include all members who do not request exclusion; and

(C)~~-~~ any member who does not request exclusion may, if the member desires, enter an appearance through the member's counsel.

(~~3~~4) The judgment in an action maintained as a class action under ~~subdivision (b~~Rule 23(c)(1) or (~~b)(~~2), whether or not favorable to the class, ~~shall~~must include and describe those whom the court finds to be members of the class. The judgment in an action maintained as a class action under ~~subdivision (b~~Rule 23(c)(3), whether or not favorable to the class, ~~shall~~must include and specify or describe those to whom the notice provided in ~~subdivision (c)(2~~Rule 23(d)(3) was directed, and who have not requested exclusion, and whom the court finds to be members of the class.

(~~4~~5) When appropriate~~ (A),~~ an action may be brought or maintained as a class action with respect to particular issues, or ~~(B)~~ a class may be divided into subclasses and each subclass treated as a class~~, and~~. In either case, the provisions of this rule ~~shall~~should then be construed and applied accordingly.

(~~d~~e) **Orders in Conduct of Actions.** ~~In the conduct of~~

(1) When conducting actions to which this rule applies, the court may make appropriate orders: ~~(1)~~

(A) determining the course of proceedings or prescribing

measures to prevent undue repetition or complication in the presentation of evidence or argument; ~~(2)~~

(B) requiring, for the protection of the members of the class or otherwise for the fair conduct of the action, that notice be given ~~in such manner as the court may direct to some or all of the members of any step in the action, or of the proposed extent of the judgment, or of the opportunity of members to signify whether they consider the representation fair and adequate, to intervene and present claims or defenses, or otherwise to come into the action; (3) imposing conditions on the representative parties or on intervenors; (4) requiring that the pleadings be amended to eliminate therefrom allegations as to representation of absent persons, and that the action proceed accordingly; (5) dealing with similar procedural matters. The orders may be combined with an order under Rule 16, and may be altered or amended as may be desirable from time to time.~~to some or all of the members in such manner as the court may direct:

~~(c~~ (i) of any step in the action;

(ii) of the proposed extent of the judgment;

(iii) of the opportunity of members to signify whether they consider the representation fair and adequate;

(iv) to intervene and present claims or defenses; or

(v) to otherwise to come into the action;

(C) imposing conditions on the representative parties or on intervenors;

(D) requiring that the pleadings be amended to eliminate therefrom allegations as to representation of absent persons and that the action proceed accordingly;

(E) dealing with similar procedural matters.

(2) The orders may be combined with an order under Rule 16, and may be altered or amended.

(f) **Dismissal or Compromise.** A class action ~~shall~~must not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise ~~shall~~must be given to all members of the class in such manner as the court directs.

~~RULE~~Advisory Committee Note—2019 Amendment

The amendments retain Rule 23 and add Rule 23(b) and (d)(2). Rule 23(b) permits aggregation of the value of class members' claims to reach the district court threshold jurisdictional amount, and Rule 23(d)(2) permits substituting a class representative when a representative party is unable or unwilling to continue as the class representative.

Rule 23.1. ~~DERIVATIVE ACTIONS BY SHAREHOLDERS~~Derivative Actions by Shareholders

In a derivative action brought by one or more shareholders or members to enforce a right of a corporation or of an unincorporated association, the corporation or association having failed to enforce a right ~~which~~that may properly be asserted by it, the complaint ~~shall~~must be verified and ~~shall~~must allege that the plaintiff was a shareholder or member at the time of the transaction of which the plaintiff complains, or that the plaintiff's share or membership thereafter devolved on the plaintiff by operation of law. The complaint ~~shall~~must also allege with particularity the efforts, if any, made by the plaintiff to obtain the action the plaintiff desires from the directors or comparable authority and, if necessary, from the shareholders or members, and the reasons for the plaintiff's failure to obtain the action or for not making

the effort. The derivative action may not be maintained if it appears that the plaintiff does not fairly and adequately represent the interests of the shareholders or members similarly situated in enforcing the right of the corporation or association. The action ~~shall~~may not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise ~~shall~~must be given to shareholders or members in such manner as the court directs.

~~RULE 23.2. ACTIONS RELATING TO UNINCORPORATED ASSOCIATIONS~~

Rule 23.2. Actions Relating to Unincorporated Associations

An action brought by or against the members of an unincorporated association as a class by naming certain members as representative parties may be maintained only if it appears that the representative parties will fairly and adequately protect the interests of the association and its members. In ~~the conduct of~~conducting the action, the court may ~~make~~issue any appropriate orders corresponding with those ~~described~~ in Rule 23(~~dc~~), and the procedure for dismissal or compromise of the action ~~shall~~must correspond with ~~that provided~~the procedure in Rule 23(~~ef~~).

~~RULE~~Rule 24. ~~INTERVENTION~~Intervention

(a) **Intervention of Right.** ~~Upon~~On timely ~~application~~motion, the court must permit anyone ~~shall be permitted~~ to intervene ~~in an action:~~ who:

(1) ~~when a statute confers~~ is given an unconditional right to intervene~~; or~~ by a state or federal statute; or

(2) ~~when the applicant~~ claims an interest relating to the property or transaction ~~which~~that is the subject of the action, and ~~the applicant~~ is so

situated that ~~the dispositiondisposing~~ of the action may as a practical matter impair or impede the ~~applicant's~~movant's ability to protect ~~that~~its interest, unless ~~the applicant's interest is adequately represented by~~ existing parties adequately represent that interest.

(b) **Permissive Intervention.** ~~Upon~~

(1) **In General.** On timely ~~application~~motion, the court may permit anyone ~~may be permitted~~ to intervene ~~in an action: (1) when a statute confers~~who:

(A) is given a conditional right to intervene~~;~~ by a state or ~~(2) when an applicant's~~federal statute; or

(B) has a claim or defense ~~and~~ that shares with the main action ~~have~~ a common question of law or fact ~~in common.~~ .

(2) **By a Government Officer or Agency.** On timely motion, the court may permit a state or federal governmental officer or agency to intervene if a party's claim or defense is based on:

(A) a statute or executive order administered by the officer or agency; or

(B) any regulation, order, requirement, or agreement issued or made under the statute or executive order.

(3) **Delay or Prejudice.** In exercising its discretion, the court ~~shall~~must consider whether the intervention will unduly delay or prejudice the adjudication of the ~~rights of the~~ original ~~parties~~parties' rights.

(c) ~~**Procedure.** A person desiring to intervene shall serve a~~**Notice and Pleading Required.** A motion to intervene ~~upon~~must be served on the parties as provided in Rule 5. The motion ~~shall~~must state the grounds ~~therefor~~ for intervention and ~~shall~~ be accompanied by a pleading ~~setting forth~~that sets out the claim or defense for which intervention is sought. ~~The same procedure~~

~~shall be followed when a statute gives a right~~

~~RULE~~

Advisory Committee Note—2019 Amendment

The amendments conform Rule 24 to FRCP 24, including the addition of Rule 24(b)(2), which was not in the former Nevada rule. Intervention by government agencies under the specified conditions should enable the relevant issues to be resolved in a single action.

Rule 25. ~~SUBSTITUTION OF PARTIES~~Substitution of Parties

(a) **Death.**

(1) **Substitution if the Claim Is Not Extinguished.** If a party dies and the claim is not ~~thereby~~ extinguished, the court may order substitution of the proper ~~parties. The~~party. A motion for substitution may be made by any party or by the ~~successors~~ decedent's successor or ~~representatives of the deceased party and, together with the notice of hearing, shall be served on the parties as provided in Rule 5 and upon persons~~ representative. If the motion is not ~~parties in the manner provided in Rule 4 for the service of a summons. Unless the motion for substitution is~~ made ~~not later than 90~~within 180 days after ~~the death is suggested upon the record by~~ service of a statement ~~of the fact of the death as provided herein for the service of the motion, the action shall be dismissed as to the deceased party.~~

~~(2) In the event of the death of one~~ noting the death, the claims by or ~~more of the plaintiffs or of one or more of the defendants in an action in which~~ against the decedent must be dismissed.

(2) **Continuation Among the Remaining Parties.** After a party's death, if the right sought to be enforced survives only to ~~the surviving plaintiffs~~ or ~~only~~ against the ~~surviving defendants~~remaining parties, the

action does not abate~~. The death shall be suggested upon the record and the action shall proceed~~, but proceeds in favor of or against the ~~surviving~~remaining parties. The death should be noted on the record.

(3) **Service.** A motion to substitute must be served on the parties as provided in Rule 5 and on nonparties as provided in Rule 4. A statement noting death must be served in the same manner.

(b) ~~**Incompetency**~~**Incapacitated Persons.** If a party becomes ~~incompetent~~incapacitated, the court ~~upon~~may, on motion ~~served as provided in subdivision (a) of this rule may allow~~ , permit the action to be continued by or against the party's representative. The motion must be served as provided in Rule 25(a)(3).

(c) **Transfer of Interest.** ~~In case of any transfer of~~If an interest is transferred, the action may be continued by or against the original party~~,~~ unless the court ~~upon~~, on motion ~~directs~~, orders the ~~person to whom the interest is transferred~~transferee to be substituted in the action or joined with the original party. ~~Service of the~~The motion ~~shall~~must be ~~made~~served as provided in ~~subdivision~~ Rule 25(a~~) of this rule.~~)(3).

(d) **Public Officers; Death or Separation From Office.**

~~(1) When~~ An action does not abate when a public officer who is a party ~~to an action~~ in an official capacity ~~and during its pendency~~ dies, resigns, or otherwise ceases to hold office~~,~~ while the action ~~does not abate and the~~is pending. The officer's successor is automatically substituted as a party. ~~Proceedings following the substitution shall be in the name of~~ Later proceedings should be in the substituted ~~party~~party's name, but any misnomer not affecting the parties' substantial rights ~~of the parties shall~~must be disregarded. ~~An~~ The court may order ~~of~~ substitution ~~may be entered~~ at any time, but the ~~omission to enter~~ absence of such an order ~~shall~~does not affect

the substitution.

~~(2) A public officer who sues or is sued in an official capacity may be described as a party by the officer's official title rather than by name; but the court may require the officer's name to be added.~~

Advisory Committee Note—2019 Amendment

The amendments generally conform Rule 25 to FRCP 25.

Subsection (a). Rule 25(a) works in conjunction with NRS 7.075, which requires an attorney whose client dies to file a notice of death and a motion for substitution within 90 days after the death. Under Rule 25(a)(1), any party or the decedent's successor or representative has 180 days after service of a notice of death or a statement noting the death in which to file a motion for substitution. Although Rule 25(a)(1) changes the time to file the motion for substitution from 90 to 180 days after service of a statement noting a party's death, it otherwise generally tracks FRCP 25(a)(1). As with FRCP 6(b) and 25(a)(1), a motion for substitution under Rule 25(a)(1) is not among the motions Rule 6(b)(2) excludes from its extension-of-time provisions. The district court thus has discretion, under Rule 6(b)(1), to enlarge the time to file a motion to substitute, despite the use of the word "must" in NRCP 25(a)(1). *See* 7C Charles Alan Wright, Arthur Miller & Mary Kay Kane, *Federal Practice and Procedure: Civil* § 1955, at 681-84 (3d. ed. 2007) (noting that, despite the use of "must" in FRCP 25(a), "[d]ismissal is not mandatory" when a party cannot file a motion for substitution within the allotted time; under FRCP 6, "the court may extend the period for substitution if a request is made before" the period expires and "also may allow substitution on motion made after expiration of the [substitution] period on a showing that the failure to act earlier was the result of excusable neglect, although an extension of time also may be refused if the

court find the reasons for the delay to be inexcusable"). The remaining parties may also seek to continue the action in a manner not involving substitution of the decedent's successor or representative.

Subsections (b), (c), and (d). The amendments conform Rules 25(b), (c), and (d) to the corresponding federal rule. Former NRCP 25(d)(2) is moved to Rule 17(d).

V. ~~DEPOSITIONS~~DISCLOSURES AND DISCOVERY

~~**RULE 26. GENERAL PROVISIONS GOVERNING DISCOVERY**~~

Rule 26. General Provisions Governing Discovery

(a) **Discovery Methods.** At any time after the filing of a joint case conference report, or not sooner than ~~10~~14 days after a party has filed a separate case conference report, or upon order by the court or discovery commissioner, any party who has complied with Rule 16.1(a)(1~~) may obtain discovery by one or more of the following additional methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property under Rule 34 or Rule 45(a)(1)(C), for inspection and other purposes; physical and mental examinations; and requests for admission.~~), 16.2, or 16.205 may obtain discovery by any means permitted by these rules.

(b) **Discovery Scope and Limits.**

(1) **Scope.** Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claims or defenses and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the

importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.

~~(1) **In General.** Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. All discovery is subject to the limitations imposed by Rule 26(b)(2)(i), (ii), and (iii).~~

(2) **Limitations.** ~~By order, the~~

(A) **Frequency.** The court may alter the limits in these rules ~~or set limits~~ on the number of depositions and interrogatories, the length of depositions under Rule 30, or the number of requests under Rule 36.

(B) **Electronically Stored Information.** A party need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the party from whom discovery is sought must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may

specify conditions for the discovery, including costs of complying with the court's order.

(C) **When Required.** On motion or on its own, the court must limit the frequency or extent of ~~use of the~~ discovery ~~methods~~ otherwise ~~permitted under~~ allowed by these rules ~~and~~or by ~~any~~ local rule ~~shall be limited by the court~~ if it determines that:

(i) the discovery sought is unreasonably cumulative or duplicative, or ~~is obtainable~~can be obtained from some other source that is more convenient, less burdensome, or less expensive;

(ii) the party seeking discovery has had ample opportunity ~~by discovery in the action~~ to obtain the information ~~sought; or (iii) the discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, limitations on the parties' resources, and the importance of the issues at stake in the litigation. The court may act upon its own initiative after reasonable notice or pursuant to a motion under subdivision (c) of this rule.~~by discovery in the action; or

(iii) the proposed discovery is outside the scope permitted by Rule 26(b)(1).

(3) **Trial Preparation: Materials.** ~~Subject to the provisions of subdivision (b)(4) of this rule~~

(A) **Documents and Tangible Things.** Ordinarily, a party may ~~obtain discovery of~~not discover documents and tangible things ~~otherwise discoverable under subdivision (b)(1) of this rule and~~that are prepared in anticipation of litigation or for trial by or for another party or ~~by or for that other party's~~its representative (including the other party's attorney, consultant, surety, indemnitor, insurer, or agent~~) only upon a showing that~~). But, subject to Rule 26(b)(4), those materials may be discovered if:

(i) they are otherwise discoverable under Rule 26(b)(1); and

(ii) the party ~~seeking discovery~~shows that it has substantial need ~~of~~for the materials ~~in the preparation of the party's~~to prepare its case and ~~that the party is unable~~cannot, without undue hardship ~~to,~~ obtain ~~the~~their substantial equivalent ~~of the materials~~ by other means. ~~In ordering~~

(B) **Protection Against Disclosure.** If the court orders discovery of ~~such~~those materials ~~when the required showing has been made, the court shall~~, it must protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of ~~an~~a party's attorney or other representative ~~of a party~~ concerning the litigation.

~~A~~ (C) **Previous Statement.** Any party ~~may obtain~~ or other person may, on request and without the required showing ~~a~~, obtain the person's own previous statement ~~concerning~~about the action or its subject matter ~~previously made by that party. Upon request, a person not a party may obtain without the required showing a statement concerning the action or its subject matter previously made by that person.~~. If the request is refused, the person may move for a court order~~. The provisions of~~, and Rule 37(a)(~~4) apply~~5) applies to the award of expenses ~~incurred in relation to the motion. For purposes of this paragraph, a statement previously made is (A)~~. A previous statement is either:

(i) a written statement that the person has signed or otherwise adopted or approved ~~by the person making it, or (B) a~~; or

(ii) a contemporaneous stenographic, mechanical, electrical, or other recording~~,~~ or a transcription ~~thereof, which is a~~of it that recites substantially verbatim ~~recital of an~~the person's oral statement ~~by the person making it and contemporaneously recorded~~.

(4) **Trial Preparation: Experts.**

~~(A)~~ (A) **Deposition of an Expert Who May Testify.** A party may depose any person who has been identified as an expert whose opinions may be presented at trial. If a report from the expert is required under Rule 16.1(a)(2)(B~~)~~), 16.2(e)(3), or 16.~~2(a~~205(e)(3), the deposition ~~shall~~may not be conducted until after the report is provided.

~~(B) A party may, through interrogatories or by~~

(B) **Trial-Preparation Protection for Draft Reports or Disclosures.** Rule 26(b)(3) protects drafts of any report or disclosure required under Rule 16.1(a), 16.2(d) or (e), 16.205(d) or (e), or 26(b)(1), regardless of the form in which the draft is recorded.

(C) **Trial-Preparation Protection for Communications Between a Party's Attorney and Expert Witnesses.** Rule 26(b)(3) protects communications between the party's attorney and any witness required to provide a report under Rule 16.1(a), 16.2(d) or (e), or 16.205(d) or (e), regardless of the form of the communications, except to the extent that the communications:

(i) relate to compensation for the expert's study or testimony;

(ii) identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed; or

(iii) identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions to be expressed.

(D) **Expert Employed Only for Trial Preparation.** Ordinarily, a party may not, by interrogatories or deposition, discover facts known or opinions held by an expert who has been retained or

specially employed by another party in anticipation of litigation or ~~preparation~~to prepare for trial and who is not expected to be called as a witness at trial~~, only as provided in Rule 35(b) or upon~~. But a ~~showing of exceptional circumstances under which it is impracticable for the~~ party ~~seeking discovery to obtain facts or opinions on the same subject by other means.~~may do so only:

~~(C) Unless manifest injustice would result, (i) the court shall require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under this subdivision; and (ii) with respect to discovery obtained under subdivision (b)(4)(B) of this rule, the court shall require the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert.~~

(i) as provided in Rule 35(b); or

(ii) on showing exceptional circumstances under which it is impracticable for the party to obtain facts or opinions on the same subject by other means.

(5) ~~**Claims of**~~**Claiming Privilege or** ~~**Protection of**~~**Protecting Trial Preparation Materials.**

(A) **Information Withheld.** When a party withholds information otherwise discoverable ~~under these rules~~ by claiming that ~~it~~the information is privileged or subject to protection as trial-~~-~~preparation material, the party ~~shall~~ must:

(i) expressly make the claim ~~expressly;~~ and ~~shall~~

(ii) describe the nature of the documents, communications, or tangible things not produced or disclosed—and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the ~~applicability of the privilege or~~

~~protection~~claim.

(B) **Information Produced.** If information produced in discovery is subject to a claim of privilege or of protection as trial-preparation material, the party making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The producing party must preserve the information until the claim is resolved.

(c) **Protective Orders.** ~~Upon motion by a~~

(1) **In General.** A party or ~~by the~~any person from whom discovery is sought~~, accompanied by~~ may move for a protective order in the court where the action is pending—or as an alternative on matters relating to an out-of-state deposition, in the court for the judicial district where the deposition will be taken. The motion must include a certification that the movant has in good faith conferred or attempted to confer with ~~the~~ other affected parties in an effort to resolve the dispute without court action~~, and~~. The court may, for good cause ~~shown, the court in which the action is pending may make any order which justice requires~~, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

~~(1) that~~ (A) forbidding the disclosure or discovery ~~not be had~~;

~~(2) that the discovery may be had only on specified~~

(B) specifying terms ~~and conditions~~, including ~~a designation of the~~ time ~~or~~and place or the allocation of expenses, for the disclosure or discovery;

~~(3) that the~~ (C) prescribing a discovery ~~may be had only by a~~ method ~~of discovery~~ other than ~~that~~the one selected by the party seeking discovery;

~~(4) that~~ (D) forbidding inquiry into certain matters ~~not be inquired into~~, or ~~that~~limiting the scope of ~~the~~disclosure or discovery ~~be limited~~ to certain matters;

~~(5) that~~ (E) designating the persons who may be present while the discovery ~~be~~is conducted ~~with no one present except persons designated by the court~~;

~~(6)~~ (F) requiring that a deposition ~~after being~~be sealed ~~be~~and opened only ~~by~~on court order ~~of the court~~;

~~(7)~~ (G) requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a ~~designated~~specified way; and

~~(8)~~ (H) requiring that the parties simultaneously file specified documents or information ~~enclosed~~ in sealed envelopes, to be opened as ~~directed by~~ the court directs.

(2) **Ordering Discovery.** If ~~the~~a motion for a protective order is wholly or partially denied ~~in whole or in part~~, the court may, on ~~such~~just terms ~~and conditions as are just~~, order that any party or ~~other~~ person provide or permit discovery. ~~The provisions of~~

(3) **Awarding Expenses.** Rule 37(a)(~~4) apply~~5) applies to the award of expenses ~~incurred in relation to the motion~~.

(d) **Sequence ~~and Timing~~ of Discovery.** ~~After compliance with subdivision (a) of this rule, unless~~Unless the parties stipulate or the court ~~upon motion,~~orders otherwise for the parties' and witnesses' convenience ~~of parties and witnesses~~ and in the interests of justice~~, orders otherwise,~~ :

(1) methods of discovery may be used in any sequence; and ~~the fact that a~~

(2) discovery by one party ~~is conducting discovery, whether by deposition or otherwise,~~ does not ~~operate to delay~~ require any other ~~party's~~ party to delay its discovery.

(e) ~~**Supplementation of**~~**Supplementing Disclosures and Responses.**

(1) **In General.** A party who has made a disclosure under Rule 16.1, 16.2, or 16.~~2~~ 205—or responded to a request for discovery with a disclosure or response—is under a duty to timely supplement or correct the disclosure or response to include information thereafter acquired~~, if ordered by the court or in the following circumstances:~~

~~(1) A party is under a duty to supplement at appropriate intervals its disclosures under Rule 16.1(a) or 16.2(a)~~ if the party learns that in some material respect the information disclosed is incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing.

(2) **Expert Witness.** With respect to testimony of an expert from whom a report is required under Rule 16.1(a)(2)(B~~)~~), 16.2(e)(3), or 16.205(e)(3), the duty extends both to information contained in the report and to information provided through a deposition of the expert~~, and any~~. Any additions or other changes to this information ~~shall~~must be disclosed by the time the party's disclosures under Rule 16.1(a)(3), 16.2(f), or 16.205(f) are due.

~~(2) A party is under a duty seasonably to amend a prior response to an interrogatory, request for production or request for admission, if the party learns that the response is in some material respect incomplete or incorrect and if the additional or corrective information has not otherwise been made~~

~~known to the other parties during the discovery process or in writing.~~

(f) **Form of Responses.** Answers and objections to interrogatories or requests for production ~~shall~~must identify and quote each interrogatory or request for production in full immediately preceding the statement of any answer or objections thereto. Answers, denials, and objections to requests for admission ~~shall~~must identify and quote each request for admission in full immediately preceding the statement of any answer, denial, or objection thereto.

(g) **Signing of Disclosures, Discovery Requests, Responses, and Objections.**

~~-~~(1) **Signature Required; Effect of Signature.** Every disclosure and report made ~~pursuant to~~under Rules 16.1~~(a)(1), 16.1(a)(3), 16.1(e),~~, 16.2~~(a)(2), 16.2(a)(4),~~, and 16.~~2(d) shall be~~ 205, other than reports prepared and signed by an expert witness, and every discovery request, response, or objection must be signed by at least one attorney of record in the attorney's ~~individual~~own name~~, whose address shall be stated. An unrepresented~~ —or by the party ~~shall sign the disclosure and~~ personally, if self-represented—and must, when available, state the ~~party's address. The signature of the~~ signer's physical and email addresses, and telephone number. By signing, an attorney or party ~~constitutes a certification~~ certifies that to the best of the ~~signer's~~person's knowledge, information, and belief~~,~~ formed after a reasonable inquiry~~, the~~:

(A) with respect to a disclosure, it is complete and correct as of the time it is made~~.~~; and

~~(2) Every discovery request, response or objection made by a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated. An~~

~~unrepresented party shall sign the request, response, or objection and state the party's address. The signature of the attorney or party constitutes a certification that to the best of the signer's knowledge, information, and belief, formed after a reasonable inquiry, the request, response, or objection, is:~~

~~(A~~ (B) with respect to a discovery request, response, or objection, it is:

(i) consistent with these rules and warranted by existing law or by a ~~good faith~~nonfrivolous argument for ~~the extension, modification, or reversal of~~extending, modifying, or reversing existing law~~;~~, or for establishing new law;

~~(B~~ (ii) not interposed for any improper purpose, such as to harass, ~~obscure, equivocate or to~~ cause unnecessary delay, or ~~needless~~needlessly increase ~~in~~ the cost of litigation; and

~~(C) not~~ (iii) neither unreasonable ~~or~~nor unduly burdensome or expensive, ~~given~~considering the needs of the case, ~~the~~prior discovery ~~already had~~ in the case, the amount in controversy, and the importance of the issues at stake in the ~~litigation~~action.

~~If a~~ (2) **Failure to Sign.** Other parties have no duty to act on an unsigned disclosure, request, response, or objection until it is ~~not~~ signed, ~~it shall be stricken~~ and the court must strike it unless ~~it~~a signature is ~~signed~~ promptly supplied after the omission is called to the ~~attention of the party making the request, response or objection and a party shall not be obligated to take any action with respect to it until it is signed~~attorney's or party's attention.

~~(3) If~~ (3) **Sanction for Improper Certification.** If a certification violates this rule without substantial justification ~~a certification is made in violation of this rule~~, the court, ~~upon~~on motion or ~~upon~~on its own

~~initiative, shall~~, must impose ~~upon the person who made the certification~~an appropriate sanction on the signer, the party on whose behalf the ~~disclosure, request, response, or objection~~ signer was ~~made~~acting, or both~~, an appropriate~~. The sanction~~, which~~ may include an order to pay the ~~amount of the~~ reasonable expenses ~~incurred because of~~, including attorney fees, caused by the violation~~, including a reasonable attorney's fee~~.

(h) **Demand for Prior Discovery.** ~~Whenever~~If a party makes a written demand for disclosures or discovery ~~which~~that took place ~~prior to~~before the ~~time the~~demanding party became a party to the action, whether under Rule 16.1 or 26, each party who has previously made ~~discovery~~ disclosures~~,~~ or responded to a request for admission or production or answered interrogatories ~~shall~~must make available to the demanding party ~~the~~each document~~(s)~~ in which the ~~discovery~~ disclosures and responses ~~in question~~to discovery are contained for inspection and copying, or furnish ~~to~~ the demanding party a list identifying each such document by title ~~and upon~~. Upon further demand ~~shall furnish to~~from the demanding party, at the expense of the demanding party, the recipient of such demand must furnish a copy of any listed discovery disclosure or response specified in the demand or, in the case of document disclosure or request for production, ~~shall~~must make available for inspection by the demanding party all documents and things previously produced. Further, each party who has taken a deposition ~~shall~~must make a copy of the transcript ~~thereof~~ available to the demanding party at ~~the latter's~~its expense.

~~RULE 27. DEPOSITIONS BEFORE ACTION OR PENDING APPEAL~~

Advisory Committee Note—2019 Amendment

Subsection (a). The amendments retain the former NRCP 26(a), with stylistic revisions. The majority of FRCP 26(a) is subsumed by the initial

disclosure requirements located in Rules 16.1, 16.2, and 16.205.

Subsection (b). Rule 26(b) redefines the scope of allowable discovery consistent with the proportionate discovery provision in FRCP 26(b). As amended, Rule 26(b)(1) requires that discovery seek information "relevant to any party's claims or defenses and proportional needs of the case," departing from the past scope of "relevant to the subject matter involved in the pending action." This change allows the district court to eliminate redundant or disproportionate discovery and reduce the amount of discovery that may be directed to matters that are otherwise proper subjects of inquiry.

Rule 27. Depositions to Perpetuate Testimony

(a) **Before an Action Is Filed.**

(1) **Petition.** A person who ~~desires~~wants to perpetuate testimony ~~regarding~~ —including his or her own— about any matter ~~that may be~~ cognizable in any court ~~of~~within the ~~State~~United States may file a verified petition in ~~a~~ district court. The petition ~~shall be entitled~~must ask for an order authorizing the petitioner to depose the named persons in order to perpetuate their testimony. The petition must be titled in the petitioner's name ~~of the petitioner~~ and ~~shall~~must show: ~~1,~~

(A) that the petitioner expects to be a party to an action cognizable in a court ~~of~~within the ~~State~~United States but ~~is~~cannot presently ~~unable to~~ bring it or cause it to be brought~~, 2,~~ ;

(B) the subject matter of the expected action and the petitioner's interest ~~therein, 3,~~ ;

(C) the facts ~~which~~that the petitioner ~~desires~~wants to establish by the proposed testimony and the reasons ~~for desiring~~ to perpetuate it~~, 4,~~ ;

(D) the names or a description of the persons whom the petitioner expects ~~will~~to be adverse parties and their addresses, so far as known~~,~~; and ~~5,~~

(E) the ~~names~~name, address, and ~~addresses of the persons to be examined and the~~expected substance of the testimony ~~which the petitioner expects to elicit from each, and shall ask for an order authorizing the petitioner to take the depositions of the persons to be examined named in the petition, for the purpose of perpetuating their testimony~~of each deponent.

(2) **Notice and Service.** ~~The~~At least 21 days before the hearing date, the petitioner ~~shall thereafter~~must serve ~~a notice upon~~ each ~~person named in the petition as an~~ expected adverse party~~, together~~ with a copy of the petition~~,~~ and a notice stating ~~that~~ the ~~petitioner will apply to the court, at a~~ time and place ~~named therein, for~~ of the ~~order described in the petition. At least 20 days before the date of~~ hearing ~~the~~. The notice ~~shall~~may be served either inside or outside the state, or service may be waived, in the manner provided in Rule 4~~(d) for service of summons; but if such service cannot with due diligence be made upon~~, 4.1, 4.2, 4.3, or 4.4. The court must appoint an attorney to represent any expected adverse party ~~named in the petition, the court may make such order as is just for service by publication or otherwise, and shall appoint, for persons~~who was not served in the manner provided in Rule 4~~(d), an attorney who shall represent them, and, in case they are not otherwise represented, shall~~.2, 4.3, or 4.4(a) or (b), did not waive or admit service, and did not appear at the hearing, and to cross-examine the deponent~~.~~ if an expected adverse party is not otherwise represented. If any expected adverse party is a minor or ~~incompetent the provisions of~~is incapacitated, Rule 17(c) ~~apply~~applies.

(3) **Order and Examination.** If ~~the court is~~ satisfied that ~~the perpetuation of~~ perpetuating the testimony may prevent a failure or delay of justice, ~~it shall make~~the court must issue an order ~~designating~~that designates or ~~describing~~describes the persons whose depositions may be taken~~ and specifying~~, specifies the subject matter of the ~~examination~~examinations, and states whether the depositions ~~shall~~will be taken ~~upon oral examination~~orally or by written interrogatories. ~~An order appointing an attorney under subdivision (a)(2) to represent the absent expected adverse party and to cross-examine the proposed witness shall set the attorney's compensation including expenses. The compensation so set shall be paid by the petitioner prior to the appearance of the appointed attorney at the examination. The~~ The depositions may then be taken ~~in accordance with~~ under these rules~~;~~, and the court may ~~make~~issue orders ~~of the character provided for~~like those authorized by Rules 34 and 35. ~~For the purpose of applying~~ A reference in these rules to ~~depositions for perpetuating testimony, each reference therein to the court in which the action is pending shall be deemed to refer to~~ the court ~~in which~~where an action is pending means, for purposes of this rule, the court where the petition for ~~such~~the deposition was filed.

(4) ~~**Use of**~~**Using the Deposition.** ~~If a~~A deposition to perpetuate testimony ~~is~~ may be used in Nevada under Rule 32(a) in any later-filed action involving the same subject matter if the deposition either was taken under these rules or ~~if~~, although not so taken, ~~it~~ would be admissible ~~in~~ under Nevada law of evidence ~~in the courts of this state, it may be used in any action involving the same subject matter subsequently brought in a district court, in accordance with the provisions of Rule 32(a).~~.

(b) **Pending Appeal.** ~~If~~

(1) **In General.** The court where a judgment has been rendered may, if an appeal has been taken ~~from a judgment of a district court or before the taking of an appeal if the time therefor has not expired, the district court in which the judgment was rendered may allow the taking of the depositions of~~or may still be taken, permit a party to depose witnesses to perpetuate their testimony for use in the event of further proceedings in ~~the district~~that court. ~~In such case the~~

(2) **Motion.** The party who ~~desires~~wants to perpetuate ~~the~~ testimony may ~~make a motion in the district court~~move for leave to take the depositions, ~~upon~~on the same notice and service ~~thereof~~ as if the action ~~was~~were pending in the district court. The motion ~~shall~~must show ~~(1)~~ :

(A) the ~~names~~name, address, and ~~addresses of persons to be examined and the~~expected substance of the testimony ~~which the party expects to elicit from~~of each~~; (2)~~ deponent; and

(B) the reasons for perpetuating ~~their~~the testimony.

(3) **Court Order.** If the court finds that ~~the perpetuation of~~perpetuating the testimony ~~is proper to avoid~~may prevent a failure or delay of justice, ~~it~~the court may ~~make an order allowing~~permit the depositions to be taken and may ~~make~~issue orders ~~of the character provided for~~ like those authorized by Rules 34 and 35~~, and thereupon the~~. The depositions may be taken and used ~~in the same manner and under the same conditions~~ as ~~are prescribed in these rules for depositions~~any other deposition taken in ~~actions~~a pending ~~in the district court~~action.

(c) **Reserved.**

~~**RULE 28. PERSONS BEFORE WHOM DEPOSITIONS MAY BE TAKEN**~~

Rule 28. Persons Before Whom Depositions May Be Taken

(a) **Within the United States.**

(1) **In General.** Within the United States or ~~within~~ a territory or insular possession subject to ~~the~~United States jurisdiction~~ of the United States, depositions shall~~, a deposition must be taken before~~:~~

(A) an officer authorized to administer oaths either by ~~the laws of the United States~~federal law or ~~of~~ by the law in the place ~~where the~~of examination ~~is held,~~; or ~~before~~

(B) a person appointed by the court ~~in which~~where the action is pending~~. A person so appointed has power~~ to administer oaths and take testimony.~~ Upon proof that the notice to take a deposition outside the State of Nevada has been given as provided in these rules, the clerk shall issue a commission or~~

(2) **Definition of "Officer."** The term "officer" in Rules 30, 31, and 32 includes a person appointed by the court under this rule or designated by the parties under Rule 29(a).

(b) **In a Foreign Country.**

(1) **In General.** A deposition may be taken in a foreign country:

(A) under an applicable treaty or convention;

(B) under a letter of request~~ (~~, whether or not captioned a "letter ~~rogatory) in the form prescribed by the jurisdiction in which the deposition is to be taken, such form to be presented by the party seeking the deposition. Any error in the form or in the commission or letters is waived unless objection thereto be filed and served on or before the time fixed in the notice. The term "officer" as used in Rule 30, 31 and 32 includes a person appointed by the court or designated by the parties under Rule 29.~~rogatory";

~~(b) **In Foreign Countries.** Depositions may be taken in a foreign country (1) pursuant to any applicable treaty or convention; or (2) pursuant to a letter of request (whether or not captioned a letter rogatory); or (3) on notice~~ (C) on notice, before a person authorized to administer oaths ~~in the place where the examination is held,~~ either by ~~the~~federal law ~~thereof~~ or by the law ~~of~~in the ~~United States~~place of examination; or ~~(4)~~ (D) before a person commissioned by the court~~, and a person so~~

~~commissioned shall have the power by virtue of the commission~~ to administer any necessary oath and take testimony. ~~A commission~~

(2) **Issuing a Letter of Request or a Commission.** A letter of request ~~shall~~, a commission, or both may be issued ~~on~~ :

(A) on appropriate terms after an application and notice of it; and ~~on terms~~

(B) without a showing that ~~are just and appropriate. It is not requisite to the issuance of a commission or a letter of request that the~~ taking ~~of~~ the deposition in ~~any other~~another manner is impracticable or inconvenient~~;~~ ~~and both a commission and a letter of request may be issued in proper cases. A notice or commission may~~.

(3) **Form of a Request, Notice, or Commission.** When a letter of request or any other device is used according to a treaty or convention, it must be captioned in the form prescribed by that treaty or convention. A letter of request may be addressed "To the Appropriate Authority in [name of country]." A deposition notice or a commission must designate by name or descriptive title the person before whom the deposition is to be taken ~~either by name or descriptive title. A letter of request may be addressed "To the Appropriate Authority in {here name the country}." When a letter of request or any other device is used pursuant to any applicable treaty or convention, it shall be captioned in the form prescribed by that treaty or convention. .~~

(4) **Letter of Request—Admitting Evidence.** Evidence obtained in response to a letter of request need not be excluded merely ~~for the reason that~~because it is not a verbatim transcript, because the testimony was not taken under oath, or because of any similar departure from the requirements for depositions taken within ~~the United States under these rules~~Nevada.

(c) **Disqualification ~~for Interest. No.~~** A deposition ~~shall~~must not be taken before a person who is ~~a~~any party's relative ~~or~~, employee, or attorney ~~or counsel of any of the parties, or~~; who is ~~a relative or employee of such~~related to or employed by any party's attorney; or ~~counsel, or~~who is financially interested in the action.

~~RULE 29. STIPULATIONS REGARDING DISCOVERY PROCEDURE~~ Rule 29. Stipulations About Discovery Procedure

Unless the court orders otherwise ~~directed by the court~~, the parties may ~~by written stipulation (1) provide that depositions~~ stipulate that:

(a) a deposition may be taken before any person, at any time or place, ~~upon~~ on any notice, and in the manner specified—in which event it may be used in the same way as any ~~notice, and in any manner and when so taken may be used like other depositions, and (2) modify the~~ other deposition; and

(b) other procedures governing or ~~limitations placed upon~~limiting discovery~~, except that stipulations~~ be modified—but a stipulation extending the time ~~provided in Rules 33, 34, and 36~~ for ~~responses to~~any form of discovery ~~may,~~must have court approval if ~~they~~it would interfere with ~~any~~the time set for ~~completion of~~completing discovery, for hearing ~~of~~ a motion, or for trial~~, be made only with the approval of the court~~.

~~RULE~~Rule 30. ~~DEPOSITIONS BY ORAL EXAMINATION~~Depositions by Oral Examination

(a) **When ~~Depositions~~a Deposition May Be Taken~~; When Leave Required~~.**

(1) **Without Leave.** A party may ~~take the testimony of~~, by oral questions, depose any person, including a party, ~~by deposition upon oral~~

~~examination~~ without leave of court except as provided in ~~subdivision~~ Rule 30(a)(2~~) of this rule.~~). The deponent's attendance ~~of witnesses~~ may be compelled by subpoena ~~as provided in~~under Rule 45.

(2) **With Leave.** A party must obtain leave of court, ~~which shall be granted~~ and the court must grant leave to the extent consistent with ~~the principles stated in Rule 26(b)(2), if the person to be examined is confined in prison or if, without the written stipulation of the parties:~~Rule 26(b)(1) and (2):

(A) if the ~~person~~parties have not stipulated to ~~be examined~~ the deposition and:

(i) the deposition would result in more than 10 depositions being taken under this rule or Rule 31 by the plaintiffs, or by the defendants, or by the third-party defendants, not counting any deposition that is solely a custodian-of-records deposition;

(ii) the deponent has already ~~has~~ been deposed in the case; or

~~(B) a~~ (iii) the party seeks to take ~~a~~the deposition before the time specified in Rule 26(a), unless the party certifies in the notice ~~contains a certification~~, with supporting facts, that the ~~person to be examined~~deponent is expected to leave ~~the state~~Nevada and be unavailable for examination in ~~this~~the state ~~unless deposed before~~after that time~~.~~; or

(B) if the deponent is confined in prison.

(b) **Notice of ~~Examination: General~~the Deposition; Other Formal Requirements~~; Special~~ .**

(1) **Notice~~; Method of Production of Documents and Things; Deposition of Organization; Deposition by Telephone.~~**

~~(1)~~ **in General.** A party ~~desiring~~who wants to ~~take the deposition of any~~depose a person ~~upon~~by oral ~~examination shall~~questions must give

~~reasonable notice,~~ not less than ~~15 days, in writing~~14 days' written notice to every other party ~~to the action.~~. The notice ~~shall~~must state the time and place ~~for taking~~of the deposition and, if known, the deponent's name and address ~~of each person to be examined, if known, and, if~~. If the name is ~~not known,~~unknown, the notice must provide a general description sufficient to identify the person or the particular class or group to which the person belongs.

(2) **Producing Documents.** If a subpoena duces tecum is to be served on the ~~person to be examined, the designation of~~deponent, the materials ~~to be produced~~designated for production, as set ~~forth~~out in the subpoena ~~shall be attached to or included in the notice~~, must be listed in the notice or in an attachment. The notice to a party deponent may be accompanied by a request under Rule 34 to produce documents and tangible things at the deposition.

(~~2~~)3) **Method of Recording.**

(A) **Method Stated in the Notice.** The party ~~taking~~who notices the deposition ~~shall~~must state in the notice the method ~~by which~~for recording the testimony ~~shall be recorded~~. Unless the court orders otherwise, ~~it~~testimony may be recorded by ~~sound, sound-and-visual~~audio, audiovisual, or stenographic means~~, and the~~. The noticing party ~~taking the deposition shall bear the cost of~~bears the recording costs. Any party may arrange ~~for a transcription~~ to ~~be made from the recording of~~transcribe a deposition ~~taken by nonstenographic means~~.

~~(3)~~ (B) **Additional Method.** With ~~5 days'~~prior notice to the deponent and other parties, any party may designate another method ~~to record~~for recording the ~~deponent's~~ testimony in addition to ~~the method~~that specified ~~by~~in the original notice. That party bears the ~~person taking~~expense of the ~~deposition. The~~ additional record or transcript ~~shall be made at that party's expense~~ unless the court orders otherwise ~~orders~~.

~~(4)~~ (4) **By Remote Means.** The parties may stipulate—or the court may on motion order—that a deposition be taken by telephone or other remote means. For the purpose of this rule and Rules 28(a), 37(a)(2), and 37(b), the deposition takes place where the deponent answers the questions.

(5) **Officer's Duties.**

(A) **Before the Deposition.** Unless the parties stipulate otherwise ~~agreed by the parties~~, a deposition ~~shall~~must be conducted before an officer appointed or designated under Rule 28 ~~and shall~~. The officer must begin the deposition with ~~a~~an on-the-record statement ~~on the record by the officer~~ that includes ~~(A)~~ :

(i) the officer's name and business address; ~~(B)~~

(ii) the date, time, and place of the deposition; ~~(C)~~

(iii) the deponent's name ~~of~~ ;

(iv) the ~~deponent; (D) the~~officer's administration of the oath or affirmation to the deponent; and ~~(E) an identification~~

(v) the identity of all persons present.

(B) **Conducting the Deposition; Avoiding Distortion.** If the deposition is recorded ~~other than stenographically~~nonstenographically, the officer ~~shall~~must repeat the items ~~(A) through (C~~in Rule 30(b)(5)(A)(i)-~~(~~iii) at the beginning of each unit of ~~recorded tape or other~~the recording medium. ~~The~~The deponent's and attorneys' appearance or demeanor ~~of deponents or attorneys shall~~must not be distorted through ~~camera or sound~~ recording techniques.

(C) **After the Deposition.** At the end of ~~the~~a deposition, the officer ~~shall~~must state on the record that the deposition is complete and ~~shall~~must set ~~forth~~out any stipulations made by ~~counsel concerning~~ the

attorneys about custody of the transcript or recording and of the exhibits, or ~~concerning~~about any other pertinent matters.

~~(5) The notice to a party deponent may be accompanied by a request made in compliance with Rule 34 for the production of documents and tangible things at the taking of the deposition. The procedure of Rule 34 shall apply to the request.~~

~~(6) A party may in the party's~~ (6) **Notice or Subpoena Directed to an Organization.** In its notice ~~and in a~~or subpoena~~,~~, a party may name as the deponent a public or private corporation~~, or~~, a partnership~~, or~~, an association~~, or~~, a governmental agency, or other entity and must describe with reasonable particularity the matters ~~on which~~for examination~~ is requested. In that event, the~~. The named organization ~~so named shall~~must then designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on its behalf~~,~~; and it may set ~~forth, for~~ out the matters on which each person designated~~, the matters on which the person~~ will testify. A subpoena ~~shall~~must advise a nonparty organization of its duty to make ~~such a~~this designation. The persons ~~so~~ designated ~~shall~~must testify ~~as to matters~~ about information known or reasonably available to the organization. ~~This subdivision~~ Rule 30(b)(6) does not preclude ~~taking~~ a deposition by any other procedure ~~authorized in~~allowed by these rules.

~~(7) The parties may stipulate, or the court may upon noticed motion order that a deposition be taken by telephone or other remote electronic means. For the purpose of these rules, a deposition taken by telephone is taken at the place where the deponent is to answer the questions propounded. Unless otherwise stipulated by the parties: (A) the party taking the deposition shall arrange for the presence of the officer before whom the deposition will take place; (B) the officer shall be physically present at the place of the deposition;~~

~~and (C) the party taking the deposition shall make the necessary telephone connections at the time scheduled for the deposition. Nothing in this paragraph shall prevent a party from being physically present at the place of the deposition, at the party's own expense.~~

(c) **Examination and Cross-Examination; Record of the Examination; ~~Oath;~~ Objections~~.~~ ; Written Questions.**

(1) **Examination and Cross-Examination.** The examination and cross-examination of ~~witnesses may~~ a deponent proceed as ~~permitted~~they would at ~~the~~ trial under ~~the provisions of Rule 43(b). The officer before whom the deposition is to be taken shall put the witness on~~ Nevada law of evidence, except NRS 47.040-47.080 and NRS 50.155. After putting the deponent under oath or affirmation~~ and shall personally, or by someone acting under the officer's direction and in the officer's presence,~~, the officer must record the testimony ~~of the witness.~~by the method designated under Rule 30(b)(3)(A). The testimony ~~shall be taken stenographically or~~ must be recorded by ~~any other means ordered in accordance with subdivision (b)~~(the officer personally or by a person acting in the presence and under the direction of the officer.

(2)~~ of this rule. All objections made~~ **Objections.** An objection at the time of the examination—whether to evidence, to a party's conduct, to the officer's qualifications~~ of the officer taking the deposition~~, to the manner of taking ~~it, to the evidence presented, to the conduct of any party~~the deposition, or to any other aspect of the ~~proceedings, shall~~deposition—must be noted ~~by the officer upon~~ on the record~~ of the deposition;~~, but the examination ~~shall proceed, with~~still proceeds; the testimony ~~being~~is taken subject to ~~the objections. In lieu~~any objection. An objection must be stated concisely in a nonargumentative and nonsuggestive manner. A person may instruct a

deponent not to answer only when necessary to preserve a privilege, to enforce a limitation ordered by the court, or to present a motion under Rule 30(d)(3).

(3) **Participating Through Written Questions.** Instead of participating in the oral examination, ~~parties~~a party may serve written questions in a sealed envelope on the party ~~taking~~noticing the deposition ~~and the party taking the deposition shall transmit~~, who must deliver them to the officer~~, who shall propound them to the witness~~ . The officer must ask the deponent those questions and record the answers verbatim.

(d) **Duration; Sanction; Motion to Terminate or Limit.**

(1) **Duration.** Unless otherwise stipulated or ordered by the court, a deposition is limited to 1 day of 7 hours~~.~~ of testimony. The court ~~or discovery commissioner~~ must allow additional time consistent with Rule 26(b)(1) and (2) if needed to fairly examine the deponent or if the deponent, another person, or any other circumstance impedes or delays the examination. ~~An objection must be stated concisely and in a non-argumentative and non-suggestive manner. Instructing a deponent not to answer shall only be allowed when necessary to preserve a privilege, to enforce a limitation directed by the court, or to file a motion under paragraph (3).~~

(2) **Sanction.** The court may impose an appropriate sanction—including the reasonable expenses and ~~attorney's~~attorney fees incurred by any party—on a person who impedes, delays, or frustrates the fair examination of the deponent.

(3) **Motion to Terminate or Limit.**

(A) **Grounds~~ and Procedure~~.** At any time during a deposition, the deponent or a party may move to terminate or limit it on the ~~grounds~~ground that it is being conducted in bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses the deponent or party. The

motion may be filed in the court where the action is pending or, if the ~~action is pending~~deposition is being conducted under an out ~~-~~of ~~the -~~state subpoena, where the deposition is being taken. If the objecting deponent or party so demands, the deposition must be suspended for the time necessary to obtain an order.

(B) **Order.** The court may order that the deposition be terminated or may limit its scope and manner as provided in Rule 26(c). If terminated, the deposition may be resumed only by order of the court where the action is pending.

(C) **Award of Expenses.** Rule 37(a)(~~4~~5) applies to the award of expenses ~~incurred in relation to the motion~~.

(e) **Review by the Witness; Changes~~; Signing. If requested~~.**

(1) **Review; Statement of Changes.** On request by the deponent or a party before ~~completion of~~ the deposition is completed, the deponent ~~shall have~~must be allowed 30 days after being notified by the officer that the transcript or recording is available in which ~~-~~:

(A) to review the transcript or recording; and~~,~~

(B) if there are changes in form or substance, to sign a statement ~~reciting such~~ listing the changes and the reasons ~~given by the deponent~~ for making them.

(2) **Changes Indicated in the Officer's Certificate.** The officer ~~shall indicate~~must note in the certificate prescribed by ~~subdivision~~ Rule 30(f)(1) whether ~~any~~a review was requested and, if so, ~~shall append~~must attach any changes ~~made by~~ the deponent makes during the 30-day period ~~allowed~~.

(f) **Certification ~~by Officer~~and Delivery; Exhibits; Copies of the Transcript or Recording; Filing.**

(1) **Certification and Delivery.** The officer ~~shall~~must certify ~~on the deposition~~in writing that the witness was duly sworn ~~by the officer~~ and that the deposition ~~is a true record of~~accurately records the witness's testimony ~~given by the witness. This~~. The certificate ~~shall be in writing and~~must accompany the record of the deposition. Unless the court orders otherwise ~~ordered by the court~~, the officer ~~shall securely~~must seal the deposition in an envelope ~~indorsed with~~or package bearing the title of the action and marked "Deposition of ~~{here insert~~[witness's name ~~of witness}~~"]" and ~~shall~~must promptly send it to the ~~party~~attorney who arranged for the transcript or recording~~, who shall~~. The attorney must store it under conditions that will protect it against loss, destruction, tampering, or deterioration.

(2) **Documents and Tangible Things.**

(A) **Originals and Copies.** Documents and tangible things produced for inspection during ~~the examination of the witness, shall, upon the request of a party~~a deposition must, on a party's request, be marked for identification and ~~annexed~~attached to ~~and returned with~~ the deposition~~, and may be inspected and copied by any~~. Any party~~, except that~~ may inspect and copy them. But if the person ~~producing the materials desires~~who produced them wants to ~~retain them~~keep the originals, the person may ~~(A)~~ :

(i) offer copies to be marked ~~for identification and annexed~~, attached to the deposition, and ~~to serve thereafter~~ then used as originals ~~if the person affords to~~ after giving all parties a fair opportunity to verify the copies by ~~comparison~~comparing them with the ~~originals, or (B) offer the~~ originals ~~to be marked for identification, after giving to each party an~~; or

(ii) give all parties a fair opportunity to inspect and copy ~~them, the originals after they are marked~~ in which event the

~~materials~~originals may ~~then~~ be used~~ in the same manner~~ as if ~~annexed~~attached to the deposition.

(B) **Order Regarding the Originals.** Any party may move for an order that the ~~original~~originals be ~~annexed~~attached to ~~and returned with~~ the deposition ~~to the court,~~ pending final disposition of the case.

~~(2)~~ (3) **Copies of the Transcript or Recording.** Unless otherwise stipulated or ordered by the court~~ or agreed by the parties~~, the officer ~~shall~~must retain the stenographic notes of ~~any~~a deposition taken stenographically or a copy of the recording of ~~any~~a deposition taken by another method. ~~Upon payment of~~ When paid reasonable charges~~ therefor~~, the officer ~~shall~~must furnish a copy of the transcript or recording to any party or the deponent.

(4) **Notice of Filing.** A party who files the deposition ~~to any party or to the deponent~~must promptly notify all other parties of the filing.

(g) **Failure to Attend a Deposition or ~~to~~ Serve a Subpoena; Expenses.**

~~(1) If the~~ A party ~~giving the notice of the taking of~~who, expecting a deposition ~~fails to attend and proceed therewith and another party~~ to be taken, attends in person or by ~~attorney pursuant to the notice, the court shall order the party giving the notice to pay to such other party the~~an attorney may recover reasonable expenses ~~incurred by that party and that party's attorney in~~ for attending, including ~~reasonable attorney's fees, unless good cause be shown.~~attorney fees, if the noticing party failed to:

~~(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon the witness and the witness because of such failure does not attend, and if another party attends in person or by attorney because that party expects the deposition of that witness to be taken,~~

~~the court shall order the party giving the notice to pay such other party the reasonable expenses incurred by that party and that party's attorney in attending, including reasonable attorney's fees, unless good cause be shown.~~

(1) attend and proceed with the deposition; or

(2) serve a subpoena on a nonparty deponent, who consequently did not attend.

(h) **Expert Witness Fees.**

(1) **In General.**

(A) A party desiring to depose any expert who is to be asked to express an opinion~~, shall~~ must pay the reasonable and customary hourly or daily fee for the actual time consumed in the examination of that expert by the party noticing the deposition.

(B) If any other attending party desires to question the witness, that party ~~shall be~~is responsible for the expert's fee for the actual time consumed in that party's examination.

(2) **Advance Request; Balance Due.**

(A) If requested by the expert before the date of the deposition, the party taking the deposition of an expert ~~shall~~must tender the expert's fee based on the anticipated length of that party's examination of the witness. ~~If the deposition of the expert takes longer than anticipated, any party responsible for any additional fee shall pay the balance of that expert's fee within 30 days of receipt of a statement from the expert. Any party identifying an expert whom that party expects to call at trial is responsible for any fee charged by the expert for preparing for and reviewing the deposition.~~

~~(2~~ (B) If ~~a party desiring to take~~ the deposition of ~~an expert witness pursuant to this subdivision~~ the expert takes longer than anticipated,

any party responsible for any additional fee must pay the balance of that expert's fee within 30 days of receipt of an invoice from the expert.

(3) **Preparation; Review of Transcript.** Any party identifying an expert whom the party expects to call at trial is responsible for any fee charged by the expert for preparing for the deposition and reviewing the deposition transcript.

(4) **Objections.**

(A) **Motion; Contents; Notice.** If a party deems that ~~the~~an expert's hourly or daily fee ~~of that expert~~ for providing deposition testimony is unreasonable, that party may move for an order setting the compensation of that expert. This motion ~~shall~~must be accompanied by an affidavit stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion. Notice of this motion ~~shall~~must be given to the expert. ~~The~~

(B) **Court Determination of Expert Fee.** If the court ~~shall~~determines that the fee demanded by the expert is unreasonable, the court must set the fee of the expert for providing deposition testimony ~~if it determines that the fee demanded by that expert is unreasonable.~~ .

(C) **Sanctions.** The court may impose a sanction ~~pursuant to~~under Rule 37 against any party who does not prevail, and in favor of any party who does prevail, on a motion to set expert witness fee, ~~providing~~provided the prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issues presented by the motion.

~~RULE~~Advisory Committee Note—2019 Amendment

The amendments generally conform Rule 30 to FRCP 30, but retain NRCP 30(h), which governs fees associated with expert depositions. Consistent

with the federal rule, Rule 30(a)(2)(A)(i) now limits the parties to 10 depositions per side absent stipulation or court order. The Nevada rule, however, does not count depositions of custodians of records toward the 10-deposition limit per side.

The "7 hours of testimony" specified in Rule 30(d)(1) means 7 hours on the record. The time taken for convenience breaks, recess for a meal, or an adjournment under Rule 30(d)(3) does not count as deposition time.

Discussion between the deponent and counsel during a convenience break is not privileged unless counsel called the break to preserve a privilege, to enforce a limitation ordered by the court, or to present a motion under Rule 30(d)(3). After a privilege-assessment break, counsel for the deponent must place on the record: (1) that a conference took place; (2) the subject of the conference; and (3) the result of the conference, i.e., whether to assert privilege or not. *Coyote Springs Inv., LLC v. Eighth Judicial Dist. Court*, 131 Nev. 140, 149, 347 P.3d 267, 273 (2015).

If a deposition is recorded by audio or audiovisual means and is later transcribed, any dispute regarding the accuracy of the transcription or of multiple competing transcriptions should be resolved by the court or discovery commissioner.

Rule 31. ~~DEPOSITIONS UPON WRITTEN QUESTIONS~~

~~(a) Serving~~Depositions by Written Questions~~; Notice.~~

(a) **When a Deposition May Be Taken.**

(1) **Without Leave.** A party may ~~take the testimony of~~, by written questions, depose any person, including a party, ~~by deposition upon written questions~~ without leave of court except as provided in ~~paragraph (~~Rule

31(a)(2). The deponent's attendance ~~of witnesses~~ may be compelled by ~~the use of~~ subpoena ~~as provided in~~under Rule 45.

(2) **With Leave.** A party must obtain leave of court, ~~which shall be granted~~and the court must grant leave to the extent consistent with ~~the principles stated in~~ Rule 26(b)(1) and (2~~),~~):

(A) if the ~~person to be examined is confined in prison or if, without the written stipulation of the parties:~~ parties have not stipulated to the deposition and:

~~(A) the person to be examined~~ (i) the deposition would result in more than 10 depositions being taken under this rule or Rule 30 by the plaintiffs, or by the defendants, or by the third-party defendants, not counting any deposition that is solely a custodian-of-records deposition;

(ii) the deponent has already been deposed in the case; or

~~(B) a~~ (iii) the party seeks to take a deposition before the time specified in Rule 26(a~~).~~); or

(B) if the deponent is confined in prison.

(3) **Service; Required Notice.** A party ~~desiring~~who wants to ~~take~~depose a ~~deposition upon~~person by written questions ~~shall~~must serve them ~~upon~~on every other party, with a notice stating ~~(1),~~ if known, the deponent's name and address ~~of the person who is to answer them, if known, and if~~. If the name is ~~not known,~~unknown, the notice must provide a general description sufficient to identify the person or the particular class or group to which the person belongs~~, and (2)~~. The notice must also state the name or descriptive title and the address of the officer before whom the deposition ~~is to~~will be taken.

(4) **Questions Directed to an Organization.** A ~~deposition upon written questions may be taken of a~~ public or private corporation~~, or~~, a partnership~~, or~~, an association~~, or~~, a governmental agency~~,~~, or other entity may be deposed by written questions in accordance with ~~the provisions of~~ Rule 30(b)(6).

~~(4) Within 14 days after the notice and written~~ (5) **Questions From Other Parties.** Any questions ~~are served, a party may serve cross questions upon all other parties. Within~~ to the deponent from other parties must be served on all parties as follows: cross-questions, within 14 days after being served with the notice and direct questions; redirect questions, within 7 days after being served with cross-~~-~~questions~~, a party may serve redirect~~; and recross-questions~~ upon all other parties. Within~~, within 7 days after being served with redirect questions~~, a party may serve recross questions upon all other parties.~~. The court may, for good cause ~~shown enlarge~~, extend or shorten ~~the time~~these times.

(b) **Delivery to the Officer~~ to Take Responses and Prepare Record.~~** ~~A copy of the notice and copies of all questions served shall be delivered by the~~**; Officer's Duties.** The party ~~taking~~who noticed the deposition must deliver to the officer ~~designated in~~a copy of all the questions served and of the notice~~, who shall~~. The officer must promptly proceed ~~promptly,~~ in the manner provided ~~by~~in Rule 30(c), (e~~)~~), and (f~~),~~) to~~:~~

(1) take the deponent's testimony ~~of the witness~~ in response to the questions ~~and to~~;

(2) prepare~~,~~ and certify~~, and file or mail the deposition, attaching thereto the copy of the notice and the questions received by the officer~~ the deposition; and

~~RULE~~ (3) send it to the party, attaching a copy of the questions and of the notice.

(c) **Notice of Completion or Filing.**

(1) **Completion.** The party who noticed the deposition must notify all other parties when it is completed.

(2) **Filing.** A party who files the deposition must promptly notify all other parties of the filing.

Advisory Committee Note—2019 Amendment

The amendments generally conform Rule 31 to FRCP 31. Consistent with the federal rule, Rule 31(a)(2)(A)(i) now limits the number of depositions that may be taken to 10 per side absent stipulation or court order. The Nevada rule, however, does not count depositions of custodians of records toward the 10-deposition limit per side.

Rule 32. ~~USE OF DEPOSITIONS IN COURT PROCEEDINGS~~

~~(a) Use of~~Using Depositions~~.~~ in Court Proceedings

(a) **Using Depositions.**

(1) **In General.** At ~~the trial or upon the~~ a hearing ~~of a motion~~ or trial, all or ~~an interlocutory proceeding, any~~ part ~~or all~~ of a deposition~~, so far as admissible under the rules of evidence applied as though the witness were then present and testifying,~~ may be used against ~~any~~a party ~~who~~on these conditions:

(A) the party was present or represented at the taking of the deposition or ~~who~~ had reasonable notice ~~thereof, in accordance with any of the following provisions:~~of it;

~~(1) Any deposition may be used by any party for the purpose of~~

~~contradicting or impeaching the testimony of deponent as a witness, or for any other purpose permitted by the Nevada Rules of Evidence, NRS Chapters 47-56.~~

~~(2) The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent, or a person designated under Rule 30(b)(6) or 31(a) to testify on behalf of a public or private corporation, partnership or association or governmental agency which is a party may be used by an adverse party for any purpose.~~

~~(3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds:~~

~~(A) that the witness is dead; or~~

(B) it is used to the extent it would be admissible under Nevada law of evidence if the deponent were present and testifying; and

(C) the use is allowed by Rule 32(a)(2) through (8).

(2) **Impeachment and Other Uses.** Any party may use a deposition to contradict or impeach the testimony given by the deponent as a witness, or for any other purpose allowed by Nevada law of evidence.

(3) **Deposition of Party, Agent, or Designee.** An adverse party may use for any purpose the deposition of a party or anyone who, when deposed, was the party's officer, director, managing agent, or designee under Rule 30(b)(6) or 31(a)(4).

(4) **Unavailable Witness.** A party may use for any purpose the deposition of a witness, whether or not a party, if the court finds:

(A) that the witness is ~~at a greater distance~~dead;

(B) that the witness is more than 100 miles from the place of hearing or trial or ~~hearing, or~~ is out of the state, unless it appears that the witness's absence ~~of the witness~~ was procured by the party offering the

deposition; ~~or~~

(C) that the witness ~~is unable to~~cannot attend or testify because of age, illness, infirmity, or imprisonment; ~~or~~

(D) that the party offering the deposition ~~has been unable to~~could not procure the witness's attendance ~~of the witness~~ by subpoena; or

(E) ~~upon application~~on motion and notice, that ~~such~~ exceptional circumstances ~~exist as to~~ make it desirable~~,~~ ~~—~~in the interest of justice and with due regard to the importance of ~~presenting the~~live testimony ~~of witnesses orally~~ in open court~~,~~ ~~—~~to ~~allow~~permit the ~~deposition to be used.~~

~~(4) If only part of a deposition is offered in evidence by a party, an adverse party may require the offeror to introduce any other part which ought in fairness to be considered with the part introduced, and any party may introduce any other parts.~~

~~Substitution of parties pursuant to Rule 25 does not affect the right to use depositions previously taken; and, when an action has been brought **in** any court of the United States or in any State and another action involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken in the former action may be used in the latter as if originally taken therefor. A deposition previously taken may also be used as permitted by the Nevada Rules of Evidence, NRS Chapters 47-56.~~

~~(b) **Objections to Admissibility.** Subject to the provisions of Rule 28(b) and subdivision (d)(3) of this rule, objection may be made at the trial or hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.~~

~~(c) **Form of Presentation.** Except as otherwise directed by the court,~~

~~a party offering deposition testimony pursuant to this rule may offer it in stenographic or nonstenographic form, but, if in nonstenographic form, the party shall also provide the court with a transcript of the portions so offered. On request of any party in a case tried before a jury, deposition testimony offered other than for impeachment purposes shall be presented in nonstenographic form, if available, unless the court for good cause orders otherwise.~~

~~(d) **Effect of Errors and Irregularities in Depositions.**~~

~~(1) **As to Notice.** All errors and irregularities in the notice for taking a~~ deposition ~~are waived unless written objection is promptly served upon the party giving the notice~~to be used.

~~**(2) As to Disqualification of Officer.** Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.~~

~~(3) **As to Taking of Deposition.**~~

~~(A) Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.~~

~~(B) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the~~

taking of the deposition.

(C) Objections to the form of written questions submitted under Rule 31 are waived unless served in writing upon the party propounding them within the time allowed for serving the succeeding cross or other questions and within 5 days after service of the last questions authorized.

(4) **As to Completion and Return of Deposition.** Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted, filed, or otherwise dealt with by the officer under Rules 30 and 31 are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained

RULE 33. INTERROGATORIES TO PARTIES

(a) **Availability.** Without leave of court or written stipulation, any party may serve upon any other party written interrogatories, not exceeding 40 in number including all discrete subparts, to be answered by the party served or, if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party. Leave to serve additional interrogatories shall be granted to the extent consistent with the principles of Rule 26(b)(2). Without leave of court or written stipulation, interrogatories may not be served before the time specified in Rule 26(a).

(b) **Answers and Objections.**

(1) Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the objecting party shall state the reasons for objection and shall answer to the extent the

~~interrogatory is not objectionable. The answers shall first set forth each interrogatory asked, followed by the answer or response of the party.~~

~~(2) The answers are to be signed by the person making them, and the objections signed by the attorney making them.~~

~~(3) The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within 30 days after the service of the interrogatories. A short or longer time may be directed by the court or in the absence of such an order, agreed to in writing by the parties subject to Rule 29.~~

~~(4) All grounds for~~ (5) **Limitations on Use.**

(A) **Deposition Taken on Short Notice.** A deposition must not be used against a party who, having received less than 14 days' notice of the deposition, promptly moved for a protective order under Rule 26(c)(1)(B) requesting that it not be taken or be taken at a different time or place—and this motion was still pending when the deposition was taken.

(B) **Unavailable Deponent; Party Could Not Obtain an Attorney.**

(i) A deposition taken without leave of court under the unavailability provision of Rule 30(a)(2)(A)(iii) must not be used against a party who shows that, when served with the notice, it could not, despite diligent efforts, obtain an attorney to represent it at the deposition.

(ii) Notwithstanding Rule 32(a)(5)(B)(i), the court may permit a deposition to be used against a party who proceeds pro se after the deposition.

(6) **Using Part of a Deposition.** If a party offers in evidence only part of a deposition, an adverse party may require the offeror to introduce other parts that in fairness should be considered with the part introduced, and any

party may itself introduce any other parts.

(7) **Substituting a Party.** Substituting a party under Rule 25 does not affect the right to use a deposition previously taken.

(8) **Deposition Taken in an Earlier Action.** A deposition lawfully taken and, if required, filed in any federal- or state-court action may be used in a later action involving the same subject matter between the same parties, or their representatives or successors in interest, to the same extent as if taken in the later action. A deposition previously taken may also be used as allowed by Nevada law of evidence.

(b) **Objections to Admissibility.** Subject to Rules 28(b) and 32(d)(3), an objection may be made at a hearing or trial to the admission of any deposition testimony that would be inadmissible if the witness were present and testifying.

(c) **Form of Presentation.** Unless the court orders otherwise, a party must provide a transcript of any deposition testimony the party offers, but may provide the court with the testimony in nontranscript form as well. On any party's request, deposition testimony offered in a jury trial for any purpose other than impeachment must be presented in nontranscript form, if available, unless the court for good cause orders otherwise.

(d) **Waiver of Objections.**

(1) **To the Notice.** An objection to an error or irregularity in a deposition notice is waived unless promptly served in writing on the party giving the notice.

(2) **To the Officer's Qualification.** An objection based on disqualification of the officer before whom a deposition is to be taken is waived if not made:

(A) before the deposition begins; or

(B) promptly after the basis for disqualification becomes known or, with reasonable diligence, could have been known.

(3) **To the Taking of the Deposition.**

(A) **Objection to Competence, Relevance, or Materiality.** An objection to a deponent's competence—or to the competence, relevance, or materiality of testimony—is not waived by a failure to make the objection before or during the deposition, unless the ground for it might have been corrected at that time.

(B) **Objection to an Error or Irregularity.** An objection to an error or irregularity at an oral examination is waived if:

(i) it relates to the manner of taking the deposition, the form of a question or answer, the oath or affirmation, a party's conduct, or other matters that might have been corrected at that time; and

(ii) it is not timely made during the deposition.

(C) **Objection to a Written Question.** An objection to the form of a written question under Rule 31 is waived if not served in writing on the party submitting the question within the time for serving responsive questions or, if the question is a recross-question, within 7 days after being served with it.

(4) **To Completing and Returning the Deposition.** An objection to how the officer transcribed the testimony—or prepared, signed, certified, sealed, endorsed, sent, or otherwise dealt with the deposition—is waived unless a motion to suppress is made promptly after the error or irregularity becomes known or, with reasonable diligence, could have been known.

Advisory Committee Note—2019 Amendment

The amendments generally conform Rule 32 to FRCP 32. Rules 32(a)(5)(A) and (B)(i) are incorporated from the federal rule. Rule 32(a)(5)(B) is modified from the federal rule and gives the court the discretion to allow a transcript to be used against a party proceeding pro se. In general, a party representing himself or herself does not need the protection of Rule 32(a)(5)(B)(i) because the party does not need time to obtain an attorney. If a party initially attempts to obtain an attorney, but eventually proceeds pro se, then the protection of Rule 32(a)(5)(B)(i) may be warranted.

If a deposition is recorded by audio or audiovisual means and is later transcribed, any dispute regarding the accuracy of the transcription or of multiple competing transcriptions should be resolved by the court or discovery commissioner.

Rule 33. Interrogatories to Parties

(a) **In General.**

(1) **Number.** Unless otherwise stipulated or ordered by the court, a party may serve on any other party no more than 40 written interrogatories, including all discrete subparts. Leave to serve additional interrogatories may be granted to the extent consistent with Rule 26(b)(1) and (2).

(2) **Scope.** An interrogatory may relate to any matter that may be inquired into under Rule 26(b). An interrogatory is not objectionable merely because it asks for an opinion or contention that relates to fact or the application of law to fact, but the court may order that the interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time.

(b) **Answers and Objections.**

~~interrogatory shall~~ (1) **Responding Party.** The interrogatories must be answered:

(A) by the party to whom they are directed; or

(B) if that party is a public or private corporation, a partnership, an association, a governmental agency, or other entity, by any officer or agent, who must furnish the information available to the party.

(2) **Time to Respond.** The responding party must serve its answers and any objections within 30 days after being served with the interrogatories. A shorter or longer time may be stipulated to under Rule 29 or be ordered by the court.

(3) **Answering Each Interrogatory.** Each interrogatory must be set out, and, to the extent it is not objected to, be answered separately and fully in writing under oath.

(4) **Objections.** The grounds for objecting to an interrogatory must be stated with specificity. Any ground not stated in a timely objection is waived unless the ~~party's failure to object is excused by the court~~ court, for good cause ~~shown.~~

~~(5)~~ , excuses the failure. The interrogating party ~~submitting the interrogatories~~ may move for an order under Rule 37(a) with respect to any objection to or other failure to answer an interrogatory.

~~**(c) Scope; Use at Trial.** Interrogatories may relate to any matters which can be inquired into under Rule 26(b),~~ (5) **Signature.** The person who makes the answers must sign them, and the ~~answers~~ attorney who objects must sign any objections.

(c) **Use.** An answer to an interrogatory may be used to the extent ~~permitted~~allowed by ~~the rules~~Nevada law of evidence.

~~An interrogatory otherwise proper is not necessarily objectionable~~

~~merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the court may order that such an interrogatory need not be answered until after designated discovery has been completed or until a pretrial conference or other later time.~~

(d) **Option to Produce Business Records.** ~~Where~~If the answer to an interrogatory may be ~~derived or ascertained from the~~ determined by examining, auditing, compiling, abstracting, or summarizing a party's business records ~~of the party upon whom the interrogatory has been served or from an examination, audit or inspection of such business records, (~~including ~~a compilation, abstract or summary thereof, and~~electronically stored information), and if the burden of deriving or ascertaining the answer ~~is~~will be substantially the same for ~~the~~either party, the responding party ~~serving the interrogatory as for the party served, it is a sufficient~~ may answer ~~to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries. A specification shall be~~by:

(1) specifying the records that must be reviewed, in sufficient detail to ~~permit~~enable the interrogating party to locate and ~~to~~ identify~~,~~ them as readily as ~~can~~ the responding party ~~served, the records from which the~~could; and

~~**RULE 34. PRODUCING DOCUMENTS, ELECTRONICALLY STORED INFORMATION, AND TANGIBLE THINGS, OR ENTERING ONTO LAND, FOR INSPECTION AND OTHER PURPOSES**~~

(2) giving the interrogating party a reasonable opportunity to examine and audit the records and to make copies, compilations, abstracts, or summaries.

Advisory Committee Note—2019 Amendment

Rule 33 resembles FRCP 33 but preserves Nevada's 40-interrogatory limit in Rule 33(a)(1) and in Rule 33(b)(4) specifies that Rule 37 applies to unfounded objections and failures to answer.

Rule 34. Producing Documents, Electronically Stored Information, and Tangible Things, or Entering Onto Land, for Inspection and Other Purposes

(a) **In General.** A party may serve on any other party a request within the scope of Rule 26(b):

(1) to produce and permit the requesting party or its representative to inspect, copy, test, or sample the following items in the responding party's possession, custody, or control:

(A) any designated documents or electronically stored information—including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form; or

(B) any designated tangible things; or

(2) to permit entry onto designated land or other property possessed or controlled by the responding party, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any

designated object or operation on it.

(b) **Procedure.**

(1) **Contents of the Request.** The request:

(A) must describe with reasonable particularity each item or category of items to be inspected;

(B) must specify a reasonable time, place, and manner for the inspection and for performing the related acts; and

(C) may specify the form or forms in which electronically stored information is to be produced.

(2) **Responses and Objections.**

(A~~)~~) **Time to Respond.** The party to whom the request is directed must respond in writing within 30 days after being served. A shorter or longer time may be stipulated under Rule 29 or be ordered by the court.

(B~~)~~) **Responding to Each Item~~.~~.** For each item or category, the response must either state that inspection and related activities will be permitted as requested or state the ground for objecting to the request, with specificity, including the reasons. The responding party may state that it will produce copies of documents or of electronically stored information instead of permitting inspection. The production must then be completed no later than the time for inspection specified in the request or another reasonable time specified in the response.

(C~~)~~) **Objections.** An objection must state whether any responsive materials are being withheld on the basis of that objection. An objection to part of a request must specify the part and permit inspection of the rest.

(D) **Responding to a Request for Production of Electronically Stored Information.** The response may state an objection

to a requested form for producing electronically stored information. If the responding party objects to a requested form—or if no form was specified in the request—the party must state the form or forms it intends to use.

(E) **Producing the Documents or Electronically Stored Information.** Unless otherwise stipulated or ordered by the court, these procedures apply to producing documents or electronically stored information:

(i) ~~A~~a party must produce documents as they are kept in the usual course of business or must organize and label them to correspond to the categories in the request~~;~~. If producing the documents as they are kept in the usual course of business would make it unreasonably burdensome for the requesting party to correlate the documents being produced with the categories in its request for production, the responding party must (a) specify the records in sufficient detail to permit the requesting party to locate the documents that are responsive to the categories in the request for production, or (b) organize and label the records to correspond to the categories in the request;

(ii) ~~I~~if a request does not specify a form for producing electronically stored information, a party must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms; and

(iii) ~~A~~a party need not produce the same electronically stored information in more than one form.

(c) **Nonparties.** As provided in Rule 45, a nonparty may be compelled to produce documents, electronically stored information, and tangible things or to permit an inspection.

(d) **Expenses of Copying~~.~~ ~~The party~~ Documents and/or Producing Electronically Stored Information.** Unless the court orders otherwise, the requesting ~~that documents be copied~~ party must pay the responding party the

reasonable cost ~~therefor and the court may, upon such terms as are just, direct the respondent~~of copying documents. If the responding party produces electronically stored information by a media storage device, the requesting party must pay the reasonable cost of the device.

~~**RULE 35. PHYSICAL AND MENTAL EXAMINATION OF PERSONS (ALTERNATE 1)**~~**Advisory Committee Note—2019 Amendment**

The amendments generally conform Rule 34 to FRCP 34. The new provisions in Rule 34(b)(2)(E)(i) address a production of documents in the form kept in the usual course of business, often electronically, that is wholly unrelated to the document requests. If it would be unreasonably burdensome for the requesting party to correlate the documents, the requesting party can request that the responding party specify the correlation. The identification of responsive documents may be assisted by the use of Bates numbering. Rule 34(d) retains the former Nevada rule with provisions added to address electronically stored information.

Rule 35. Physical and Mental Examinations

(a) **Order for Examination.** ~~When the~~

(1) **In General.** The court where the action is pending may order a party whose mental or physical condition ~~(~~including ~~the~~ blood group~~) of a party, or of a person in the custody or under the legal control of a party,~~ is in controversy~~, the court in which the action is pending may order the party~~ to submit to a physical or mental examination by a suitably licensed or certified examiner ~~or~~. The court has the same authority to order a party to produce for examination ~~the~~a person who is in the party's custody or under the party's legal control.

(2) **Motion and Notice; Contents of the Order.**

(A) The order may be made only on motion for good cause ~~shown~~ and ~~upon~~on notice to all parties and the person to be examined~~ and to all parties and shall~~.

(B) The order must specify the time, place, manner, conditions, and scope of the examination~~ and the person or persons by whom it is to be made~~, as well as the person or persons who will perform it. The examination must take place in an appropriate professional setting in the judicial district in which the action is pending, unless otherwise agreed by the parties or ordered by the court.

(3) **Recording the Examination.** On request of a party or the examiner, the court may, for good cause shown, require as a condition of the examination that the examination be audio recorded. The party or examiner who requests the audio recording must arrange and pay for the recording and provide a copy of the recording on written request. The examiner and all persons present must be notified before the examination begins that it is being recorded.

(4) **Observers at the Examination.** The party against whom an examination is sought may request as a condition of the examination to have an observer present at the examination. When making the request, the party must identify the observer and state his or her relationship to the party being examined. The observer may not be the party's attorney or anyone employed by the party or the party's attorney.

(A) The party may have one observer present for the examination, unless:

(i) the examination is a neuropsychological, psychological, or psychiatric examination; or

(ii) the court orders otherwise for good cause shown.

(B) The party may not have any observer present for a neuropsychological, psychological, or psychiatric examination, unless the court orders otherwise for good cause shown.

(C) An observer must not in any way interfere, obstruct, or participate in the examination.

(b) **Examiner's Report ~~of Examiner~~.**

~~(1) If requested~~ (1) **Request by the Party or Person Examined.** Unless otherwise ordered by the court or discovery commissioner for good cause, the party who moved for the examination must, upon a request by the party against whom ~~an order is made under Rule 35(a) or the person examined, the party causing~~ the examination ~~to be made shall deliver to the requesting party~~order was issued, provide a copy of the ~~detailed written report of the examiner setting out the~~ examiner's ~~findings, including~~report within 30 days of the examination or by the date of the applicable expert disclosure deadline, whichever occurs first.

(2) **Contents.** The examiner's report must be in writing and must set out in detail the examiner's findings, including diagnoses, conclusions, and the results of ~~all~~any tests ~~made, diagnoses and conclusions, together with like~~.

(3) **Request by the Moving Party.** After delivering the reports ~~of all earlier~~, the party who moved for the examination may request—and is entitled to receive—from the party against whom the examination order was issued like reports of all earlier or later examinations of the same condition. ~~After delivery the party causing the examination shall be entitled upon request to receive from the party against whom the order is made a like report of any examination, previously or thereafter made, of the same condition, unless, in the case of a report of examination of a person not a party,~~ But those reports

need not be delivered by the party with custody or control of the person examined if the party shows that ~~the party is unable to~~ it could not obtain ~~it.~~ them.

(4) **Waiver of Privilege.** By requesting and obtaining the examiner's report, or by deposing the examiner, the party examined waives any privilege it may have—in that action or any other action involving the same controversy—concerning testimony about all examinations of the same condition.

(5) **Failure to Deliver a Report.** The court on motion may ~~make an~~ order ~~against~~ on just terms—that a party ~~requiring delivery of a~~deliver the report ~~on such terms as are just, and if an examiner fails or refuses to make a~~of an examination. If the report(s) is not provided, the court may exclude the examiner's testimony ~~if offered~~ at ~~the~~ trial.

~~(2) By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the party examined waives any privilege the party may have in that action or any other involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine the party in respect of the same mental or physical condition.~~

~~(3) This subdivision~~ (6) **Scope.** Rule 35(b) also applies to ~~examinations~~an examination made by the parties' agreement ~~of the parties~~, unless the agreement ~~expressly provides~~states otherwise. ~~This subdivision~~Rule 35(b) does not preclude ~~discovery of a~~obtaining an examiner's report ~~of~~for deposing an examiner ~~or the taking of a deposition of the examiner in accordance with the provisions of any~~under other ~~rule~~rules.

~~RULE 35. PHYSICAL AND MENTAL EXAMINATION OF PERSONS~~

~~**(ALTERNATE 2)** (a) **Order for Examination.** When the mental or physical condition (including the blood group) of a party, or of a person in the custody or under the legal control of a party, is in controversy, the court in which the action is pending may order the party to submit to a physical or mental examination by a suitably licensed or certified examiner or to produce for examination the person in the party's custody or legal control. The order may be made only on motion for good cause shown and upon notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.~~

~~**(b) Report of Examiner.**~~

~~(1) If requested by **the** party against whom an order is made under Rule 35(a) or the person examined, the party causing the examination to be made shall deliver to the requesting party a copy of the detailed written report of the examiner setting out the examiner's findings, including results of all tests made, diagnoses and conclusions, together with like reports of all earlier examinations of the same condition. After delivery the party causing the examination shall be entitled upon request to receive from the party against whom the order is made a like report of any examination, previously or thereafter made, of the same condition, unless, in the case of a report of examination of a person not a party, the party shows that the party is unable to obtain it. The court on motion may make an order against a party requiring delivery of a report on such terms as are just, and if an examiner fails or refuses to make a report the court may exclude the examiner's testimony if offered at the trial.~~

~~(2) By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the party examined waives~~

any privilege the party may have in that action or any other involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine the party in respect of the same mental or physical condition.

(3) This subdivision applies to examinations made by agreement of the parties, unless the agreement expressly provides otherwise. This subdivision does not preclude discovery of a report of an examiner or the taking of a deposition of the examiner in accordance with the provisions of any other .

RULE 35. PHYSICAL AND MENTAL EXAMINATION OF PERSONS (ALTERNATE 3) (a) **Order for Examination.** When the mental or physical condition (including the blood group) of a party, or of a person in the custody or under the legal control of a party, is in controversy, the court in which the action is pending may order the party to submit to a physical or mental examination by a suitably licensed or certified examiner or to produce for examination the person in the party's custody or legal control. The order may be made only on motion for good cause shown and upon notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.

(b) Report of Examiner.

(1) If requested by **the** party against whom an order is made under Rule 35(a) or the person examined, the party causing the examination to be made shall deliver to the requesting party a copy of the detailed written report of the examiner setting out the examiner's findings, including results of all tests made, diagnoses and conclusions, together with like reports of all earlier

~~examinations of the same condition. After delivery the party causing the examination shall be entitled upon request to receive from the party against whom the order is made a like report of any examination, previously or thereafter made, of the same condition, unless, in the case of a report of examination of a person not a party, the party shows that the party is unable to obtain it. The court on motion may make an order against a party requiring delivery of a report on such terms as are just, and if an examiner fails or refuses to make a report the court may exclude the examiner's testimony if offered at the trial.~~

~~(2) By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the party examined waives any privilege the party may have in that action or any other involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine the party in respect of the same mental or physical condition.~~

~~(3) This subdivision applies to examinations made by agreement of the parties, unless the agreement expressly provides otherwise. This subdivision does not preclude discovery of a report of an examiner or the taking of a deposition of the examiner in accordance with the provisions of any other~~

~~RULE~~Advisory Committee Note—2019 Amendment

Subsection (a). Rule 35(a) expressly addresses audio recording and attendance by an observer at court-ordered physical and mental examinations. A court may for good cause shown direct that an examination be audio recorded. A generalized fear that the examiner might distort or inaccurately report what occurs at the examination is not sufficient to establish good cause to audio record the examination. In addition, a party whose examination is

ordered may have an observer present, typically a family member or trusted companion, provided the party identifies the observer and his or her relationship to the party in time for that information to be included in the order for the examination. Psychological and neuropsychological examinations raise subtler questions of influence and confidential and proprietary testing materials that make it appropriate to condition the attendance of an observer on court permission, to be granted for good cause shown. In either event, the observer should not be the attorney or employed by the attorney for the party against whom the request for examination is made, and the observer may not disrupt or participate in the examination. A party requesting an audio recording or an observer should request such a condition when making or opposing a motion for an examination or at a hearing on the motion.

Subsection (b). A Rule 35(b) report should contain opinions concerning the physical or mental condition in controversy for which the examiner is qualified to render an opinion. The disclosure deadlines contemplate that the report will be provided by the initial expert disclosure deadline, assuming that deadline is within 30 days of the examination. There may be rare circumstances that would justify a rebuttal Rule 35 examination. Any report prepared from a rebuttal examination must be timely disclosed by the rebuttal expert disclosure deadline or within 30 days of the examination, whichever occurs first. If the expert disclosure deadlines have passed, a party seeking a Rule 35 examination must move to reopen the applicable expert disclosure deadlines unless otherwise stipulated in writing by the parties. To reopen an expert disclosure deadline, the moving party must demonstrate excusable neglect or changed circumstances, such as where there has been an unanticipated change in a party's physical or mental condition.

Rule 36. ~~REQUESTS FOR ADMISSION~~

~~(a) Request~~Requests for Admission

(a) **Scope and Procedure.**

(1) **Scope.** A party may serve ~~upon~~on any other party a written request ~~for the admission~~to admit, for purposes of the pending action only, ~~of~~ the truth of any matters within the scope of Rule 26(b~~) set forth in the request that relate to statements or opinions of fact or of~~)(1) relating to:

(A) facts, the application of law to fact, ~~including~~ or opinions about either; and

(B) the genuineness of any ~~documents~~ described ~~in the request. Copies~~documents.

(2) **Form; Copy of ~~documents shall~~a Document.** Each matter must be ~~served with~~separately stated. A request to admit the genuineness of a document must be accompanied by a copy of the ~~request~~document unless ~~they have~~it is, or has been ~~or are~~, otherwise furnished or made available for inspection and copying. ~~Without leave of court or written stipulation, requests for admission may not be served before the time specified in Rule 26(a).~~

~~Each matter of which an admission is requested shall be separately set forth. The~~ (3) **Time to Respond; Effect of Not Responding.** A matter is admitted unless, within 30 days after ~~service of the request, or within such shorter or longer time as the court may allow, or the parties may agree to in writing, subject to Rule 29~~being served, the party to whom the request is directed serves ~~upon~~on the ~~party~~ requesting ~~the admission~~ party a written answer or objection addressed to the matter~~,~~ and signed by the party or ~~by the party's~~its attorney. ~~If objection is made, the reasons therefor shall~~A shorter or longer time for responding may be stipulated to under Rule 29 or be ~~stated. The~~ ordered by the court.

(4) **Answer.** If a matter is not admitted, the answer ~~shall~~must specifically deny ~~the matter~~it or ~~set forth~~state in detail ~~the reasons~~ why the answering party cannot truthfully admit or deny ~~the matter~~it. A denial ~~shall~~must fairly ~~meet~~respond to the substance of the ~~requested admission,~~matter; and when good faith requires that a party qualify an answer or deny only a part of ~~the~~a matter ~~of which an admission is requested, the party shall~~, the answer must specify ~~so much of it as is true~~the part admitted and qualify or deny the ~~remainder. An~~ rest. The answering party may ~~not give~~assert lack of ~~information or~~ knowledge or information as a reason for ~~failure~~failing to admit or deny ~~unless~~only if the party states that ~~the party~~it has made reasonable inquiry and that the information ~~known~~it knows or can readily ~~obtainable by the party~~ obtain is insufficient to enable ~~the party~~it to admit or deny. ~~A party who considers that a matter of which an admission has been requested~~

(5) **Objections.** The grounds for objecting to a request must be stated. A party must not object solely on the ground that the request presents a genuine issue for trial ~~may not, on that ground alone, object to the request; the party may, subject to the provisions of Rule 37(c), deny the matter or set forth reasons why the party cannot admit or deny it. The answer shall first set forth each request for admission made, followed by the answer or response of the party.~~.

(6) **Motion Regarding the Sufficiency of an Answer or Objection.** The requesting party ~~who has requested the admissions~~ may move to determine the sufficiency of ~~the answers~~an answer or ~~objections~~objection. Unless the court ~~determines that~~finds an objection ~~is~~ justified, it ~~shall~~must order that an answer be served. ~~If the court determines~~On finding that an answer does not comply with ~~the requirements~~

~~of~~ this rule, ~~it~~the court may order either that the matter is admitted or that an amended answer be served. The court may~~, in lieu of these orders, determine that~~ defer its final ~~disposition of the request be made at~~decision until a pretrial conference or ~~at~~ a ~~designated~~specified time ~~prior to~~before trial. ~~The provisions of~~ Rule 37(a)(~~4) apply~~5) applies to ~~the~~an award of expenses ~~incurred in relation to the motion~~.

(7) **Limitations on Number of Requests.**

(A) No party may serve upon any other single party to an action more than 40 requests for admission under Rule 36(a)(1)(A) without obtaining:

(i) a written stipulation under Rule 29 of the party to which the additional requests are directed; or

(ii) upon a showing of good cause, a court order granting leave to serve a specific number of additional requests.

(B) Subparts of requests count as separate requests. There is no limitation on requests for admission relating to the genuineness of documents under Rule 36(a)(1)(B).

(b) **Effect of an Admission~~. Any~~; Withdrawing or Amending It.** A matter admitted under this rule is conclusively established unless the court, on motion, permits ~~withdrawal or amendment of~~ the admission to be withdrawn or amended. Subject to ~~the provisions of~~ Rule 16~~ governing amendment of a pretrial order,~~(d)-(e), the court may permit withdrawal or amendment ~~when~~if it would promote the presentation of the merits of the action ~~will be subserved thereby~~ and ~~the party who obtained the admission fails to satisfy~~if the court is not persuaded that ~~withdrawal or amendment will~~it would prejudice ~~that~~the requesting party in maintaining or defending the action ~~or defense~~ on the merits. ~~Any~~An admission ~~made by a party~~ under

this rule is not an admission for ~~the~~any other purpose ~~of the pending action only and is not an admission for any other purpose nor may it~~ and cannot be used against the party in any other proceeding.

~~**(c) Number of Requests for Admissions.** No party shall serve upon any other single party to an action more than 40 requests for admissions that do not relate to the genuineness of documents, in which subparts of requests shall count as separate requests, without first obtaining a written stipulation, subject to Rule 29, of such party to additional requests or obtaining an order of the court upon a showing of good cause granting leave to serve a specific number of additional requests.~~

~~The number of requests for admission of the genuineness of documents is not limited except as justice requires to protect the responding party from annoyance, oppression, or undue burden and expense.~~

~~RULE 37. FAILURE TO MAKE DISCLOSURE OR COOPERATE IN DISCOVERY; SANCTIONS~~

Rule 37. Failure to Make Disclosures or to Cooperate in Discovery; Sanctions

(a) **Motion for an Order Compelling Disclosure or Discovery.** ~~A party, upon reasonable~~

(1) **In General.** On notice to other parties and all ~~persons~~ affected ~~thereby,~~persons, a party may ~~apply~~move for an order compelling disclosure or discovery ~~as follows:~~

~~**(1) Appropriate Court.** An application for an order to a party may be made to the court in which the action is pending, or, on matters relating to a deposition, to the court in the district where the deposition is being taken.~~

~~An application for an order to a deponent who is not a party shall be made to the court in the district where the deposition is being, or is to be, taken.~~

~~**(2) Motion.**~~

~~(A) If a party fails to make a disclosure required by Rule 16.1(a) or 16.2(a), any other party may move to compel disclosure and for appropriate sanctions. The motion must include a certification that the movant has in good faith conferred or attempted to confer with the party not making the disclosure in an effort to secure the disclosure without court action.~~

~~(B) If a deponent fails to answer a question propounded or submitted under Rules 30 or 31, or a corporation or other entity fails to make a designation under Rule 30(b)(6) or 31(a), or a party fails to answer an interrogatory submitted under Rule 33, or if a party, in response to a request for inspection submitted under Rule 34, fails to respond that inspection will be permitted as requested or fails to permit inspection as requested, the discovering party may move for an order compelling an answer, or a designation, or an order compelling inspection in accordance with the request~~. The motion must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make ~~the~~ disclosure or discovery in an effort to ~~secure the information or material~~obtain it without court action~~. When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before applying for an order~~.

(2) **Appropriate Court.** A motion for an order to a party must be made in the court where the action is pending. A motion for an order to a nonparty must be made in the court where the discovery is or will be taken.

(3) **Specific Motions.**

(A) **To Compel Disclosure.** If a party fails to make a

disclosure required by Rule 16.1(a), 16.2(d), or 16.205(d), any other party may move to compel disclosure and for appropriate sanctions.

(B) **To Compel a Discovery Response.** A party seeking discovery may move for an order compelling an answer, designation, production, or inspection. This motion may be made if:

(i) a deponent fails to answer a question asked under Rule 30 or 31;

(ii) a corporation or other entity fails to make a designation under Rule 30(b)(6) or 31(a)(4);

(iii) a party fails to answer an interrogatory submitted under Rule 33; or

(iv) a party fails to produce documents or fails to respond that inspection will be permitted—or fails to permit inspection—as requested under Rule 34.

(C) **Related to a Deposition.** When taking an oral deposition, the party asking a question may complete or adjourn the examination before moving for an order.

(4) **Evasive or Incomplete Disclosure, Answer, or Response.** For purposes of ~~this subdivision~~Rule 37(a), an evasive or incomplete disclosure, answer, or response ~~is to~~must be treated as a failure to disclose, answer~~ or respond~~, or respond. A party's production of documents that is not in compliance with Rule 34(b)(2)(E)(i) may also be treated as a failure to produce documents.

(~~4)~~ 5) **Payment of Expenses~~ and Sanctions~~; Protective Orders.**

~~(A)~~ (A) **If the Motion Is Granted (or Disclosure or Discovery Is Provided After Filing).** If the motion is granted—or if the

disclosure or requested discovery is provided after the motion was filed~~, —~~the court ~~shall~~must, after ~~affording~~giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion ~~or~~, the party or attorney advising ~~such~~that conduct, or both ~~of them~~ to pay ~~to~~ the ~~moving party the~~movant's reasonable expenses incurred in making the motion, including ~~attorney's~~attorney fees~~, unless~~. But the court ~~finds that~~ must not order this payment if:

(i) the ~~motion was~~movant filed ~~without~~ the ~~movant's first making a~~motion before attempting in good faith ~~effort~~ to obtain the disclosure or discovery without court action~~, or that~~ ;

(ii) the opposing party's nondisclosure, response, or objection was substantially justified~~,~~; or ~~that~~

(iii) other circumstances make an award of expenses unjust.

(B) **If the Motion Is Denied.** If the motion is denied, the court may ~~enter~~issue any protective order authorized under Rule 26(c) and ~~shall~~must, after ~~affording~~giving an opportunity to be heard, require the ~~moving party or~~movant, the attorney filing the motion, or both ~~of them~~ to pay ~~to~~ the party or deponent who opposed the motion ~~the~~its reasonable expenses incurred in opposing the motion, including ~~attorney's~~attorney fees~~, unless~~. But the court ~~finds that the making of~~must not order this payment if the motion was substantially justified or ~~that~~ other circumstances make an award of expenses unjust.

~~(C)~~ (C) **If the Motion Is Granted in Part and Denied in Part.** If the motion is granted in part and denied in part, the court may ~~enter~~issue any protective order authorized under Rule 26(c) and may, after ~~affording~~giving an opportunity to be heard, apportion the reasonable

expenses ~~incurred in relation to the motion among the parties and persons in a just manner~~for the motion.

(b) **Sanctions for Failure to Comply With a Court Order.**

(1) ~~**Sanctions—Deponent.** If~~**For Not Obeying** a ~~deponent fails to be sworn or to answer a question after being directed to do so by the court the failure may be considered a contempt of court.~~

~~**(2) Sanctions—Party.**~~**Discovery Order.** If a party or ~~an~~a party's officer, director, or managing agent ~~of a party~~ or a ~~person~~witness designated under Rule 30(b)(6) or 31(a~~) to testify on behalf of a party~~)(4) fails to obey an order to provide or permit discovery, including an order ~~made~~ under ~~subdivision (a) of this rule or~~ Rule 35~~, or if a party fails to obey an order entered under Rules 16, 16.1, and 16.2,~~ or 37(a), the court ~~in which the action is pending may make such~~ may issue further just orders ~~in regard to the failure as are just, and among others~~ that may include the following:

(A) ~~An order~~directing that the matters ~~regarding which~~embraced in the order ~~was made~~ or ~~any~~ other designated facts ~~shall~~ be taken ~~to be~~as established for ~~the~~ purposes of the action ~~in accordance with~~, as the ~~claim of the~~prevailing party ~~obtaining the order~~claims;

(B) ~~An order refusing to allow~~prohibiting the disobedient party ~~to support~~from supporting or ~~oppose~~opposing designated claims or defenses, or ~~prohibiting that party~~ from introducing designated matters in evidence;

(C) ~~An order~~ striking ~~out~~ pleadings in whole or ~~parts thereof, or~~ in part;

(D) staying further proceedings until the order is obeyed~~, or~~;

(E) dismissing the action or proceeding in whole or ~~any~~in

part ~~thereof, or~~ ;

(F) rendering a default judgment ~~by default~~ against the disobedient party; or

~~(D) In lieu of any of the foregoing orders or in addition thereto, an order~~ (G) treating as ~~a~~ contempt of court the failure to obey any ~~orders~~order except an order to submit to a physical or mental examination~~;~~.

~~(E) Where~~(2) **For Not Producing a Person for Examination.** If a party ~~has failed~~fails to comply with an order under Rule 35(a) requiring ~~that party~~it to produce another person for examination, ~~such~~the court may issue any of the orders ~~as are~~ listed in ~~subparagraphs (A), (B), and (C) of this subdivision,~~Rule 37(b)(1), unless the disobedient party ~~failing to comply~~ shows that ~~that~~it cannot produce the other person.

(3) **Payment of Expenses.** Instead of or in addition to the orders above, the court must order the disobedient party ~~is unable to produce such person for examination.~~

~~In lieu of any of the foregoing orders or in addition thereto, the court shall require the party failing to obey the order or~~, the attorney advising that party, or both to pay the reasonable expenses, including ~~attorney's~~attorney fees, caused by the failure, unless the ~~court finds that the~~ failure was substantially justified or other circumstances make an award of expenses unjust.

(c) **Failure to Disclose, to Supplement an Earlier Response, or to Admit.**

(1) **Failure to Disclose or Supplement.** If a party fails to provide information or identify a witness as required by Rule 16.1(a)(1), 16.2(d) or (e), 16.205(d) or (e), or 26(e), the party is not allowed to use that information

or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or ~~that other circumstances make an award of expenses unjust.~~is harmless. In addition to or instead of this sanction, the court, on motion and after giving an opportunity to be heard:

~~(c) **Failure to Disclose; False or Misleading Disclosure; Refusal to Admit.**~~

~~(1)~~ (A ~~party that without substantial justification fails to disclose information required by Rule 16.1, 16.2, or 26(e)(1), or to amend a prior response to discovery as required by Rule 26(e)(2), is not, unless such failure is harmless, permitted to use as evidence at a trial, at a hearing, or on a motion any witness or information not so disclosed. In addition to or in lieu of this sanction, the court, on motion and after affording an opportunity to be heard, may impose other appropriate sanctions. In addition to requiring~~) may order payment of the reasonable expenses, including ~~attorney's~~attorney fees, caused by the failure~~, these sanctions may include any of the actions authorized under Rule 37(b)(2)(A), (B), and (C) and may include informing the jury of the failure to make the disclosure.~~;

(B) may inform the jury of the party's failure; and

(C) may impose other appropriate sanctions, including any of the orders listed in Rule 37(b)(1).

(2) **Failure to Admit.** If a party fails to admit ~~the genuineness of any document or the truth of any matter as~~ what is requested under Rule 36~~,~~ and if the ~~party~~ requesting ~~the admissions thereafter~~party later proves ~~the genuineness of the~~a document to be genuine or the ~~truth of the~~ matter true, the requesting party may ~~apply to~~move that the ~~court for an order requiring the other~~ party who failed to admit pay the reasonable expenses, including attorney fees, incurred in making that proof~~, including reasonable attorney's~~

~~fees.~~. The court ~~shall make the~~must so order unless ~~it finds that~~ :

(A) ~~–~~ the request was held objectionable ~~pursuant to~~under Rule 36(a~~), or~~);

(B) ~~-~~ the admission sought was of no substantial importance~~,~~ ~~or~~ ;

(C) ~~–~~ the party failing to admit had a reasonable ground to believe that ~~the party~~it might prevail on the matter~~,~~; or

(D) ~~-~~ there was other good reason for the failure to admit.

(d) **Party's Failure ~~of Party~~ to Attend ~~at~~Its Own Deposition ~~or,~~ Serve Answers to Interrogatories, or Respond to a Request for Inspection.** ~~If~~

(1) **In General.**

(A) **Motion; Grounds for Sanctions.** The court may, on motion, order sanctions if:

(i) a party or ~~an~~a party's officer, director, or managing agent ~~of a party~~ or a person designated under Rule 30(b)(6) or 31(a~~) to testify on behalf of a party fails (1) to appear before the officer who is to take the deposition,)(4) fails,~~ after being served with ~~a~~ proper notice, ~~or (2)~~to appear for that person's deposition; or

(ii) a party, after being properly served with interrogatories under Rule 33 or a request for inspection under Rule 34, fails to serve its answers ~~or,~~ objections ~~to interrogatories submitted under Rule 33, after proper service of the interrogatories, or (3) to serve a~~, or written response ~~to a request for inspection submitted under Rule 34, after proper service of the request, the court in which the action is pending on motion may make such orders in regard to the failure as are just, and among others it may take any action authorized under subparagraphs (A), (B), and (C) of subdivision (b)(2) of~~

~~this rule. Any motion specifying a failure under clause (2) or (3) of this subdivision shall.~~

(B) **Certification.** A motion for sanctions for failing to answer or respond must include a certification that the movant has in good faith conferred or attempted to confer with the party failing to ~~answer or respond~~act in an effort to obtain ~~such~~the answer or response without court action.

(2) **Unacceptable Excuse for Failing to Act.** A failure described in Rule 37(d)(1)(A) is not excused on the ground that the discovery sought was objectionable, unless the party failing to act has a pending motion for a protective order under Rule 26(c).

(3) **Types of Sanctions.** Sanctions may include any of the orders listed in Rule 37(b)(1). Instead of or in addition to these sanctions, the court ~~action. In lieu **of** any order or in addition thereto, the court shall~~must require the party failing to act ~~or~~, the attorney advising that party, or both to pay the reasonable expenses, including ~~attorney's~~attorney fees, caused by the failure, unless the ~~court finds that the~~ failure was substantially justified or ~~that~~ other circumstances make an award of expenses unjust.

~~The failure to act described in this subdivision may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has applied for a protective order as provided by Rule 26(c).~~

~~**(e)**~~ (e) **Failure to Preserve Electronically Stored Information.** If electronically stored information that should have been preserved in the anticipation or conduct of litigation is lost because a party failed to take reasonable steps to preserve it, and it cannot be restored or replaced through additional discovery, the court:

(1) upon finding prejudice to another party from loss of the

information, may order measures no greater than necessary to cure the prejudice; or

(2) only upon finding that the party acted with the intent to deprive another party of the information's use in the litigation may:

(A) presume that the lost information was unfavorable to the party;

(B) instruct the jury that it may or must presume the information was unfavorable to the party; or

(C) dismiss the action or enter a default judgment.

~~**Reserved.**~~

(f) **Failure to Participate in ~~the~~ Framing ~~of~~ a Discovery Plan.** If a party or ~~a party's~~its attorney fails to participate in good faith in ~~the development~~developing and ~~submission of~~submitting a proposed discovery plan as required by Rule 16.1(b~~)(2) or 16.2,~~), the court may, after giving an opportunity ~~for hearing~~to be heard, require ~~such~~that party or ~~party's~~ attorney to pay to any other party the reasonable expenses, including ~~attorney's~~attorney fees, caused by the failure.

VI. TRIALS

~~RULE~~Rule 38. ~~JURY TRIAL OF RIGHT~~Right to a Jury Trial; Demand

(a) **Right Preserved.** The right of trial by jury as declared by the ~~Constitution of the State~~state constitution or as given by a state statute ~~of the State shall be~~is preserved to the parties inviolate.

(b) **Demand~~. Any party may demand a trial by jury of~~; Deposit of Jurors' Fees.** On any issue triable of right by a jury ~~by~~, a party may demand a jury trial by:

(1) serving ~~as required by Rule 5(b) upon~~ the other parties with a written demand ~~therefor~~ which may be included in ~~writing~~ a pleading at any time after the commencement of the action and not later than the time of the entry of the order first setting the case for trial~~.~~;

~~**(c) Same: Specification of Issues.** In the demand a party may specify the issues which the party wishes so tried; otherwise the party shall be deemed to have demanded trial by jury for all the issues so triable. If the party has demanded trial by jury for only some of the issues, any other party within 10 days after service of the demand or such lesser time as the court may order, may serve a demand for trial by jury of any other or all of the issues of fact in the action.~~

~~**(d) Waiver; Deposit of Jurors' Fees.** The failure of a party to serve a demand as required by this rule and to file it as required by Rule 5(d) constitutes a waiver by the party of trial by jury. Unless the district in which the action is pending has adopted a local rule pursuant to Rule 83 declaring otherwise, at the time a demand is filed as required by Rule 5(d), the party demanding the trial by jury shall deposit with the~~ (2) filing the demand in accordance with Rule 5(d); and

(3) unless the local rules provide otherwise, depositing with the court clerk an amount of money equal to the fees to be paid the trial jurors for their services for the first day of trial. ~~A demand for trial by jury made as herein provided may be withdrawn only with the consent of the parties, or for good cause shown upon such terms and conditions as the court may fix.~~

~~**RULE**~~ (c) **Specifying Issues.** In its demand, a party may specify the issues that it wishes to have tried by a jury; otherwise, it is considered to have demanded a jury trial on all the issues so triable. If the party has demanded a

jury trial on only some issues, any other party may—within 14 days after being served with the demand or within a shorter time ordered by the court—serve a demand for a jury trial on any other or all factual issues triable by jury.

(d) **Waiver; Withdrawal.**

(1) A party's failure to properly file and serve a demand constitutes the party's waiver of a jury trial.

(2) A proper demand for a jury trial may be withdrawn only if the parties consent, or by court order for good cause upon such terms and conditions as the court may fix.

Advisory Committee Note—2019 Amendment

Rule 38 differs from its federal counterpart in Rule 38(b)(1) and (3) and in 38(d)(2), which address jury-demand timing, deposit of jury fees, and withdrawal of a jury demand on consent or by court order, as did former NRCP 38.

Rule 39. ~~TRIAL BY JURY OR BY THE COURT~~Trial by Jury or by the Court

(a) **By Jury.** When a jury trial ~~by jury~~ has been demanded ~~as provided in~~ under Rule 38, the action ~~shall~~must be designated as a jury action. The trial ~~of~~on all issues so demanded ~~shall~~must be by jury~~,~~ unless~~:~~

(1) ~~–~~ the parties or their attorneys ~~of record, by written~~file a stipulation ~~filed with the court or by an oral stipulation made in open court and entered in the record, consent to trial by the court sitting without a jury or (2) the court upon~~ to a nonjury trial or so stipulate on the record; or

(2) the court, on motion or ~~of~~on its own ~~initiative,~~ finds that ~~a right of trial by jury of~~on some or all of those issues ~~does not exist under the Constitution or statutes of the State~~there is no right to a jury trial.

(b) **By the Court.** Issues ~~not~~ on which a jury trial is not properly demanded ~~for trial by jury as provided in Rule 38 shall~~ are to be tried by the court~~; but, notwithstanding the failure of a party to demand a jury in an action in which such a demand might have been made of right,~~. But the court ~~in its discretion upon~~may, on motion ~~may,~~ order a jury trial ~~by a jury of~~on any or all issues for which a jury might have been demanded.

(c) **Advisory Jury ~~and~~; Jury Trial by Consent.** In ~~all actions~~an action not triable of right by a jury, the court ~~upon~~, on motion~~:~~

(1) may try any issue with an advisory jury; or~~, the court~~

(2) may, with the parties' consent ~~of all parties, may order a trial with~~, try any issue by a jury whose verdict has the same effect as if a jury trial ~~by jury~~ had been a matter of right.

~~RULE~~Advisory Committee Note—2019 Amendment

Rule 39 tracks FRCP 39 but retains Nevada-specific advisory-jury provisions.

Rule 40. ~~ASSIGNMENT OF CASES FOR TRIAL~~Scheduling of Cases for Trial

~~The district courts shall provide for the placing of actions upon the trial calendar (1) without request of the parties but upon notice to the parties or (2) upon request of a party and notice to the other parties or (3) in such other manner as the courts deem expedient. Precedence shall be given to actions entitled thereto by any statute.~~

~~**RULE**~~ The judicial districts must provide by local rule for scheduling trials. The court must give priority to actions entitled to priority by statute.

Rule 41. ~~DISMISSAL OF ACTIONS (ALTERNATE 1)~~

~~(a) **Voluntary**~~ **Dismissal~~: Effect Thereof.~~ of Actions**

~~(1) **By Plaintiff; by Stipulation.** Subject to the provisions of Rule 23(e), of Rule 66, and of any statute, an action may be dismissed by the plaintiff upon repayment of defendants' filing fees, without order of court (i) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs, or (ii) by filing a stipulation of dismissal signed by all parties who have appeared in the action. Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in any court of the United States or of any state an action based on or including the same claim.~~

~~(2) **By Order of Court.** Except as provided in subdivision (a)(1) of this rule, an action shall not be dismissed at the plaintiff's instance save upon order of the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon the defendant of the plaintiff's motion to dismiss, the action shall not be dismissed against the defendant's objection unless the counterclaim can remain pending for independent adjudication by the court. Unless otherwise specified in the order, a dismissal under this paragraph is without prejudice.~~

~~(b) **Involuntary Dismissal: Effect Thereof.** For failure of the plaintiff to comply with these rules or any order of court, a defendant may move~~

for dismissal of an action or of any claim against the defendant. Unless the court in its order for dismissal otherwise specifies, a dismissal under this subdivision and any dismissal not provided for in this rule, other than a dismissal for lack of jurisdiction, for improper venue, or for failure to join a party under Rule 19, operates as an adjudication upon the merits.

(c) **Dismissal of Counterclaim, Cross-Claim, or Third-Party Claim.** The provisions of this rule apply to the dismissal of any counterclaim, cross-claim, or third-party claim. A voluntary dismissal by the claimant alone pursuant to subdivision (a)(1) of this rule shall be made before a responsive pleading is served or, if there is none, before the introduction of evidence at the trial or hearing.

(d) **Costs of Previously Dismissed Action.** If a plaintiff who has once dismissed an action in any court commences an action based upon or including the same claim against the same defendant, the court may make such order for the payment of costs of the action previously dismissed as it may deem proper and may stay the proceedings in the action until the plaintiff has complied with the order.

(e) **Want of Prosecution.** The court may in its discretion dismiss any action for want of prosecution on motion of any party or on the court's own motion and after due notice to the parties, whenever plaintiff has failed for 2 years after action is filed to bring such action to trial. Any action heretofore or hereafter commenced shall be dismissed by the court in which the same shall have been commenced or to which it may be transferred on motion of any party, or on the court's own motion, after due notice to the parties, unless such action is brought to trial within 5 years after the plaintiff has filed the action, except where the parties have stipulated in writing that the time may be extended. When, in any action after judgment, a motion for a new trial has been made

~~and a new trial granted, such action shall be dismissed on motion of any party after due notice to the parties, or by the court of its own motion, if no appeal has been taken, unless such action is brought to trial within 3 years after the entry of the order granting a new trial, except when the parties have stipulated in writing that the time may be extended. When in an action after judgment, an appeal has been taken and judgment reversed with cause remanded for a new trial (or when an appeal has been taken from an order granting a new trial and such order is affirmed on appeal), the action must be dismissed by the trial court on motion of any party after due notice to the parties, or of its own motion, unless brought to trial within 3 years from the date upon which remittitur is filed by the clerk of the trial court. A dismissal under this subdivision (c) is a bar to another action upon the same claim for relief against the same defendants unless the court otherwise provides~~

~~RULE 41. DISMISSAL OF ACTIONS (ALTERNATE 2)~~

(a) **Voluntary Dismissal: Effect Thereof.**

(1) **By the Plaintiff~~; by Stipulation.~~.**

(A) **Without a Court Order.** Subject to ~~the provisions of Rule~~ Rules 23(~~c), of Rule~~ f), 23.1, 23.2, 66, and ~~of~~ any applicable statute, ~~an action may be dismissed by~~ the plaintiff ~~upon repayment of defendants' filing fees,~~ may dismiss an action without a court order ~~of court~~ by filing:

(i) ~~by filing~~ a notice of dismissal ~~at any time~~ before ~~service by~~ the ~~adverse~~opposing party ~~of~~serves either an answer or ~~of~~ a motion for summary judgment~~, whichever first occurs,~~; or

(ii) ~~by filing~~ a stipulation of dismissal signed by all parties who have appeared ~~in the action.~~ .

(B) **Effect.** Unless ~~otherwise stated in~~ the notice ~~of dismissal~~ or stipulation states otherwise, the dismissal is without prejudice~~, except that~~. But if the plaintiff previously dismissed any federal- or state-court action based on or including the same claim, a notice of dismissal operates as an adjudication ~~upon~~on the merits ~~when filed by a plaintiff who has once dismissed in any court of the United States or of any state an action based on or including the same claim~~.

(C) **Filing Fees.** Unless otherwise stipulated, the plaintiff must repay the defendant's filing fees.

(2) **By Order of Court; Effect.** Except as provided in ~~subdivision~~ Rule 41(a)(1~~) of this rule,~~), an action ~~shall not~~may be dismissed at the plaintiff's ~~instance save upon order of the~~ request only by court ~~and upon such~~order, on terms ~~and conditions as~~that the court ~~deems~~considers proper. If a defendant has pleaded a counterclaim ~~has been pleaded by a defendant prior to the service upon the defendant of~~before being served with the plaintiff's motion to dismiss, the action ~~shall not~~may be dismissed ~~against~~over the defendant's objection ~~unless~~only if the counterclaim can remain pending for independent adjudication ~~by the court.~~. Unless the order states otherwise ~~specified in the order~~, a dismissal under ~~this paragraph~~Rule 41(a)(2) is without prejudice.

(b) **Involuntary Dismissal: Effect ~~Thereof.~~** ~~For failure of~~. If the plaintiff fails to comply with these rules or ~~any~~a court order ~~of court~~, a defendant may move ~~for dismissal of an~~to dismiss the action or ~~of~~ any claim against the defendant. Unless the ~~court in its~~dismissal order ~~for dismissal~~or an applicable statute provides otherwise ~~specifies~~, a dismissal under ~~this subdivision~~Rule 41(b) and any dismissal not ~~provided for in~~under this rule~~, other than a dismissal—~~except one for lack of jurisdiction, ~~for~~ improper venue,

or ~~for~~ failure to join a party under Rule 19~~,~~ ~~—~~operates as an adjudication ~~upon~~on the merits.

(c) ~~**Dismissal of**~~**Dismissing a Counterclaim, ~~Cross-Claim~~Crossclaim, or Third-Party Claim.** ~~The provisions of this~~This rule ~~apply~~applies to ~~the~~a dismissal of any counterclaim, ~~cross-claim~~crossclaim, or third-party claim. A claimant's voluntary dismissal ~~by the claimant alone pursuant to subdivision (a)(1) of this rule shall~~under Rule 41(a)(1)(A)(i) must be made~~:~~

(1) before a responsive pleading is served~~;~~ or~~,~~

(2) if there is ~~none~~no responsive pleading, before ~~the introduction of~~ evidence is introduced at ~~the trial or~~a hearing or trial.

(d) **Costs of a Previously Dismissed Action.** If a plaintiff who ~~has once~~previously dismissed an action in any court ~~commences~~files an action based ~~upon~~on or including the same claim against the same defendant, the court~~:~~

(1) may ~~make such~~ order ~~for~~ the ~~payment of~~ plaintiff to pay all or part of the costs of ~~the~~ that previous action ~~previously dismissed as it may deem proper~~; and

(2) may stay the proceedings ~~in the action~~ until the plaintiff has complied ~~with the order~~.

(e) **Dismissal for Want of Prosecution.** ~~The court may in its discretion dismiss any action for want of prosecution on motion of~~

(1) **Procedure.** When the time periods in this rule have expired:

(A) any party ~~or on the court's own motion and after due notice~~may move to ~~the parties, whenever plaintiff has failed for 2 years after action is filed to bring such action to trial. Any action heretofore or hereafter commenced shall be dismissed by the court in which the same shall have been~~

~~commenced~~dismiss an action for lack of prosecution; or ~~to which it may be transferred on motion of any party, or on the court's own motion, after due notice to the parties, unless such action is brought~~

(B) the court may, on its own, issue an order to show cause why an action should not be dismissed for lack of prosecution. After briefing, the court may hold a hearing or take the matter under submission, as provided by local rules on motion practice.

(2) **Dismissing an Action Before Trial.**

(A) The court may dismiss an action for want of prosecution if a plaintiff fails to bring the action to trial within 2 years after the action was filed.

(B) The court must dismiss an action for want of prosecution if a plaintiff fails to bring the action to trial within 5 years after the ~~plaintiff has filed the~~ action~~, except where the parties have stipulated in writing that the time may be extended. When, in any action after judgment, a motion for a new trial has been made and a new trial granted, such action shall be dismissed on motion of any party after due notice to the parties, or by the court of its own motion, if no appeal has been taken, unless such action is brought~~ was filed.

(3) **Dismissing an Action After a New Trial is Granted.** The court must dismiss an action for want of prosecution if a plaintiff fails to bring the action to trial within 3 years after the entry of ~~the~~an order granting a new trial~~, except when the parties have stipulated in writing that the time may be extended. When in an action after judgment, an appeal has been taken and judgment reversed with cause remanded for a new trial (or when an appeal has been taken from~~.

(4) **Dismissing an Action After an Appeal.**

(A) If a party appeals an order granting a new trial and ~~such~~the order is affirmed ~~on appeal), the action must be dismissed by the trial~~, the court ~~on motion of any party after due notice~~must dismiss the action for want of prosecution if a plaintiff fails to ~~the parties, or of its own motion, unless brought~~ bring the action to trial within 3 years ~~from~~after the ~~date upon which~~ remittitur ~~is~~was filed ~~by the clerk of~~in the trial court.

(B) If a party appeals a judgment and the judgment is reversed on appeal and remanded for a new trial, the court must dismiss the action for want of prosecution if a plaintiff fails to bring the action to trial within 3 years after the remittitur was filed in the trial court.

(5) **Extending Time; Computing Time.** The parties may stipulate in writing to extend the time in which to prosecute an action. If two time periods requiring mandatory dismissal apply, the longer time period controls.

(6) **Dismissal With Prejudice.** A dismissal under ~~this subdivision~~ Rule 41(e) is a bar to another action upon the same claim for relief against the same defendants unless the court provides otherwise ~~provides~~in its order dismissing the action.

~~RULE~~Advisory Committee Note—2019 Amendment

The amendments generally conform Rules 41(a), (b), (c), and (d) to their federal counterparts, but retain Nevada-specific provisions in Rule 41(a)(1)(C), respecting reimbursement of filing fees, and Rule 41(e), addressing dismissals for non-prosecution. The reorganization of Rule 41(e) is stylistic and not intended to change existing caselaw interpreting former NRCP 41(e). Rule 41(e)(5) is new and clarifies that if two time periods requiring mandatory dismissal apply, the longer period controls.

Rule 42. ~~CONSOLIDATION; SEPARATE TRIALS~~

~~(a)~~ **Consolidation~~. When~~; Separate Trials**

(a) **Consolidation.** If actions ~~involving~~before the court involve a common question of law or fact ~~are pending before~~, the court~~, it~~ may ~~order a joint~~:

(1) join for hearing or trial ~~of~~ any or all ~~the~~ matters ~~in~~at issue in the actions; ~~it may order all~~

(2) consolidate the actions ~~consolidated; and it may make such~~ ; or

(3) issue any other orders ~~concerning proceedings therein as may tend~~ to avoid unnecessary ~~costs~~cost or delay.

(b) **Separate Trials.** ~~The court, in furtherance of~~For convenience ~~or~~, to avoid prejudice, or ~~when~~to expedite and economize, the court may order a separate ~~trials will be conducive to expedition and economy, may order a separate trial of any claim, cross-claim, counterclaim, or third-party claim, or of any separate issue or of any number of~~ trial of one or more separate issues, claims, ~~cross-claims~~crossclaims, counterclaims, or third-party claims~~, or issues, always preserving inviolate~~. When ordering a separate trial, the court must preserve any right ~~of~~to a jury trial ~~by jury~~.

~~RULE~~Rule 43. ~~EVIDENCE~~Taking Testimony

(a) ~~**Form.**~~ **In** ~~every~~**Open Court.** At trial, the witnesses' testimony ~~of witnesses shall~~must be taken in open court~~,~~ unless ~~otherwise~~ provided ~~by these rules or by statute. The court may, for~~ otherwise by applicable law. For good cause ~~shown~~ in compelling circumstances and ~~upon~~with appropriate safeguards, the court may permit ~~presentation of~~ testimony in open court by contemporaneous transmission from a different location.

(b) **Affirmation ~~in Lieu~~Instead of an Oath.** ~~Whenever under~~ When these rules require an oath ~~is required to be taken~~, a solemn affirmation ~~may be accepted in lieu thereof~~suffices.

(c) **Evidence on ~~Motions~~a Motion.** When a motion ~~is based~~relies on facts ~~not appearing of~~ outside the record, the court may hear the matter on affidavits ~~presented by the respective parties, but the court may direct that the matter be heard~~or may hear it wholly or partly on oral testimony or on depositions.

(d) **~~Interpreters~~Interpreter.** The court may appoint an interpreter of its ~~own selection and may~~choosing; fix ~~the interpreter's~~ reasonable compensation~~. The compensation shall~~ to be paid ~~out of~~from funds provided by law or by one or more ~~of the~~ parties; and tax the compensation as costs.

Advisory Committee Note—2019 Amendment

The amendments generally conform Rule 43 to the ~~court may direct,~~federal rule. Rule 43(d) should work in harmony with NRS Chapters 1 and ~~may be taxed ultimately as costs, in the discretion of the court~~50 and any other state law governing interpreters.

~~**RULE**~~

Rule 44. ~~PROOF OF OFFICIAL RECORD~~Proving an Official Record

(a) **~~Authentication~~Means of Proving.**

(1) **Domestic~~. An~~ Record.** Each of the following evidences an official record—or an entry in it—that is otherwise admissible and is kept within the United States, ~~or~~ any state, district, or commonwealth, or ~~within a~~any territory subject to the administrative or judicial jurisdiction of the United States~~, or an entry therein, when admissible for any purpose, may be evidenced by an~~ :

(A) an official publication ~~thereof~~of the record; or ~~by~~

(B) a copy attested by the officer ~~having the~~with legal custody of the record~~, ~~or by the officer's deputy~~, ~~and accompanied by a certificate that ~~such~~the officer has ~~the~~ custody. The certificate ~~may~~must be made under seal:

(i) by a judge of a court of record ~~of~~in the district or political subdivision ~~in which~~where the record is kept~~, authenticated by the seal of the court, or may be made~~; or

(ii) by any public officer ~~having~~with a seal of office and ~~having~~with official duties in the district or political subdivision ~~in which~~where the record is kept~~, authenticated by the seal of the officer's office~~.

(2) **Foreign~~. A~~ Record.**

(A) **In General.** Each of the following evidences a foreign official record~~, ~~or an entry ~~therein, when~~in it ~~that is otherwise admissible ~~for any purpose, may be evidenced by~~:

(i) an official publication ~~thereof;~~ of the record; or

(ii) the record ~~or a copy ~~thereof, ~~that is attested by ~~a person~~an authorized ~~to make the attestation,~~person and is accompanied either by a final certification ~~as to~~of genuineness or by a certification under a treaty or convention to which the United States and the country where the record is located are parties.

(B) **Final Certification of Genuineness.** A final certification must certify the genuineness of the signature and official position ~~(i)~~ of the ~~attesting person,~~attester or ~~(ii)~~ of any foreign official whose certificate of genuineness ~~of signature and official position~~ relates to the attestation or is in a chain of certificates of genuineness ~~of signature and official position~~ relating to the attestation. A final certification may be made by a secretary of

a United States embassy or legation~~,~~; by a consul general, ~~consul,~~ vice consul, or consular agent of the United States~~,~~; or by a diplomatic or consular official of the foreign country assigned or accredited to the United States.

(C) **Other Means of Proof.** If all parties have had a reasonable opportunity ~~has been given to all parties~~ to investigate ~~the~~a foreign record's authenticity and accuracy ~~of the documents~~, the court may, for good cause ~~shown,~~ , either:

(i) admit an attested copy without final certification; or

(ii) permit the ~~foreign official~~ record to be evidenced by an attested summary with or without a final certification. ~~The final certification is unnecessary if the record and the attestation are certified as provided in a treaty or convention to which the United States and the foreign country in which the official record is located are parties.~~

(b) **Lack of a Record.** A written statement that ~~after~~a diligent search of designated records revealed no record or entry of a specified tenor is ~~found to exist in the records designated by the statement, authenticated as provided in subdivision (a)(1) of this rule in the case of a domestic record, or complying with the requirements of subdivision (a)(2) of this rule for a summary in the case of a foreign record, is~~ admissible as evidence that the records contain no such record or entry. For domestic records, the statement must be authenticated under Rule 44(a)(1). For foreign records, the statement must comply with Rule 44(a)(2)(C)(ii).

(c) **Other Proof.** ~~This rule does not prevent the proof of~~A party may prove an official ~~records~~ record—or ~~of~~an entry or lack of an entry ~~therein~~ in it—by any other method authorized by law.

~~RULE~~Rule 44.1. ~~DETERMINATION OF FOREIGN LAW~~Determining Foreign Law

A party who intends to raise an issue ~~concerning the law of~~about a foreign ~~country shall~~country's law must give notice by ~~pleadings~~a pleading or other ~~reasonable written notice. The court, in~~writing. In determining foreign law, the court may consider any relevant material or source, including testimony, whether or not submitted by a party or admissible ~~under Rule 43.~~as evidence. The court's determination ~~shall~~must be treated as a ruling on a question of law.

~~RULE~~ Rule 45. ~~SUBPOENA~~Subpoena

(a) **~~Form; Issuance~~In General.**

(1) **Form and Contents.**

(A) **Requirements—In General.** Every subpoena ~~shall~~must:

~~(~~(i) state the ~~name of the~~ court from which it is issued; ~~and~~

~~(~~(ii) state the title and case number of the action~~,~~ and the name and address of the party or attorney responsible for issuing the ~~court in which it is pending, and its civil case number; and~~subpoena;

~~(~~(iii) command each person to whom it is directed to do the following at a specified time and place: attend and ~~give testimony or to~~ testify; produce ~~and permit inspection and copying of~~ designated ~~books,~~ documents ~~or~~, electronically stored information, or tangible things in ~~the~~ that person's possession, custody, or control; or permit the inspection of ~~that person,~~premises; and

(iv) set out the text of Rule 45(c) and (d).

(B) **Command to Attend a Deposition—Notice of the Recording Method.** A subpoena commanding attendance at a deposition must state the method for recording the testimony.

(C) **Combining or Separating a Command to Produce or to Permit Inspection; Specifying the Form for Electronically Stored Information.** A command to produce documents, electronically stored information, or tangible things or to permit ~~inspection of premises, at a time and place therein specified; and~~the inspection of premises may be included in a subpoena commanding attendance at a deposition, hearing, or trial, or may be set out in a separate subpoena. A subpoena may specify the form or forms in which electronically stored information is to be produced.

(D) ~~set forth the text of subdivisions (c) and (d) of this rule.~~

Command to Produce; Included Obligations. A command in a subpoena to produce ~~evidence~~documents, electronically stored information, or tangible things requires the responding person to permit inspection ~~may be joined with a command to appear at trial~~, copying, testing, or ~~hearing or at deposition, or may be issued separately~~sampling of the materials.

~~(2) A subpoena commanding attendance at a trial or hearing shall issue from the court for the district in which the hearing or trial is to be held. A subpoena for attendance at a deposition shall issue from the court for the district in which the action is pending. If separate from a subpoena commanding the attendance of a person, a subpoena for production or inspection shall issue from the court for the district in which the action is pending. If the action is pending out of the state, a subpoena may be issued by the clerk of any district court, and the court in the district in which the deposition is being taken or in which the production or inspection is to take~~

~~place shall, for the purposes of these rules, be considered the court in which the action is pending.~~

~~(3)~~ (2) **Issuing Court.** A subpoena must issue from the court where the action is pending.

(3) **Issued by Whom.** The clerk ~~shall~~must issue a subpoena, signed but otherwise in blank, to a party ~~requesting it,~~ who ~~shall~~requests it. That party must complete it before service. An attorney ~~as officer of the court may~~ also may issue and sign a subpoena ~~on behalf of the court~~ if the attorney is authorized to practice ~~therein~~in the issuing court.

(4) **Prior Notice to Parties; Party Objections.**

(A) **Notice to Other Parties Before Service.** If the subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, then at least 7 days before it is served on the person to whom it is directed, a notice and a copy of the subpoena must be served on each party to permit a party to object to and seek issuance of a protective order against the subpoena during that time.

(B) **Party Objections.**

(i) A party who receives notice under Rule 45(a)(4)(A) that another party intends to serve a subpoena duces tecum on a third party that will require disclosure of privileged, confidential or other protected matter, to which no exception or waiver applies, may object to the subpoena by filing and serving written objections to the subpoena and a motion for a protective order.

(ii) To invoke the protections of this rule, the objecting party must file and serve written objections to the subpoena and a motion for

a protective order under Rule 26(c) within 7 days after being served with notice and a copy of the subpoena under Rule 45(a)(4)(A);

(iii) In the objections and the motion, the party must specifically state the party's objections to each command to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises and demonstrate a basis for asserting that the command will require disclosure of privileged, confidential, or other protected matter and establish that no exception or waiver applies and that the objecting party is entitled to assert the claim of privilege or other protection against disclosure.

(iv) If the party objects based upon privilege, confidentiality, or other protection and timely files and serves objections and a motion for a protective order, the subpoena may not be served, unless revised to eliminate the objected-to commands, until the court that issued the subpoena has ruled on the objections and motion.

(v) The objections and motion practice are subject to the provisions of Rules 26(c) and (g) and 37(a)(5).

(b) **Service.**

(1) ~~A subpoena may be served by any~~**By Whom and How; Tendering Fees.** Any person who is ~~not a party and is not less than~~at least 18 years ~~of age. Service of~~old and not a party may serve a subpoena ~~upon a person named therein shall be made by delivering a copy thereof to such person and, if~~, as appropriate under Rule 4.2 or 4.3. If the subpoena requires that person's attendance ~~is commanded, by tendering to that person,~~ the ~~fees~~serving party must tender the fee for ~~one~~1 day's attendance and the mileage allowed by law. ~~When the subpoena is issued on behalf of the State or an officer or agency thereof, fees~~Fees and mileage need not be tendered~~. Prior notice, not less than 15 days, of any commanded production of documents and~~

~~things or inspection of premises before trial shall be served on each party **in** the manner prescribed by Rule 5(b).~~ when the subpoena issues on behalf of the State or any of its officers or agencies.

(2) **Service in Nevada.** Subject to the provisions of ~~clause (ii) of subparagraph~~ Rule 45(c)(3)(A~~) of this rule,~~)(ii), a subpoena may be served at any place within the state.

~~(3~~ (3) **Service in Another State or Territory.** A subpoena may be served in another state or territory of the United States as provided by the law of that state or territory.

(4) **Service in a Foreign Country.** A subpoena may be served in a foreign country as provided by the law of that country.

(5) **Service of a Subpoena From Another State or Territory in Nevada.** A subpoena issued by a court in another state or territory of the United States that is directed to a person in Nevada must be presented to the clerk of the district court in the county in which discovery is sought to be conducted. A subpoena issued under NRS Chapter 53 may be served under this rule.

(6) **Proof of Service.** Proving service, when necessary ~~shall be made by~~, requires filing with the ~~clerk of the~~issuing court ~~by which the subpoena is issued~~ a statement ~~of~~showing the date and manner of service and ~~of~~ the names of the persons served~~,~~. The statement must be certified by the ~~person who made the service~~server.

(c) **Protection of Persons Subject to Subpoena.**

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or ~~an~~ attorney responsible for ~~the issuance~~issuing and ~~service of~~serving a subpoena ~~shall~~must take reasonable steps to avoid imposing undue burden or expense on a person subject to ~~that~~the subpoena. The court ~~on behalf of which~~

that issued the subpoena ~~was issued shall~~must enforce this duty and may impose ~~upon the party or attorney in breach of this duty an~~ an appropriate sanction~~, —~~which may include~~, but is not limited to,~~ lost earnings and ~~a~~ reasonable ~~attorney's fee~~attorney fees—on a party or attorney who fails to comply.

(2)~~(A)~~ **Command to Produce Materials or Permit Inspection.**

(A) **Appearance Not Required.**

(i) A person commanded to produce ~~and permit inspection and copying of designated books, papers,~~ documents ~~or~~, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

~~(B) Subject~~ (ii) If documents, electronically stored information, or tangible things are produced to ~~paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the~~ the party that issued the subpoena ~~or before the time specified for compliance if such time is less than 14 days after service, serve upon~~without an appearance at the place of production, that party must, unless otherwise stipulated by the parties or ordered by the court, promptly copy or electronically reproduce the documents or information, photograph any tangible items not subject to copying, and serve these items on every other party. The party that issued the subpoena may also serve a statement of the reasonable cost of copying, reproducing, or photographing, which a party receiving the copies, reproductions, or photographs must promptly pay. If a party disputes the cost, then the court, on motion, must determine the reasonable cost of copying the documents or information, or photographing the tangible items.

(B) **Objections.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, or a person claiming a proprietary interest in the subpoenaed documents, information, tangible things, or premises to be inspected, may serve on the party or attorney designated in the subpoena a written objection to ~~inspection or~~ inspecting, copying ~~of~~, testing, or sampling any or all of the ~~designated~~ materials or ~~of the premises. If~~ to inspecting the premises—or to producing electronically stored information in the form or forms requested. The person making the objection must serve it before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made~~,~~ :

(i) the party serving the subpoena ~~shall~~is not ~~be~~ entitled to inspect ~~and~~, copy, test, or sample the materials or tangible things or to inspect the premises except ~~pursuant to an~~ by order of the court ~~by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon~~that issued the subpoena;

(ii) on notice to the parties, the objecting person, and the person commanded to produce~~,~~ or permit inspection, the party serving the subpoena may move ~~at any time~~the court that issued the subpoena for an order ~~to compel the production. Such an order to compel~~compelling production ~~shall protect any person who is not a party or an officer of a party~~ or inspection; and

(iii) if the court enters an order compelling production or inspection, the order must protect the person commanded to produce or permit inspection from significant expense resulting from ~~the inspection and copying commanded~~compliance.

(3~~)~~() **Quashing or Modifying a Subpoena.**

(A) **When Required.** On timely motion, the court ~~by which~~that issued a subpoena ~~was issued shall~~must quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance;

(ii) requires a person ~~who is not a party or an officer of a party~~ to travel to a place more than 100 miles from the place where that person resides, is employed, or regularly transacts business in person, ~~except that such a~~unless the person ~~may in order~~is commanded to attend trial ~~be commanded to travel from any such place~~ within ~~the state in which the trial is held, or~~Nevada;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies~~,~~; or

(iv) subjects a person to an undue burden.

(B) ~~If~~**When Permitted.** On timely motion, the court that issued a subpoena

~~(i)~~ may quash or modify the subpoena if it requires ~~disclosure of~~ disclosing:

(i) a trade secret or other confidential research, development, or commercial information~~,~~; or

(ii) ~~requires disclosure of an unretained~~a non-retained expert's opinion or information that does not ~~describing~~describe specific ~~events or~~ occurrences in dispute and ~~resulting~~results from the expert's study ~~made~~that was not ~~at the request of any~~requested by a party~~,~~.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, ~~to protect a person~~

~~subject to~~instead of quashing or ~~affected by the~~ modifying a subpoena, ~~quash~~order an appearance or ~~modify the subpoena or~~,production under specified conditions if the party ~~in whose behalf~~serving the subpoena ~~is issued~~ :

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship ~~and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.~~; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) **Duties in Responding to a Subpoena.**

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents ~~shall~~must produce them as they are kept in the ~~usual~~ordinary course of business or ~~shall~~must organize and label them to correspond ~~with~~to the categories in the demand.

~~(2) When information subject to~~ (B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ~~withheld on~~ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) **Claiming Privilege or Protection.**

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial- -preparation ~~materials, the claim shall be made~~ material must:

(i) expressly make the claim; and ~~shall be supported by a description of~~

(ii) describe the nature of the withheld documents, communications, or tangible things ~~not produced that is sufficient to~~ in a manner that, without revealing information itself privileged or protected, will enable the ~~demanding party~~parties to ~~contest~~assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party

disclosed it before being notified; and may promptly present the information under seal to the court for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) **Contempt; Costs.** Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court ~~from which the subpoena issued~~that issued the subpoena. In connection with a motion for a protective order brought under Rule 26(c), a motion to compel brought under Rule 45(c)(2)(B), or a motion to quash or modify the subpoena brought under Rule 45(c)(3), the court may consider the provisions of Rule 37(a)(5) in awarding the prevailing person reasonable expenses incurred in making or opposing the motion.

~~**RULE 46. EXCEPTIONS UNNECESSARY**~~

~~Formal exceptions **to** rulings **or** orders of the court are unnecessary; but for all purposes for which an exception has heretofore been necessary it is sufficient that a party, at the time the ruling or order of the court is made or sought, makes known to the court the action which the party desires the court to take or the party's objection to the action of the court and the party's grounds therefor; and, if a party has no opportunity to object to a ruling or order at the time it is made, the absence of an objection does not thereafter prejudice the party.~~

~~RULE~~Advisory Committee Note—2019 Amendment

The amendments generally conform Rule 45 to FRCP 45. Rule 45(a)(4) is new and adopts a modified form of FRCP 45(a)(4). Rule 45(a)(4)(A) requires at least 7 days' notice to the other parties before serving a subpoena on the

person to whom it is directed. A timely objection and a motion for a protective order asserting that the subpoena calls for disclosure of privileged, confidential, or other protected matter stays service of the subpoena until the court rules on the objection and motion. Objections and a motion for protective order not based on privilege, confidentiality or other recognized protection from disclosure such as the work product doctrine do not automatically stay service of the subpoena; the objecting party in that instance must apply to the court for relief as with any other motion under Rule 26(c).

Rule 45(c)(2)(A)(ii) is also new. It encourages prompt disclosure of materials received in response to a subpoena so that the litigation can continue, while preserving the parties' ability to dispute the costs of disclosing the materials. Rule 45(e) clarifies that a court considering a subpoena-related motion for a protective order, motion to compel, or motion to quash or modify may award Rule 37 sanctions.

Rule 46. Objecting to a Ruling or Order

A formal exception to a ruling or order is unnecessary. When the ruling or order is requested or made, a party need only state the action that it wants the court to take or objects to, along with the grounds for the request or objection. Failing to object does not prejudice a party who had no opportunity to do so when the ruling or order was made.

Rule 47. ~~JURORS~~Selecting Jurors

(a) **Examination of Jurors.** The court ~~shall~~must conduct the examination of prospective jurors and ~~shall~~must permit such supplemental examination by counsel as it deems proper.

~~(b)~~ (b) **Challenges to Jurors.** The court must allow peremptory

challenges and challenges for cause as provided in NRS Chapter 16.

(c) **Alternate Jurors.** ~~The~~

(1) In addition to the regular jury, the court may direct that alternate jurors ~~may, in addition to the regular jury,~~ be called and impaneled to sit. Alternate jurors in the order in which they are called ~~shall~~must replace jurors who~~, prior to the time the jury retires to consider its verdict,~~ become or are found to be unable or disqualified to perform their duties. Alternate jurors ~~shall~~must be drawn in the same manner~~, shall~~; have the same qualifications~~, shall~~; be subject to the same examination and challenges~~, shall~~; take the same oath~~,~~; and ~~shall~~ have the same functions, powers, facilities, and privileges as the regular jurors. An alternate juror ~~who does not~~may replace a regular juror ~~shall be discharged~~ during trial or after the jury retires to consider its verdict. If an alternate juror replaces a regular juror after the jury has retired to deliberate, the court must recall the jury, seat the alternate, and resubmit the case to the jury. Alternate jurors must be discharged when the regular jury is discharged.

(2) Each side is entitled to ~~1~~one additional peremptory challenge ~~in addition to those otherwise allowed by law~~ for every two alternate jurors that are to be impaneled. The additional peremptory challenges may be used against an alternate juror only, and the ~~other~~regular peremptory challenges allowed by law ~~shall~~must not be used against an alternate juror.

~~RULE~~Advisory Committee Note—2019 Amendment

The amendments retain the former Nevada rule, adding a cross-reference in Rule 47(b) to NRS Chapter 16, which addresses juror challenges. Rule 47(c) allows alternate jurors to replace regular jurors during jury deliberation, consistent with NRS Chapter 16.

Rule 48. ~~JURIES OF LESS THAN EIGHT~~Number of Jurors

~~The~~ A jury must consist of eight persons, unless the parties ~~may~~ stipulate ~~that the~~to a different number—but a jury ~~shall~~may not consist of fewer than four members.

~~RULE~~Advisory Committee Note—2019 Amendment

Rule 48 coordinates with NRS 16.030 and the Nevada Short Trial Rules on the number of jurors. Article 1, Section 3 of the Nevada Constitution and NRS 16.190 address non-unanimous verdicts and polling, making it unnecessary to incorporate FRCP 48(b) and (c).

Rule 49. ~~SPECIAL VERDICTS AND INTERROGATORIES~~

~~(a)~~ **Special ~~Verdicts.~~Verdict; General Verdict and Questions**

(a) **Special Verdict.**

(1) **In General.** The court may require a jury to return only a special verdict in the form of a special written finding ~~upon~~on each issue of fact. ~~In that event the~~The court may ~~submit to the jury~~do so by:

(A) submitting written questions susceptible of a categorical or other brief answer ~~or may submit~~;

(B) submitting written forms of the ~~several~~ special findings ~~which~~that might properly be made under the pleadings and evidence; or ~~it may use such~~

(C) using any other method ~~of submitting the issues and requiring the written findings thereon as it deems most~~that the court considers appropriate.

(2) **Instructions.** The court ~~shall~~must give ~~to the jury such explanation and instruction concerning~~ the ~~matter thus submitted as may be~~instructions and explanations necessary to enable the jury to make its findings ~~upon~~on each submitted issue. ~~If in so doing the court omits~~

(3) **Issues Not Submitted.** A party waives the right to a jury trial on any issue of fact raised by the pleadings or ~~by the~~ evidence~~, each party waives~~ but not submitted to the ~~right to a trial by~~ jury ~~of the issue so omitted~~ unless, before the jury retires, the party demands its submission to the jury. ~~As to an issue omitted without such~~ If the party does not demand submission, the court may make a finding~~; or, if it fails to do so, it shall be deemed~~ on the issue. If the court makes no finding, it is considered to have made a finding ~~in accord~~consistent with ~~the~~its judgment on the special verdict.

(b) **General Verdict ~~Accompanied by Answer~~With Answers to ~~Interrogatories.~~Written Questions.**

(1) **In General.** The court may submit to the jury~~, together with appropriate~~ forms for a general verdict, together with written ~~interrogatories upon~~questions on one or more issues of fact that the ~~decision of which is necessary to a verdict.~~jury must decide. The court ~~shall~~must give ~~such explanation or instruction as may be~~the instructions and explanations necessary to enable the jury ~~both to make answers to the interrogatories and~~ to render a general verdict~~,~~ and answer the ~~court shall~~questions in writing, and must direct the jury to do both ~~to make written answers~~.

(2) **Verdict and ~~to render a general verdict.~~ Answers Consistent.** When the general verdict and the answers are ~~harmonious~~consistent, the court must approve, for entry under Rule 58, an appropriate judgment ~~upon~~on the verdict and answers ~~shall be entered pursuant to Rule 58.~~ .

(3) **Answers Inconsistent With the Verdict.** When the answers are consistent with each other but one or more is inconsistent with the general verdict, the court may:

(A) approve, for entry under Rule 58, an appropriate judgment ~~may be entered pursuant~~according to ~~Rule 58 in accordance with~~ the answers, notwithstanding the general verdict~~, or the court may return~~;

(B) direct the jury ~~for~~to further ~~consideration of~~consider its answers and verdict; or ~~may~~

(C) order a new trial.

(4) **Answers Inconsistent With Each Other and the Verdict.** When the answers are inconsistent with each other and one or more is ~~likewise~~also inconsistent with the general verdict, judgment must not be entered; instead, the court ~~shall not~~ may:

(A) direct the ~~entry of judgment but may return the~~ jury ~~for~~to further ~~consideration of~~consider its answers and verdict; or ~~may~~

(B) order a new trial.

~~RULE~~Rule 50. ~~JUDGMENT AS A MATTER OF LAW IN JURY TRIALS; ALTERNATIVE MOTION FOR NEW TRIAL; CONDITIONAL RULINGS~~

~~(a)~~ **Judgment as a Matter of Law~~.~~ in a Jury Trial; Related Motion for a New Trial; Conditional Ruling**

(a) **Judgment as a Matter of Law.**

(1) **In General.** If ~~during a trial by jury,~~ a party has been fully heard on an issue ~~and on the facts and law a party has failed to prove a~~during a jury trial and the court finds that a reasonable jury would not have a legally sufficient ~~issue~~evidentiary basis to find for the ~~jury~~party on that issue, the court may ~~determine~~:

(A) resolve the issue against ~~that~~the party; and ~~may~~

(B) grant a motion for judgment as a matter of law against ~~that~~the party ~~with respect to~~on a claim or defense that ~~cannot,~~ under the controlling law, can be maintained or defeated ~~without~~only with a favorable finding on that issue.

(2) ~~Motions~~**Motion.** A motion for judgment as a matter of law may be made at ~~the close of the evidence offered by the nonmoving party or at the close of~~any time before the case~~. Such a~~ is submitted to the jury. The motion ~~shall~~must specify the judgment sought and the law and ~~the facts on which the moving party is entitled~~facts that entitle the movant to the judgment.

(b) **Renewing ~~the~~ Motion ~~for Judgment~~ After Trial; Alternative Motion for ~~a~~ New Trial.** If~~, for any reason,~~ the court does not grant a motion for judgment as a matter of law made ~~at the close of all the evidence,~~under Rule 50(a), the court is considered to have submitted the action to the jury subject to the court's later deciding the legal questions raised by the motion. ~~The movant may renew its request for judgment as a matter of law by filing a motion no later than 10~~No later than 28 days after service of written notice of entry of judgment ~~and may alternatively request~~ —or if the motion addresses a jury issue not decided by a verdict, no later than 28 days after the jury was discharged—the movant may file a renewed motion for judgment as a matter of law and may include an alternative or joint request for a new trial ~~or join a motion for new trial~~ under Rule 59. The time for filing the motion cannot be extended under Rule 6(b). In ruling on ~~a~~the renewed motion, the court may:

(1) ~~if a verdict was returned:~~

~~(A)~~ allow ~~the~~ judgment ~~to stand,~~on the verdict, if the jury returned a verdict;

~~(B~~(2) order a new trial~~,~~; or

~~(C~~(3) direct the entry of judgment as a matter of law~~; or~~.

~~(2) if no verdict was returned:~~

~~(A) order a new trial, or~~

~~(B) direct entry of judgment as a matter of law.~~

(c) **Granting the Renewed Motion ~~for Judgment as a Matter of Law; ;~~ Conditional ~~Rulings; Ruling on a Motion for a~~ New Trial ~~Motion~~.**

(1) **In General.** If the court grants a renewed motion for judgment as a matter of law ~~is granted, the court shall~~ , it must also conditionally rule on ~~the~~any motion for a new trial~~, if any,~~ by determining whether ~~it~~a new trial should be granted if the judgment is ~~thereafter~~later vacated or reversed~~, and shall specify~~. The court must state the grounds for conditionally granting or denying the motion for a new trial. ~~If~~

(2) **Effect of a Conditional Ruling.** Conditionally granting the motion for a new trial ~~is thus conditionally granted, the order thereon~~ does not affect the judgment's finality ~~of the judgment. In case the motion for a new trial has been conditionally granted and~~; if the judgment is reversed ~~on appeal~~, the new trial ~~shall~~must proceed unless the appellate court ~~has~~orders otherwise ~~ordered. In case~~. If the motion for a new trial ~~has been~~is conditionally denied, the appellee ~~on appeal~~ may assert error in that denial; ~~and~~ if the judgment is reversed ~~on appeal, subsequent proceedings shall be in accordance with~~, the ~~order of~~case must proceed as the appellate court orders.

~~(2)~~ (d) **Time for a Losing Party's New-Trial Motion.** Any motion for a new trial under Rule 59 by a party against whom judgment as a matter of law is rendered ~~shall~~must be filed ~~not~~no later than ~~10~~28 days after service of written notice of entry of ~~the judgment.~~judgment. The time for filing the motion cannot be extended under Rule 6(b).

(~~d) Same: Denial of~~ e) **Denying the Motion for Judgment as a**

Matter of Law.; Reversal on Appeal. If the court denies the motion for judgment as a matter of law is denied, the prevailing party who prevailed on that motion may, as appellee, assert grounds entitling the partyit to a new trial in the eventshould the appellate court concludesconclude that the trial court erred in denying the motion for judgment.. If the appellate court reverses the judgment, nothing in this rule precludes it from determining that the appellee is entitled tomay order a new trial, or from directingdirect the trial court to determine whether a new trial shallshould be granted, or direct the entry of judgment.

RULE 51. INSTRUCTIONS TO JURY; OBJECTIONS; PRESERVING A CLAIM OF ERROR

(a) Written Requests; Format.

(1) A party may, at the close of the evidence or at such earlier time as the court reasonably directs, file written requests that the court instruct the jury on the law as set forth in the requests. The written requests shall be in the format directed by **the** court. If a party relies on statute, rule or case law to support or object to a requested instruction, **the** party shall provide a citation to or a copy of the precedent. An original and one copy of each instruction requested by a party shall be filed with the court. The copies shall be appropriately numbered and indicate who filed them.

Advisory Committee Note—2019 Amendment

Consistent with FRCP 50, Rule 50 extends the time periods in former Rule 50(b) and (d) to 28 days. Rule 50(a)(2) permits a motion for judgment as a matter of law at any time before the case is submitted to the jury, instead of at the close of the opposing party's evidence or at the close of the case.

Rule 51. Instructions to the Jury; Objections; Preserving a Claim of Error

(a) **Requests.**

(1) **Before or at the Close of the Evidence.** At the close of the evidence or at any earlier reasonable time that the court orders, a party may file and furnish to every other party written requests for the jury instructions it wants the court to give.

(2) **After the Close of the Evidence.** After the close of the evidence, a party may:

(A) file requests for instructions on issues that could not reasonably have been anticipated ~~at~~by an earlier time that the court set for requests ~~set under Rule 51(a)(1),~~; and

(B) with the court's permission, file untimely requests for instructions on any issue.

(3) **Format; Citation.** The written requests must be in the format directed by the court. If a party relies on any statute, rule, caselaw, or other legal authority to support a requested instruction, the party must cite or provide a copy of the authority.

(b) **Settling Instructions.**

(1) The court~~:~~

~~(A) shall~~ must inform ~~counsel~~the parties of its proposed instructions and proposed action on the requests before instructing the jury ~~and before the arguments to the jury; and~~.

~~(B)~~ (2) The court must give the parties an opportunity to object on the record and out of the jury's hearing ~~to the proposed instructions and actions on requests~~ before the instructions and arguments are delivered.

~~(2) Whenever the court refuses to give any requested instruction,~~

~~the court shall write the word "refused" in the margin of the original and initial or sign the notation. Whenever the court modifies any requested instruction, the court shall mark the same in such manner that it shall distinctly appear how the instruction has been modified and shall initial or sign the notation. The instructions given to the jury shall be firmly bound together and the court shall write the word "given" at the conclusion thereof and sign the last of the instructions. After the jury has reached a verdict and been discharged, the originals and copies of all instructions, whether given, modified or refused, shall be made part of the trial court record.~~

~~(3) The court shall instruct the jury before the parties' arguments to the jury, but this shall not prevent the giving of further instructions that may become necessary by reason of the argument. The jury shall be permitted to take to the jury room the written instructions given by the court, or a true copy thereof.~~

(3) The court and the parties must make a record of the instructions that were proposed, that the court rejected or modified, and that the court gave to the jury. If the court modifies an instruction, the court must clearly indicate how the instruction was modified.

(c) **Objections.**

(1) **How to Make.** A party who objects to an instruction or the failure to give an instruction must do so on the record, stating distinctly the matter objected to and the grounds ~~of the objection~~for the objection. If a party relies on any statute, rule, caselaw, or other legal authority to object to a requested instruction, the party must cite or provide a copy of the authority.

(2) **When to Make.** An objection is timely if:

(A) a party ~~that has been~~objects at the opportunity provided under Rule 51(b)(2); or

(B) a party was not informed of an instruction or action on a request before ~~the jury is instructed~~that opportunity to object, and ~~before final arguments to~~ the ~~jury, as provided by Rule 51(b)(1)(A), objects at the opportunity for objection required by Rule 51(b)(1)(B); or~~

~~(B) a party that has not been informed of an instruction or action on a request before the time for objection provided under Rule 51(b)(1)(B)~~party objects promptly after learning that the instruction or request will be, or has been, given or refused.

(d) **Giving Instructions.**

(1) The court must instruct the jury before the parties' closing arguments.

(2) The court may also give the jury further instructions that may become necessary by reason of the parties' closing arguments.

(3) The final instructions given to the jury must be bound together in the order given and the court must sign the last instruction. The court must provide the original instructions or a copy of them to the jury.

(4) After the jury has reached a verdict and been discharged, the originals and copies of all given instructions must be made part of the trial court record.

(e) **Assigning Error; Plain Error.**

(1) **Assigning Error.** A party may assign as error:

(A) an error in an instruction actually given, if that party ~~made a proper objection under Rule 51(c),~~properly objected; or

(B) a failure to give an instruction, if that party ~~made a proper~~properly requested it and—unless the court rejected the request ~~under Rule 51(a), and, if the court did not make~~in a definitive ruling on the record

~~rejecting the request, also made a proper objection under Rule 51(c).~~ also properly objected.

(2) **Plain Error.** A court may consider a plain error in the instructions ~~affecting substantial rights~~ that has not been preserved as required by Rule 51(~~d)(1)(A) or (B).~~e)(1) if the error affects substantial rights.

(~~e~~f) **Scope.**

(1) **Preliminary Instructions.** Nothing in this rule prevents a party from requesting, or the court from giving, preliminary instructions to the jury. A request for preliminary instructions must be made at any reasonable time that the court orders. If preliminary instructions are requested or given, the court and the parties must comply with Rules 51(a)(3), 51(b), and 51(d)(4), as applicable.

(2) **Other Instructions.** This rule governs instructions to the ~~trial~~ jury on the law that governs the verdict. Other instructions, including ~~preliminary~~ instructions to a venire and cautionary or limiting instructions delivered in immediate response to events at trial, are ~~not within~~outside the scope of this rule.

~~**RULE 52. FINDINGS BY THE COURT; JUDGMENT ON PARTIAL FINDINGS**~~

~~(a) **Effect.**~~ **Advisory Committee Note—2019 Amendment**

The amendments reorganize Rule 51, preserving portions of former NRCP 51 and incorporating provisions from FRCP 51. NRS Chapter 16 also addresses jury instructions.

Subsection (b). Rule 51(b)(3) restates former NRCP 51(b)(2) as to modifying or refusing to give proposed instructions. Specific words and actions are not necessary, but the court and the parties should make a record of all

instructions that the court or the parties propose, that the court modifies or rejects, and that the jury is given. The parties must be permitted to make a record of any objections to, or arguments concerning, the jury instructions.

Subsection (c). Rule 51(c) conforms to the federal rule, except the second sentence in Rule 51(c)(1) is retained from former NRCP 51(a)(1).

Subsection (d). Rule 51(d)(1) retains the requirement from former NRCP 51(b)(3) that the court must give jury instructions before closing arguments. At least one copy of the jury instructions must be given to the jury.

Subsection (e). Rule 51(e) conforms to FRCP 51(d).

Subsection (f). Rule 51(f)(1) is new and authorizes giving preliminary jury instructions. It contemplates that the court will give preliminary instructions before opening statements but affords the court the flexibility to do so later if appropriate. Rule 51(f)(2) corresponds to former NRCP 51(e). The provision mirrors language in the advisory committee notes to the 2003 amendments to the federal rule.

Rule 52. Findings and Conclusions by the Court; Judgment on Partial Findings

(a) **Findings and Conclusions.**

(1) **In** ~~all actions~~ **General.** In an action tried ~~upon~~on the facts without a jury or with an advisory jury, the court ~~shall~~must find the facts specially and state ~~separately~~ its conclusions of law ~~thereon and judgment shall~~separately. The findings and conclusions may be stated on the record after the close of the evidence or may appear in an opinion or a memorandum of decision filed by the court. Judgment must be entered ~~pursuant to~~under Rule 58~~; and in~~ .

(2) **For an Interlocutory Injunction.** In granting or refusing an

interlocutory ~~injunctions~~injunction, the court ~~shall~~must similarly ~~set forth~~state the findings and conclusions that support its action.

(3) **For a Motion.** The court is not required to state findings or conclusions when ruling on a motion under Rule 12 or 56 or, unless these rules provide otherwise, on any other motion. The court should, however, state on the record the reasons for granting or denying a motion.

(4) **Effect of a Master's Findings.** A master's findings, to the extent adopted by the court, must be considered the court's findings.

(5) **Questioning the Evidentiary Support.** A party may later question the sufficiency of the evidence supporting the findings, whether or not the party requested findings, objected to them, moved to amend them, or moved for partial findings.

(6) **Setting Aside the Findings.** Findings of fact ~~and conclusions of law which constitute the grounds of its action. Requests for findings are not necessary for purposes of review. Findings of fact shall~~, whether based on oral or other evidence, must not be set aside unless clearly erroneous, and the reviewing court must give due regard ~~shall be given~~ to the trial court's opportunity ~~of the trial court~~ to judge the witnesses' credibility ~~of the witnesses. The findings of a master, to the extent that the court adopts them, shall be considered as the findings of the court. It will be sufficient if the findings of fact and conclusions of law are stated orally and recorded in open court following the close of the evidence or appear in an opinion or memorandum of decision filed by the court. Findings of fact and conclusions of law are unnecessary on decisions of motions under Rules 12 or 56 or any other motion except as provided in subdivision (c) of this rule. But an order granting summary judgment shall set forth the undisputed material facts and legal determinations on which the court granted summary judgment~~.

~~(b) **Amendment.** Upon~~ (b) **Amended or Additional Findings.** On a party's motion filed ~~not~~no later than ~~10~~28 days after service of written notice of entry of judgment, the court may amend its findings~~—~~or make additional findings~~—~~and may amend the judgment accordingly. The time for filing the motion cannot be extended under Rule 6(b). The motion may accompany a motion for a new trial under Rule 59. ~~When findings of fact are made in actions tried without a jury, the sufficiency of the evidence supporting the findings may later be questioned whether or not in the district court the party raising the question objected to the findings, moved to amend them, or moved for partial findings.~~

(c) **Judgment on Partial Findings.** If ~~during a trial without a jury~~ a party has been fully heard on an issue during a nonjury trial and the court finds against the party on that issue, the court may enter judgment ~~as a matter of law~~ against ~~that~~the party ~~with respect to~~on a claim or defense that ~~cannot~~, under the controlling law, can be maintained or defeated ~~without~~only with a favorable finding on that issue~~, or the~~. The court may, however, decline to render any judgment until the close of ~~all~~ the evidence. ~~Such a~~A judgment ~~shall~~on partial findings must be supported by findings of fact and conclusions of law as required by ~~subdivision (a) of this rule.~~Rule 52(a).

~~RULE~~Rule 53. ~~MASTERS~~Masters

(a) ~~**Appointment and Compensation**~~**In General.**

(1) ~~The court in which any action is pending may appoint a special master therein.~~ **Nomenclature.** As used in these rules, the word "master" includes a master, referee, ~~an~~ auditor, ~~an~~ examiner, and ~~an assesor. The compensation to be allowed to~~assessor.

(2) **Scope.** Unless a statute provides otherwise, a court may appoint a master ~~shall be fixed~~ only to:

(A) perform duties consented to by the ~~court, and shall be charged upon such of the~~ parties;

(B) address pretrial or ~~paid out~~posttrial matters that cannot be effectively and timely addressed by an available judge; or

(C) in actions or on issues to be decided without a jury, hold trial proceedings and recommend findings of fact, conclusions of ~~any fund or subject matter of the action, which is in the custody~~law, and ~~control of the court as the court may direct. The~~a judgment, if appointment is warranted by:

(i) some exceptional condition; or

(ii) the need to perform an accounting or resolve a difficult computation of damages.

(3) **Possible Expense or Delay.** In appointing a master ~~shall not retain~~, the court must consider the fairness of imposing the likely expenses on the parties and must protect against unreasonable expense or delay.

(b) **Appointing a Master.**

(1) **Stipulation.** By stipulation approved by the court, the parties may agree to have a master appointed. The stipulation may specify how the master's ~~report as security for the master's compensation; but when the~~findings of fact will be reviewed or whether the findings will be final and not reviewable.

(2) **Motion.** Any party ~~ordered to pay the compensation allowed by the court does not pay it after notice and within the time prescribed by the court, the master is entitled to a writ of execution against the delinquent party.~~may move to have a master appointed, or the court may issue an order to show cause.

(~~2~~)3) **Objections.** Any party may object to ~~the~~a master's appointment ~~of any person as a master~~ on one or more of the following grounds:

~~1.~~ (A) a want of any of the qualifications prescribed by statute to render a person competent as a juror~~.~~;

~~2. Consanguinity~~(B) consanguinity or affinity within the third degree to ~~either~~any party~~.~~;

~~3. Standing~~(C) standing in the relation of guardian and ward, master and servant, employer and clerk, or principal and agent to ~~either~~any party, or being a member of the family of ~~either~~any party, or a partner in business with ~~either~~any party, or being security on any bond or obligation for ~~either~~any party~~.~~;

~~4. Having~~(D) having served as a juror or been a witness on any trial between the same parties for the same cause of action, or being then a witness in the cause~~.~~;

~~5. Interest~~(E) interest on the part of such person in the event of the action~~,~~ or in the main question involved in the action~~.~~;

~~6. Having~~(F) having formed or expressed an unqualified opinion or belief as to the merits of the actions~~.~~; or

~~7. The~~(G) the existence of a state of mind in such person evincing enmity against or bias to ~~either~~any party.

~~**(b) Reference.** A reference to a master shall be the exception and not the rule. In actions to be tried by a jury, a reference shall be made only when the issues are complicated; in actions to be tried without a jury, save in matters of account and of difficult computation of damages, a reference shall be made only upon a showing that some exceptional condition requires it.~~

~~**(c) Powers.** The order of reference to~~ (4) **Disqualification.**

(A) A master must file with the court an affidavit disclosing whether there is any ground for his or her disqualification under Rule 2.11 of the Revised Nevada Code of Judicial Conduct.

(B) If a ground is disclosed, the master ~~may specify or limit~~must be disqualified unless the parties, with the court's approval, waive the master's ~~powers~~disqualification.

(c) **Order Appointing a Master.**

(1) **Mandatory Provisions.** The appointing order must state:

(A) the master's duties, including any investigation or enforcement duties, and any limits on the master's authority under Rule 53(d);

(B) the circumstances, if any, in which the master may communicate ex parte with the court or a party;

(C) the nature of the materials to be preserved and filed as the record of the master's activities;

(D) the time limits, method of filing the record, other procedures, and any criteria for the master's findings and recommendations; and

(E) the basis, terms, and procedure for fixing the master's compensation under Rule 53(g).

(2) **Optional Provisions.** The appointing order may~~-~~:

(A) direct the master to report only upon particular issues or to ~~do or~~ perform particular acts~~ or -~~;

(B) direct the master to receive and report evidence only~~ and may fix -~~;

(C) specify the time and place for beginning and closing the hearings~~ and for the filing of the master's report. Subject to the specifications and limitations stated in the order, the master has~~; and ~~shall exercise the~~

~~power to regulate all proceedings in every hearing before the master and to do all acts and take all measures necessary or proper for the efficient performance of the master's duties under the order. The~~

(D) specify the time in which the master ~~may require the production before the master of evidence upon all matters embraced in the reference, including the production of all books, papers, vouchers, documents, and writings applicable thereto. The master may rule upon the admissibility of evidence unless~~ must file his or her report and recommendations.

(3) **Service on the Master.** Unless otherwise ~~directed by the~~ ordered by the court, the moving party must serve the appointment order on the master.

(4) **Amending.** The order ~~of reference and has the authority~~may be amended at any time after notice to ~~put witnesses on oath~~the parties and an opportunity to be heard.

(d) **Master's Authority.**

(1) **In General.**

(A) Unless the appointing order directs otherwise, a master may:

(i) regulate all proceedings;

(ii) take all appropriate measures to perform the assigned duties fairly and ~~may examine them~~efficiently; and ~~may call~~

(iii) exercise the ~~parties~~appointing court's power to ~~the action~~compel, take, and ~~examine them upon oath.~~ record evidence, including the issuance of subpoenas as provided in Rule 45.

(B) When a party ~~so~~ requests, ~~the~~a master ~~shall~~must make a record of the evidence offered and excluded in the same manner and subject

to the same limitations as provided in Rule 43(c) and statutes for a court sitting without a jury.

~~**(d) Proceedings.**~~

~~**(1) Meetings.** When a reference is made, the clerk shall forthwith furnish the master with a copy of the order of reference. Upon receipt thereof unless the order of reference otherwise provides, the master shall forthwith~~

(2) **Diligence.**

(A) The master must proceed with all reasonable diligence.

(B) The master must set a time and place for the first meeting of the parties or their attorneys to be held within ~~20~~21 days after the date of the order ~~of reference~~appointing the master and ~~shall~~must notify the parties or their attorneys. ~~It is the duty of the master to proceed with all reasonable diligence. Either party, on notice to the parties and master, may apply to the court for an order requiring the master to speed the proceedings and to make the report.~~

(C) If a party fails to appear at the appointed time and place ~~appointed~~, the master may proceed ex parte or~~, in the master's discretion,~~ adjourn the proceedings to a future day, giving notice to the absent party ~~of the adjournment~~.

~~**(2) Witnesses.** The parties may procure the attendance of witnesses before the master by the issuance and service of subpoenas as provided in Rule 45. If without adequate excuse a witness fails to appear or give evidence, the witness may be punished as for a contempt and be subjected to the consequences, penalties, and remedies provided in Rules 37 and 45.~~

(D) Any party, on notice to the other parties and the master, may apply to the court for an order requiring the master to speed the proceedings and to make a report.

(3) **Statement of Accounts.**

(A) When matters of accounting are ~~in issue~~ before a master, the master~~, the master~~ may~~:~~

(i) prescribe the form in which the accounts ~~shall~~must be submitted ~~and in any proper case may~~ ; or

(ii) require or receive in evidence a statement by a certified public accountant who is called as a witness. ~~Upon objection of a party to any of the items thus submitted or upon a showing that the form of statement is insufficient, the master may require a different form of statement to be furnished, or the accounts or specific items thereof to be proved by oral examination of the accounting parties or upon written interrogatories or in such other manner as the master directs.~~

(B) Upon objection to the items submitted or a showing that the form is insufficient, the master may:

(i) require a different form of statement to be furnished;

(ii) hold an evidentiary hearing and receive evidence concerning the accounts;

(iii) require written interrogatories; or

(iv) receive evidence concerning the accounts in any other manner that the master directs.

(e) **Master's Report~~.~~ and Recommendations.**

(1) ~~**Contents and Filing.** The~~**In General.** Unless ordered otherwise, a master ~~shall~~ must:

(A) prepare a report and recommendations upon the matters submitted to the master ~~by~~in accordance with the appointing order ~~of reference and,~~ ;

(B) if required to make findings of fact and conclusions of law, ~~the master shall~~ set them forth in the report~~. The master shall~~ and recommendations;

(C) promptly file the report ~~with the clerk of the court and in an action to be tried without a jury, unless otherwise directed by the order of reference, shall~~ and recommendations;

(D) file with ~~it~~ the report and recommendations the original exhibits and a transcript of the proceedings and ~~of the evidence and the original exhibits. Unless otherwise directed by the order of reference, the master shall~~ evidence; and

(E) serve a copy of the report and recommendations on each party.

~~**(2) In Nonjury Actions.** In an action to be tried without a jury the court shall accept the master's findings of fact unless clearly erroneous. Within 10 days after being served with notice of the filing of the report any party may serve written objections thereto upon the other parties. Application to the court for action upon the report and upon objections thereto shall be by motion and upon notice as prescribed in Rule 6(d). The court after hearing may adopt the report or may modify it or may reject it in whole or in part or may receive further evidence or may recommit it with instructions.~~

(2) **Sanctions.** The master's report and recommendations may recommend sanctions for a party or a nonparty under the applicable rules.

(3) ~~**In Jury Actions.** In an action to be tried by a jury the master shall not be directed to report the evidence. The master's findings upon the issues submitted to the master are admissible as evidence of the matters found and may be read to the jury, subject to the ruling of the court upon any objections in point of law which may be made to the report.~~

~~**(4) Stipulation as to Findings.** The effect of a master's report is the same whether or not the parties have consented to the reference; but, when the parties stipulate that a master's findings of fact shall be final, only questions of law arising upon the report shall thereafter be considered.~~

~~**(5)** **Draft Report.** Before filing a report and recommendations, a master may submit a draft ~~thereof~~ to counsel for all parties ~~for the purpose of receiving~~to obtain their suggestions.

(f) **Action on the Master's Order, Report, or Recommendations.**

(1) **Time to Object or Move to Adopt or Modify.**

(A) A party may file and serve objections to—or a motion to adopt or modify—the master's report and recommendations no later than 14 days after the report is served.

(B) If objections are filed, any other party may file and serve a response within 7 days after being served with the objections.

(C) If no party files objections or a motion, the court may adopt the master's report and recommendations without a hearing.

(D) The court may set different times to move, object, or respond.

(2) **Court Review.**

(A) Unless the parties have otherwise stipulated under Rule 53(b)(1), upon receipt of a master's report and any motions, objections, and replies, the court may:

(i) adopt, reverse, or modify the master's ruling without a hearing;

(ii) set the matter for a hearing; or

(iii) remand the matter to the master for reconsideration or further action.

(B) If the parties have stipulated how a master's findings of fact should be reviewed or that the findings should be final, the court must apply the parties' stipulation to the findings of fact.

(g) **Compensation.**

(1) **Basis and Terms of Compensation.** The basis and terms of a master's compensation must be fixed by the court in the appointing order and must be paid either:

(A) by a party or parties; or

(B) from a fund or subject matter of the action within the court's control.

(2) **Allocating Costs.** The court must allocate payment among the parties after considering the nature and amount of the controversy, the parties' means, and the extent to which any party is more responsible than other parties for the reference to a master. An interim allocation may be amended to reflect a decision on the merits.

(3) **Amending Compensation.** The court may change the basis and terms of the master's compensation upon motion or by issuing an order to show cause.

(4) **Enforcing Payment.** The master may not retain the master's report as security for the master's compensation. If a party ordered to pay the compensation allowed by the court does not pay it after notice and within the time prescribed by the court, the master is entitled to a writ of execution against the delinquent party.

(h) **Standing Masters.**

(1) By local rule authorized by the Nevada Supreme Court or as authorized by the Nevada Revised Statutes, a judicial district may appoint a master to whom multiple matters may be referred.

(2) Unless otherwise specified by rule or statute, the master has the powers of a master under Rule 53(d). The master must issue a report and recommendations under Rule 53(e) that may be reviewed under Rule 53(f).

(3) The master's compensation must be fixed by the judicial district and paid out of appropriations made for the expenses of the judicial district.

Advisory Committee Note—2019 Amendment

The amendments retain much of the former NRCP 53 and incorporate provisions from FRCP 53. Rule 53(h) clarifies the procedure for establishing standing masters.

VII. JUDGMENT

~~RULE~~Rule 54. ~~JUDGMENTS; ATTORNEY FEES~~Judgments; Attorney Fees

(a) **Definition; Form.** "Judgment" as used in these rules includes a decree and any order from which an appeal lies. A judgment ~~shall~~should not ~~contain a recital~~include recitals of pleadings, ~~the~~a master's report ~~of a master~~, or ~~the~~a record of prior proceedings.

(b) **Judgment on Multiple Claims or Involving Multiple Parties.** ~~When~~When an action presents more than one claim for relief—whether as a claim, counterclaim, crossclaim, or third-party claim—or when multiple parties are involved, the court may direct ~~the~~ entry of a final judgment as to one or more, but fewer than all ~~of the~~, claims or parties only ~~upon an express determination~~if the court expressly determines that there is no just reason for delay ~~and upon an express direction for the entry of judgment. In the absence of such determination and direction~~. Otherwise, any order or other ~~form of~~ decision, however designated, ~~which~~that adjudicates fewer than all the

claims or the rights and liabilities of fewer than all the parties ~~shall~~does not ~~terminate~~end the action as to any of the claims or parties~~, and the order or other form of decision is subject to revision~~ and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities ~~of all the parties.~~.

(c) **Demand for Judgment~~.~~; Relief to Be Granted.** A ~~judgment by~~ default ~~shall~~judgment must not ~~be different~~differ in kind from, or exceed in amount ~~that prayed for~~, what is demanded in the ~~demand for judgment~~pleadings, except that ~~where~~if the prayer is for unspecified damages ~~in excess of $10,000 the judgment shall be in such amount as~~under Rule 8(a)(4), the court ~~shall~~must determine~~. Except as to a party against whom a judgment is entered by default, every~~ the amount of the judgment. Every other final judgment ~~shall~~should grant the relief to which ~~the~~each party ~~in whose favor it is rendered~~ is entitled, even if the party has not demanded such relief in ~~the party's~~its pleadings.

(d) **Attorney Fees.**

(1) **Reserved.**

(2) **Attorney Fees.**

(A) **Claim to Be by Motion.** A claim for attorney fees must be made by motion. The ~~district~~ court may decide ~~the~~a postjudgment motion ~~despite the existence of a pending appeal from the underlying final judgment.~~

~~(B) **Timing and Contents of the Motion.** Unless a statute provides otherwise, the motion must be filed no later than 20 days after notice of entry of judgment is served; specify the judgment and the statute, rule, or other grounds entitling the movant to the award; state the amount sought or provide a fair estimate of it; and be supported by counsel's affidavit swearing that the fees were actually and necessarily incurred and were~~

reasonable, documentation concerning the amount of fees claimed, and points and authorities addressing appropriate factors to be considered by the court in deciding the motion. The time for filing the motion may not be extended by the court after it has expired.

(C) **Exceptions.** Subparagraphs (A) (B) do not apply to claims for fees and expenses as sanctions pursuant to a rule or statute, or when the applicable substantive law requires attorney fees to be proved at trial as an element of damages.

VII. JUDGMENT

RULE 54. JUDGMENTS; ATTORNEY FEES

(a) **Definition; Form.** "Judgment" as used in these rules includes a decree and any order from which an appeal lies. A judgment shall not contain a recital of pleadings, the report of a master, or the record of prior proceedings.

(b) **Judgment Involving Multiple Parties.** When multiple parties are involved, the court may direct the entry of a final judgment as to one or more but fewer than all of the parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment. In the absence of such determination and direction, any order or other form of decision, however designated, which adjudicates the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the rights and liabilities of all the parties.

(c) **Demand for Judgment.** A judgment by default shall not be different in kind from or exceed in amount that prayed for in the demand for judgment, except that where the prayer is for damages in excess of $10,000 the

~~judgment shall be in such amount as the court shall determine. Except as to a party against whom a judgment is entered by default, every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in the party's pleadings.~~

~~(d) **Attorney Fees.**~~

~~(1) **Reserved.**~~

~~(2) **Attorney Fees.**~~

~~(A) **Claim to Be by Motion.** A claim for attorney fees must be made by motion. The district court may decide the motion~~ despite the existence of a pending appeal from the underlying final judgment.

(B) **Timing and Contents of the Motion.** ~~Unless a statute provides otherwise, the motion must be filed no later than 20 days after notice of entry of judgment is served; specify the judgment and the statute, rule, or other grounds entitling the movant to the award; state the amount sought or provide a fair estimate of it; and be supported by counsel's affidavit swearing that the fees were actually and necessarily incurred and were reasonable, documentation concerning the amount of fees claimed, and points and authorities addressing appropriate factors to be considered by the court in deciding the motion. The time for filing the motion may not be extended by the court after it has expired.~~Unless a statute or a court order provides otherwise, the motion must:

(i) be filed no later than 21 days after written notice of entry of judgment is served;

(ii) specify the judgment and the statute, rule, or other grounds entitling the movant to the award;

(iii) state the amount sought or provide a fair estimate of it;

(iv) disclose, if the court so orders, the nonprivileged financial terms of any agreement about fees for the services for which the claim is made; and

(v) be supported by:

(a) counsel's affidavit swearing that the fees were actually and necessarily incurred and were reasonable;

(b) documentation concerning the amount of fees claimed; and

(c) points and authorities addressing the appropriate factors to be considered by the court in deciding the motion.

(C) **Extensions of Time.** The court may not extend the time for filing the motion after the time has expired.

(D) **Exceptions.** ~~Subparagraphs (~~Rules 54(d)(2)(A~~) (~~) and (B) do not apply to claims for attorney fees ~~and expenses~~ as sanctions ~~pursuant to a rule or statute,~~ or when the applicable substantive law requires attorney fees to be proved at trial as an element of damages.

~~RULE~~Advisory Committee Note—2019 Amendment

Subsection (b). From 2004 to 2019, NRCP 54(b) departed from FRCP 54(b), only permitting certification of a judgment to allow an interlocutory appeal if it eliminated one or more parties, not one or more claims. The 2019 amendments add the reference to claims back into the rule, restoring the district court's authority to direct entry of final judgment when one or more, but fewer than all, claims are resolved. The court has discretion in deciding whether to grant Rule 54(b) certification; given the strong policy against piecemeal review, an order granting Rule 54(b) certification should detail the

facts and reasoning that make interlocutory review appropriate. An appellate court may review whether a judgment was properly certified under this rule.

Subsection (d). Rule 54(d)(2)(B)(iv) is new. While drawn from the federal rule, it limits the required disclosure about the agreement for services to nonprivileged financial terms.

Rule 55. ~~DEFAULT~~Default; Default Judgment

(a) ~~Entry~~**Entering a Default.** When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend ~~as provided by these rules,~~ and that ~~fact~~failure is ~~made to appear~~shown by affidavit or otherwise, the clerk ~~shall~~must enter the party's default.

(b) **Entering a Default Judgment.** ~~Judgment by default may be entered as follows:~~

(1) **By the Clerk.** ~~When~~If the plaintiff's claim ~~against a defendant~~ is for a sum certain or ~~for~~ a sum ~~which~~that can ~~by computation~~ be made certain by computation, the clerk ~~upon~~ on the plaintiff's request ~~of the plaintiff and upon~~, with an affidavit ~~of~~showing the amount due ~~shall~~ must enter judgment for that amount and costs against ~~the~~a defendant~~, if the defendant~~ who has been defaulted for ~~failure to appear and is~~ not ~~an infant or incompetent~~appearing and who is neither a minor nor an incapacitated person.

(2) **By the Court.** In all other cases, the party ~~entitled to a judgment by default shall~~must apply to the court ~~therefor; but no~~ for a default judgment. A default judgment ~~by default shall~~may be entered against ~~an infant~~a minor or ~~incompetent~~incapacitated person ~~unless~~only if represented ~~in the action~~ by a general guardian, ~~guardian ad litem,~~ conservator, or other ~~such representative~~like fiduciary who has appeared ~~therein~~. If the party against whom a default judgment ~~by default~~ is sought has appeared ~~in the action,~~

~~the~~personally or by a representative, that party ~~(~~or~~, if appearing by~~ its representative~~, the party's representative) shall~~ must be served with written notice of the application ~~for judgment~~ at least ~~3 days prior to the hearing on such application. If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the~~ 7 days before the hearing. The court may conduct ~~such~~ hearings or ~~order such references as it deems necessary and proper and shall accord a~~ make referrals—preserving any statutory right ~~of~~to a jury trial ~~by jury to the parties~~ —when ~~and as required by any statute of the State.~~, to enter or effectuate judgment, it needs to:

(A) conduct an accounting;

(B) determine the amount of damages;

(C) establish the truth of any allegation by evidence; or

(D) investigate any other matter.

(c) **Setting Aside a Default**~~. For good cause shown the~~ **or a Default Judgment.** The court may set aside an entry of default ~~and, if a judgment by default has been entered,~~ for good cause, and it may ~~likewise~~ set ~~it~~ aside ~~in accordance with~~ a final default judgment under Rule 60~~.~~(b).

(d) ~~**Plaintiffs, Counterclaimants, Cross-Claimants.** The provisions of this rule apply whether the party entitled to the judgment by default is a plaintiff, a third-party plaintiff, or a party who has pleaded a cross-claim or counterclaim.~~ **Default Judgment Damages.** In all cases, a judgment by default is subject to the limitations of Rule 54(c).

(e) **Default Judgment Against the State.** ~~No~~A default judgment ~~by default shall~~may be entered against the State, its officers, or ~~an officer or~~

~~agency thereof unless~~its agencies only if the claimant establishes a claim or right to relief by evidence ~~satisfactory to~~that satisfies the court.

~~**RULE**~~

Advisory Committee Note—2019 Amendment

Rule 55 is conformed to the federal rule, but Rule 55(d) retains the cross-reference to Rule 54(c) in former state and federal versions of Rule 55.

Rule 56. ~~SUMMARY JUDGMENT~~Summary Judgment

~~(a) **For Claimant.** A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory judgment may, at any time after the expiration of 20 days from the commencement of the action or after service of a motion~~ (a) **Motion for Summary Judgment or Partial Summary Judgment.** A party may move for summary judgment ~~by the adverse party, move with or without supporting affidavits for a~~ , identifying each claim or defense—or the part of each claim or defense—on which summary judgment ~~in the party's favor upon all or any part thereof.~~

~~**(b) For Defending Party.** A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory judgment~~ is sought ~~may, at any time, move with or without supporting affidavits for a summary judgment in the party's favor as to all or any part thereof.~~

~~**(c) Motion and Proceedings Thereon.** The motion shall be served at least 10 days before the time fixed for the hearing. Motions for summary judgment and responses thereto shall include a concise statement setting forth each fact material to the disposition of the motion which the party claims is or is not genuinely in issue, citing the particular portions of any pleading, affidavit, deposition, interrogatory, answer, admission, or other evidence upon which the party relies.~~ The ~~judgment sought shall be rendered forthwith if the~~

~~pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that~~ court shall grant summary judgment if the movant shows that there is no genuine ~~issue~~dispute as to any material fact and ~~that~~ the ~~moving party~~movant is entitled to ~~a~~ judgment as a matter of law. ~~A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages. An order granting summary judgment shall set forth the undisputed material facts and legal determinations on which the court granted summary judgment.~~

~~**(d) Case Not Fully Adjudicated on Motion.** If on motion under this rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action the facts so specified shall be deemed established, and the trial shall be conducted accordingly.~~

~~**(e) Form of Affidavits; Further Testimony; Defense Required.** Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith.~~ The court ~~may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits. When a motion for summary judgment is~~

~~made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading, but the adverse party's response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against the adverse party~~should state on the record the reasons for granting or denying the motion.

~~**(f) When**~~ (b) **Time to File a Motion.** Unless a different time is set by local rule or the court orders otherwise, a party may file a motion for summary judgment at any time until 30 days after the close of all discovery.

(c) **Procedures.**

(1) **Supporting Factual Positions.** A party asserting that a fact cannot be or is genuinely disputed must support the assertion by:

(A) citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials; or

(B) showing that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.

(2) **Objection That a Fact Is Not Supported by Admissible Evidence.** A party may object that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence.

(3) **Materials Not Cited.** The court need consider only the cited materials, but it may consider other materials in the record.

(4) **Affidavits or Declarations.** An affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out

facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated.

(d) **When Facts Are Unavailable~~. Should it appear from~~ to the ~~affidavits of~~Nonmovant.** If a ~~party opposing the motion~~nonmovant shows by affidavit or declaration that~~ the party cannot,~~ for specified reasons~~ stated~~, it cannot present ~~by affidavit~~ facts essential to justify ~~the party's~~its opposition, the court may~~ refuse~~:

(1) defer considering the ~~application for judgment~~motion or ~~may order a continuance~~deny it;

(2) allow time to ~~permit~~obtain affidavits ~~to be obtained~~ or ~~depositions to be taken~~declarations or to take discovery~~ to be had~~; or~~ may make such~~

(3) issue any other appropriate order.

(e) **Failing to Properly Support or Address a Fact.** If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c), the court may:

(1) give an opportunity to properly support or address the fact;

(2) consider the fact undisputed for purposes of the motion;

(3) grant summary judgment if the motion and supporting materials—including the facts considered undisputed—show that the movant is entitled to it; or

(4) issue any other appropriate order~~ as is just~~.

(f) **Judgment Independent of the Motion.** After giving notice and a reasonable time to respond, the court may:

(1) grant summary judgment for a nonmovant;

(2) grant the motion on grounds not raised by a party; or

(3) consider summary judgment on its own after identifying for the parties material facts that may not be genuinely in dispute.

(g) ~~Affidavits Made~~**Failing to Grant All the Requested Relief.** If the court does not grant all the relief requested by the motion, it may enter an order stating any material fact—including an item of damages or other relief—that is not genuinely in dispute and treating the fact as established in the case.

(h) **Affidavit or Declaration Submitted in Bad Faith.** ~~Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to~~ If satisfied that an affidavit or declaration under this rule ~~are presented~~is submitted in bad faith or solely for ~~the purpose of~~ delay, the court ~~shall forthwith~~ —after notice and a reasonable time to respond—may order the submitting party ~~employing them~~ to pay ~~to~~ the other party ~~the amount of~~ the reasonable expenses ~~which the filing of the affidavits caused the other party to incur, including reasonable attorney's~~ , including attorney fees, ~~and any~~ it incurred as a result. An offending party or attorney may also be ~~adjudged guilty of~~held in contempt or subjected to other appropriate sanctions.

~~RULE~~Advisory Committee Note—2019 Amendment

Subsection (a). Rule 56(a) retains the word "shall" consistent with the advisory committee notes to the 2010 amendments to FRCP 56 to preserve *Wood v. Safeway, Inc.*, 121 Nev. 724, 121 P.3d 1026 (2005), and its progeny.

Subsection (d). Rule 56(d) modernizes the text of former NRCP 56(f) consistent with FRCP 56(d). The changes are stylistic and do not affect *Choy v. Ameristar Casinos, Inc.*, 127 Nev. 870, 265 P.3d 698 (2011), which requires an affidavit to justify a request for a continuance of the summary judgment proceeding to conduct further discovery.

Subsection (e). The judicial discretion afforded under new Rule 56(e)

ensures fairness in the individual case; it should not excuse inadequate motion practice.

Rule 57. ~~DECLARATORY JUDGMENTS~~Declaratory Judgment

~~The~~ These rules govern the procedure for obtaining a declaratory judgment ~~pursuant to statute, shall be in accordance with these rules, and the right to trial by jury may be demanded under the circumstances and in the manner provided in~~under NRS Chapter 30 or other state law. Rules 38 and 39~~.~~ govern a demand for a jury trial. The existence of another adequate remedy does not preclude a ~~judgment for~~ declaratory ~~relief in cases where it~~judgment that is otherwise appropriate. The court may order a speedy hearing of ~~an action for~~ a declaratory ~~-~~judgment ~~and may advance it on the calendar~~action.

~~RULE~~Rule 58. ~~ENTRY OF JUDGMENT~~Entering Judgment

(a) **Reserved.**

(b) **Entering Judgment.** ~~-~~

(1) Subject to ~~the provisions of~~ Rule 54(b~~):~~) and except as provided in Rule 55(b)(1), all judgments must be approved and signed by the court and filed with the clerk.

~~(1) upon a general verdict of a jury, or upon a decision by the court that a party shall recover only a sum certain or costs or that all relief shall be denied, the court shall sign the judgment and the judgment shall be filed by the clerk;~~

(2) ~~upon a decision by the court granting other relief, or upon a special verdict or a general verdict accompanied by answers to interrogatories, the court shall promptly approve the form and sign the judgment, and the judgment shall be filed by the clerk.~~

The court ~~shall~~should designate a party to serve written notice of entry of ~~the~~ judgment on the other parties under ~~subdivision~~ Rule 58(e).

~~(b) **Judgment in Other Cases.** Except as provided in subdivision (b)(1) of Rule 55, all judgments shall be signed by the judge and filed with the clerk.~~

(c) **When Judgment Entered.** The filing with the clerk of a judgment~~,~~ signed by the ~~judge~~court, or by the clerk~~, as the case may be~~ when authorized by these rules, constitutes the entry of ~~such~~the judgment, and no judgment ~~shall be~~is effective for any purpose until ~~the~~it is entered. The entry of the ~~same, as hereinbefore provided. The entry of the~~ judgment ~~shall~~may not be delayed for the taxing of costs.

(d) **Judgment Roll.** The judgment, as signed and filed, ~~shall constitute~~constitutes the judgment roll.

(e) **Notice of Entry of Judgment.**

(1) Within ~~10~~14 days after entry of a judgment or an order, ~~the~~a party designated by the court under ~~subdivision (a) shall~~Rule 58(b)(2) must serve written notice of such entry, together with a copy of the judgment or order, upon each party who is not in default for failure to appear and ~~shall~~must file the notice of entry with the clerk of the court. Any other party, or the court in family law cases, may ~~in addition~~also serve ~~a~~and file a written notice of such entry. Service ~~shall~~must be made ~~in the manner~~as provided in Rule 5(b~~) for the service of papers.~~).

(2) Failure to serve written notice of entry does not affect the validity of the judgment, but the judgment may not be executed upon until ~~such~~ notice of its entry is served.

~~**RULE 58. ENTRY OF JUDGMENT**~~

~~**(a) Judgment.** Subject to the provisions of Rule 54(b):~~

~~(1) upon a general verdict of a jury, or upon a decision by the court that a party shall recover only a sum certain or costs or that all relief shall be denied, the court shall sign the judgment and the judgment shall be filed by the clerk;~~

~~(2) upon a decision by the court granting other relief, or upon a special verdict or a general verdict accompanied by answers to interrogatories, the court shall promptly approve the form and sign the judgment, and the judgment shall be filed by the clerk.~~

Advisory Committee Note—2019 Amendment

Rule 58 restyles but does not change the substance of former NRCP 58. It retains the Nevada-specific provision requiring service of written notice of entry of judgment and does not incorporate the separate-document requirement stated in FRCP 58(a).

Rule 59. New trials; Amendment of Judgments

(a) **In General.**

(1) **Grounds for New Trial.** The court ~~shall designate a party to serve notice of entry of the judgment~~may, on ~~the other parties under subdivision (c).~~

~~**(b) Judgment in Other Cases.** Except as provided in subdivision (b)(1) of Rule 55, all judgments shall be signed by the judge and filed with the clerk.~~

~~(c) **When Judgment Entered.** The filing with the clerk of a judgment, signed by the judge, or by the clerk, as the case may be, constitutes the entry of such judgment, and no judgment shall be effective for any purpose until the entry of the same, as hereinbefore provided. The entry of the judgment shall not be delayed for the taxing of costs.~~

~~(d) **Judgment Roll.** The judgment, as signed and filed, shall constitute the judgment roll.~~

~~(e) **Notice of Entry of Judgment.** Within 10 days after entry of a judgment or an order, the party designated by the court under subdivision (a) shall serve written notice of such entry, together with a copy of the judgment or order, upon each party who is not in default for failure to appear and shall file the notice of entry with the clerk of the court. Any other party, or the court in family law cases, may in addition serve a notice of such entry. Service shall be made in the manner provided in Rule 5(b) for the service of papers. Failure to serve notice of entry does not affect the validity of the judgment, but the judgment may not be executed upon until such notice is served.~~

~~RULE 59. NEW TRIALS; AMENDMENT OF JUDGMENTS~~

~~(a) **Grounds.** A~~ motion, grant a new trial ~~may be granted to all or any of the parties and~~ on all or ~~part~~some of the issues ~~—~~and to any party~~—~~for any of the following causes or grounds materially affecting the substantial rights of ~~an aggrieved~~the moving party: ~~(1) Irregularity~~

(A) irregularity in the proceedings of the court, jury, master, or adverse party~~,~~ or in any order of the court~~,~~ or master, or any abuse of discretion by which either party was prevented from having a fair trial; ~~(2) Misconduct~~

(B) misconduct of the jury or prevailing party; ~~(3) Accident~~

(C) accident or surprise ~~which~~that ordinary prudence could not have guarded against; ~~(4) Newly~~

(D) newly discovered evidence material for the party making the motion ~~which~~that the party could not, with reasonable diligence, have discovered and produced at the trial; ~~(5) Manifest~~

(E) manifest disregard by the jury of the instructions of the court; ~~(6) Excessive~~

(F) excessive damages appearing to have been given under the influence of passion or prejudice; or~~, (7) Error~~

(G) error in law occurring at the trial and objected to by the party making the motion.

(2) **Further Action After a Nonjury Trial.** On a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new judgment.

(b) **Time ~~for~~to File a Motion~~.~~ for a New Trial.** A motion for a new trial ~~shall~~must be filed no later than ~~10~~28 days after service of written notice of ~~the~~ entry of ~~the~~ judgment.

(c) **Time ~~for Serving~~to Serve Affidavits.** When a motion for a new trial is based ~~upon~~on affidavits, they ~~shall~~must be filed with the motion. The opposing party has ~~10~~14 days after ~~service within which~~being served to file opposing affidavits~~, which period may be extended for an additional period not exceeding 20 days either by the court for good cause shown or by the parties by written stipulation.~~. The court may permit reply affidavits.

(d) **~~On~~New Trial on the Court's Initiative~~; Notice; Specifying Grounds.~~ or for Reasons Not in the Motion.** No later than ~~10~~28 days after service of written notice of entry of judgment, the court, on its own, may issue an order to show cause why a new trial should not be granted for any reason that would justify granting one on a party's motion. After giving the parties notice and ~~an~~the opportunity to be heard, the court may grant a party's timely motion for a new trial for a reason not stated in the motion. ~~When granting a~~

~~new trial on its own initiative or for a reason not stated in a motion, the court shall~~In either event, the court must specify the ~~grounds~~reasons in its order.

(e) **Motion to Alter or Amend a Judgment.** A motion to alter or amend ~~the~~a judgment ~~shall~~must be filed no later than ~~10~~28 days after service of written notice of entry of ~~the~~ judgment.

~~**RULE**~~ (f) **No Extensions of Time.** The 28-day time periods specified in this rule cannot be extended under Rule 6(b).

Advisory Committee Note—2019 Amendment

Subsection (a). Rule 59(a) is restyled but retains the Nevada-specific provisions respecting bases for granting a new trial.

Subsections (b), (d), and (e). The amendments adopt the federal 28-day deadlines in Rules 59(b) and (e) and incorporate the provisions respecting court-initiated new trials from FRCP 59(d) into NRCP 59(d).

Rule 60. ~~RELIEF FROM JUDGMENT OR ORDER~~Relief From a Judgment or Order

(a) **Corrections Based on Clerical Mistakes**~~. Clerical mistakes in judgments, orders~~ **; Oversights and Omissions.** The court may correct a clerical mistake or ~~other parts of the record **and** errors therein~~a mistake arising from oversight or omission ~~may be corrected by~~ whenever one is found in a judgment, order, or other part of the record. The court ~~at any time of its own initiative or~~ may do so on ~~the~~ motion ~~of any party and~~or on its own, with or without notice. But after ~~such notice, if any, as the court orders. During the pendency of~~ an appeal~~, such mistakes may be so corrected before the appeal is~~ has been docketed in the appellate court~~,~~ and ~~thereafter~~ while ~~the appeal~~it is

pending, such a mistake may be ~~so~~ corrected only with ~~leave of~~ the appellate ~~court~~court's leave.

(b) **~~Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, Etc.~~Grounds for Relief From a Final Judgment, Order, or Proceeding.** On motion and ~~upon such~~just terms ~~as are just~~, the court may relieve a party or ~~a party's~~its legal representative from a final judgment, order, or proceeding for the following reasons:

(1) ~~-~~ mistake, inadvertence, surprise, or excusable neglect;

(2) ~~-~~ newly discovered evidence ~~which by due~~ that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);

(3) ~~—~~ fraud (whether ~~heretofore denominated~~previously called intrinsic or extrinsic), misrepresentation, or ~~other~~ misconduct ~~of~~by an ~~adverse~~opposing party;

(4) ~~-~~ the judgment is void; ~~or,~~

(5) ~~-~~ the judgment has been satisfied, released, or discharged~~, or a prior judgment upon which~~; it is based on an earlier judgment that has been reversed or ~~otherwise~~ vacated~~,~~; or applying it prospectively is no longer equitable; or

(6) any other reason that ~~an injunction should have prospective application. The~~justifies relief.

(c) **Timing and Effect of the Motion.**

(1) **Timing.** A motion ~~shall~~under Rule 60(b) must be made within a reasonable time~~, —~~and for reasons (1), (2), and (3) ~~not~~no more than 6 months after the date of the proceeding ~~was taken~~ or the date ~~that~~ of service of written notice of entry of the judgment or order ~~was served. A~~, whichever date is later. The time for filing the motion cannot be extended under ~~this subdivision~~ Rule

6(b)).

(2) **Effect on Finality.** The motion does not affect the judgment's finality ~~of a judgment~~ or suspend its operation.

(d) **Other Powers to Grant Relief.** This rule does not limit ~~the~~a court's power ~~of a court~~ to~~:~~

(1) entertain an independent action to relieve a party from a judgment, order, or proceeding~~, or to~~;

(2) upon motion filed within 6 months after written notice of entry of a default judgment is served, set aside the default judgment against a defendant who was not personally served with a summons and complaint and who has not appeared in the action, admitted service, signed a waiver of service, or otherwise waived service; or

(3) set aside a judgment for fraud upon the court.

(e) **Bills and Writs Abolished.** The following are abolished: bills of review, bills in the nature of bills of review, and writs of coram nobis, coram vobis, ~~audita querela, and bills of review and bills in the nature of a bill of review, are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action~~and audita querela.

~~**(c) Default Judgments: Defendant Not Personally Served.** When a default judgment shall have been taken against any party who was not personally served with summons and complaint, either in the State of Nevada or in any other jurisdiction, and who has not entered a general appearance in the action, the court, after notice to the adverse party, upon motion made within 6 months after the date of service of written notice of entry of such judgment, may vacate such judgment and allow the party or the party's legal representatives to answer to the merits of the original action. When, however,~~

~~a party has been personally served with summons and complaint, either in the State of Nevada or in any other jurisdiction, the party must make application to be relieved from a default, a judgment, an order, or other proceeding taken against the party, or for permission to file an answer, in accordance with the provisions of subdivision (b) of this rule.~~

~~**(d) Default Judgments: Modification Nunc Pro Tunc.** Whenever a default judgment or decree has been entered, the party or parties in default therein may at any time thereafter, upon written consent of the party or parties in whose favor judgment or decree has been entered, enter general appearance in the action, and the general appearance so entered shall have the same force and effect as if entered at the proper time prior to the rendition of the judgment or decree. On such appearance being entered the court may make and enter a modified judgment or decree to the extent only of showing such general appearance on the part of the party or parties in default, and it shall be entered nunc pro tunc as of the date of the original judgment or decree; provided, however, that nothing herein contained shall prevent the court from modifying such judgment or decree as stipulated and agreed in writing by the parties to such action, and in accordance with the terms of such written stipulation and agreement.~~

~~**RULE**~~

Advisory Committee Note—2019 Amendment

The amendments generally conform Rule 60 to FRCP 60, including incorporating FRCP 60(b)(6) as Rule 60(b)(6). The Rule 60(c) time limit for filing a Rule 60(b)(1)-(3) motion, however, remains at 6 months consistent with the former Nevada rule. Rule 60(d)(2) preserves the first sentence of former NRCP 60(c) respecting default judgments. The amendments eliminate the

remaining portion of former NRCP 60(c) and former NRCP 60(d) as superfluous.

Rule 61. ~~HARMLESS ERROR~~Harmless Error

~~No~~Unless justice requires otherwise, no error in ~~either the admission~~admitting or ~~the exclusion of~~excluding evidence ~~and no error —~~or ~~defect in~~ any ~~ruling or order or in anything done or omitted~~ other error by the court or ~~by any of the parties~~ a party—is ground for granting a new trial ~~or~~, for setting aside a verdict, or for vacating, modifying, or otherwise disturbing a judgment or order~~, unless refusal to take such action appears to the court inconsistent with substantial justice. The court at~~. At every stage of the proceeding, the court must disregard ~~any error or defect in the proceeding which does~~all errors and defects that do not affect ~~the~~any party's substantial rights ~~of the parties~~.

~~**RULE 62. STAY OF PROCEEDINGS TO ENFORCE A JUDGMENT**~~

Rule 62. Stay of Proceedings to Enforce a Judgment

(a) **Automatic Stay; Exceptions— for Injunctions and Receiverships.**

(1) **In General.** Except as stated ~~herein~~in this rule, no execution ~~shall~~may issue ~~upon~~on a judgment, nor ~~shall~~may proceedings be taken ~~for its enforcement~~to enforce it, until ~~the expiration of 10~~30 days have passed after service of written notice of its entry~~. Unless~~, unless the court orders otherwise ~~ordered by the court, an~~.

(2) **Exceptions for Injunctions and Receiverships.** An interlocutory or final judgment in an action for an injunction or ~~in a receivership action shall not be stayed during the period after its entry and~~

~~until an appeal is taken or during the pendency of an appeal. The provisions of subdivision (c) of this rule govern the suspending, modifying, restoring, or granting of an injunction during the pendency of an appeal~~a receivership is not automatically stayed, unless the court orders otherwise.

~~(b) **Stay on Motion for New Trial or for Judgment.** In its discretion and on such conditions for the~~ (b) **Stay Pending the Disposition of Certain Postjudgment Motions.** On appropriate terms for the opposing party's security ~~of the adverse party as are proper~~, the court may stay ~~the~~ execution ~~of~~ on a judgment—or any proceedings to enforce ~~a judgment~~ it—pending ~~the~~ disposition of ~~a motion~~any of the following motions:

(1) under Rule 50, for judgment as a matter of law;

(2) under Rule 52(b), to amend the findings or for additional findings;

(3) under Rule 59, for a new trial or to alter or amend a judgment ~~made pursuant to~~; or

(4) under Rule ~~59, or of a motion~~60, for relief from a judgment or order ~~made pursuant to Rule 60, or of a motion for judgment in accordance with a motion for a judgment as a matter of law made pursuant to Rule 50, or of a motion for amendment to the findings or for additional findings made pursuant to Rule 52(b).~~.

(c) **Injunction Pending an Appeal.** ~~When~~While an appeal is ~~taken~~pending from an interlocutory order or final judgment ~~granting, dissolving,~~that grants or ~~denying~~refuses to grant, or dissolves or refuses to dissolve, an injunction, the court ~~in its discretion~~ may stay, suspend, modify, restore, or grant an injunction ~~during the pendency of the appeal upon such~~on terms ~~as to~~for bond or ~~otherwise as it considers proper for the security of the~~other terms that secure the opposing party's rights ~~of the adverse party~~.

(d) **Stay ~~Upon~~Pending an Appeal.** ~~When~~

(1) **By Supersedeas Bond.** If an appeal is taken, the appellant may obtain a stay by ~~giving a~~ supersedeas bond ~~may obtain a stay subject to the exceptions contained in subdivision (a) of this rule.~~, except in an action described in Rule 62(a)(2). The bond may be given ~~at~~upon or after ~~the time of~~ filing the notice of appeal~~.~~ or after obtaining the order allowing the appeal. The stay is effective when the supersedeas bond is filed.

(2) **By Other Bond or Security.** If an appeal is taken, a party is entitled to a stay by providing a bond or other security. Unless the court orders otherwise, the stay takes effect when the court approves the bond or other security and remains in effect for the time specified in the bond or other security.

(e) **Stay ~~in Favor of~~ Without Bond on Appeal by the State ~~or Agency Thereof~~of Nevada, Its Political Subdivisions, or Their Agencies or Officers.** When an appeal is taken by the State or by any county, city, town, or ~~town within~~other political subdivision of the State, or an officer or agency thereof, and the operation or enforcement of the judgment is stayed, no bond, obligation, or other security ~~shall be~~is required from the appellant.

(f) **Reserved.**

(g) **Appellate Court's Power ~~of Appellate Court~~ Not Limited.** ~~The provisions in this~~This rule ~~do~~does not limit ~~any~~the power of an appellate court or one of ~~a judge~~its judges or ~~justice thereof~~ justices:

(1) to stay proceedings ~~during the pendency of an appeal or to~~ or suspend, modify, restore, or grant an injunction ~~during the pendency of~~ while an appeal is pending; or

(2) to issue an ~~appeal or to make any~~ order ~~appropriate~~ to preserve the status quo or the effectiveness of the judgment ~~subsequently~~ to be entered.

(h) **Stay ~~of Judgment as to~~ With Multiple Claims or ~~Multiple~~ Parties.** ~~When a court has ordered a final judgment under the conditions stated in Rule 54(b), the~~ A court may stay the enforcement of ~~that~~a final judgment entered under Rule 54(b) until ~~the entering of a subsequent~~it enters a later judgment or judgments, and may prescribe ~~such conditions as are~~terms necessary to secure the benefit ~~thereof to~~ of the stayed judgment for the party in whose favor it was entered.

~~**RULE 63. INABILITY OF A JUDGE TO PROCEED**~~

~~If a trial or hearing has been commenced~~

Advisory Committee Note—2019 Amendment

Subsection (a). Rule 62(a) retains the automatic stay provisions and exceptions in former NRCP 62(a) but updates the language and, tracking the 2018 amendments to FRCP 62(a), extends the automatic stay provided by Rule 62(a)(1) from 10 to 30 days.

Subsection (b). Rule 62(b) retains the language concerning postjudgment motions from the pre-April 2018 federal rule.

Subsection (d). Rule 62(d) adopts provisions from both former NRCP 62(d), which is consistent with the pre-2018 FRCP 62(d), and the 2018 amendments to FRCP 62(b). Rule 62(d)(1) provides for a stay effective on filing of a supersedeas bond. Rule 62(d)(2) is patterned after the 2018 amendments to FRCP 62(b) and provides that, as an alternative to a supersedeas bond, a stay pending appeal may be obtained through a court-approved bond or other security, or a combination of both; a stay under Rule 62(d)(2) takes effect when the court approves the security.

Rule 62.1. Indicative Ruling on a Motion for Relief That Is Barred by a Pending Appeal

(a) **Relief Pending Appeal.** If a timely motion is made for relief that the court lacks authority to grant because of an appeal that has been docketed and is pending, the court may:

(1) defer considering the motion;

(2) deny the motion; or

(3) state either that it would grant the motion if the appellate court remands for that purpose or that the motion raises a substantial issue.

(b) **Notice to the Appellate Court.** The movant must promptly notify the clerk of the supreme court under NRAP 12A if the district court states that it would grant the motion or that the motion raises a substantial issue.

(c) **Remand.** The district court may decide the motion if the appellate court remands for that purpose.

Advisory Committee Note—2019 Amendment

This new rule is modeled on FRCP 62.1 and works in conjunction with new NRAP 12A. Like its federal counterpart, Rule 62.1 does not attempt to define the circumstances in which a pending appeal limits or defeats the district court's authority to act. *See* FRCP 62.1 advisory committee's note (2009 amendment). Rather, these rules provide the procedure to follow when a party seeks relief in the district court from an order or judgment that the district court has lost jurisdiction over due to a pending appeal of the order or judgment, consistent with *Huneycutt v. Huneycutt*, 94 Nev. 79, 575 P.2d 585 (1978), and its progeny.

Rule 63. Judge's Inability to Proceed

If a judge conducting a hearing or trial is unable to proceed, any other judge may proceed ~~with it~~ upon certifying familiarity with the record and

determining that the ~~proceedings in the~~ case may be completed without prejudice to the parties. In a hearing or a nonjury trial ~~without a jury~~, the successor judge ~~shall~~must, at ~~the~~a party's request ~~of a party,~~ recall any witness whose testimony is material and disputed and who is available to testify again without undue burden. The successor judge may also recall any other witness. But if such successor judge cannot perform those duties because the successor judge did not preside at the trial or for any other reason, the successor judge may, in that judge's discretion, grant a new trial.

VIII. PROVISIONAL AND FINAL REMEDIES ~~AND SPECIAL PROCEEDINGS~~

~~RULE~~Rule 64. ~~SEIZURE OF PERSON OR PROPERTY~~Seizing a Person or Property

(a) **Remedies—In General.** At the commencement of and ~~during the course of~~throughout an action, ~~all remedies providing~~every remedy is available that, under state law, provides for ~~seizure of~~seizing a person or property ~~for the purpose of securing~~to secure satisfaction of the potential judgment ~~ultimately to be entered in the action are available under the circumstances and in the manner provided by the law of the State.~~ .

(b) **Specific Kinds of Remedies.** The remedies ~~thus~~ available under this rule include the following:

(1) arrest~~,~~;

(2) attachment~~,~~;

(3) garnishment~~,~~;

(4) replevin~~,~~;

(5) sequestration~~,~~; and

(6) other corresponding or equivalent remedies~~, however~~

~~designated~~.

~~RULE~~Rule 65. ~~INJUNCTIONS~~Injunctions and Restraining Orders

(a) **Preliminary Injunction.**

(1) **Notice.** ~~No~~The court may issue a preliminary injunction ~~shall be issued without~~only on notice to the adverse party.

(2) ~~**Consolidation of**~~ **Consolidating the Hearing With the Trial on the Merits.** Before or after ~~the commencement of~~beginning the hearing ~~of an application~~on a motion for a preliminary injunction, the court may ~~order~~advance the trial ~~of the action~~ on the merits ~~to be advanced~~ and ~~consolidated~~ consolidate it with the hearing ~~of the application.~~. Even when ~~this~~ consolidation is not ordered, ~~any~~ evidence that is received ~~upon an application for a preliminary injunction which~~ on the motion and that would be admissible ~~upon the~~at trial ~~on the merits~~ becomes part of the trial record ~~on the trial~~ and need not be repeated ~~upon the~~at trial. ~~This subdivision (a)(2) shall be so construed and applied as to save to the parties any rights they may have to~~But the court must preserve any party's right to a jury trial ~~by jury~~.

(b) **Temporary Restraining Order~~;~~.**

(1) **Issuing Without Notice~~; Hearing; Duration.~~** ~~A~~. The court may issue a temporary restraining order ~~may be granted~~ without written or oral notice to the adverse party or ~~that party's~~its attorney only if ~~(1) it clearly appears from~~ :

(A) specific facts ~~shown by~~in an affidavit or ~~by the~~a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the ~~applicant~~movant before the adverse party ~~or that party's attorney~~ can be heard in opposition~~,~~; and ~~(2)~~

(B) the ~~applicant's~~movant's attorney certifies ~~to the court~~ in writing ~~the~~any efforts~~, if any, which have been~~ made to give ~~the~~ notice and the reasons ~~supporting the claim that notice~~ why it should not be required.

(2) **Contents; Expiration.** Every temporary restraining order ~~granted~~issued without notice must state the date and hour it was issued; describe the injury and state why it is irreparable; state why the order was issued without notice ~~shall be indorsed with the date and hour of issuance; shall be~~; and be promptly filed ~~forthwith~~ in the clerk's office and entered ~~of~~in the record~~; shall define the injury and state why it is irreparable and why the~~. The order ~~was granted without notice; and shall expire by its terms within such~~ expires at the time after entry~~, ~~not to exceed ~~15~~14 days~~, as ~~that the court ~~fixes~~sets, unless ~~within the~~before that time ~~so fixed~~ the ~~order~~court, for good cause ~~shown, is extended~~, extends it for a like period or ~~unless~~ the adverse party ~~against whom the order is directed~~ consents ~~that it may be extended for~~to a longer ~~period~~extension. The reasons for ~~the~~an extension ~~shall~~must be entered ~~of~~in the record. ~~In case a temporary restraining order is granted~~

(3) **Expediting the Preliminary-Injunction Hearing.** If the order is issued without notice, the motion for a preliminary injunction ~~shall~~must be set ~~down~~ for hearing at the earliest possible time ~~and takes~~, taking precedence ~~of~~over all other matters except hearings on older matters of the same character~~; and when the motion comes on for~~. At the hearing, the party who obtained the ~~temporary restraining~~ order ~~shall~~must proceed with the ~~application for a preliminary injunction and~~,motion; if the party does not ~~do so~~, the court ~~shall~~must dissolve the ~~temporary restraining~~ order.

(4) **Motion to Dissolve.** On 2 days' notice to the party who obtained the ~~temporary restraining~~ order without notice ~~~~or on ~~such~~ shorter

notice ~~to that party as~~set by the court~~ may prescribe,~~ the adverse party may appear and move ~~its dissolution~~to dissolve or ~~modification and in that event~~modify the order. The court ~~shall proceed to~~must then hear and ~~determine such~~ decide the motion as ~~expeditiously~~promptly as ~~the ends of~~ justice ~~require~~requires.

(c) **Security.** ~~(c) **Security.**~~ ~~No restraining order or~~ The court may issue a preliminary injunction ~~shall issue except upon~~or a temporary restraining order only if the ~~giving of~~movant gives security ~~by the applicant,~~ in ~~such sum as~~an amount that the court ~~deems~~considers proper~~, for~~ to pay the ~~payment of such~~ costs and damages ~~as may be incurred or suffered~~sustained by any party ~~who is~~ found to have been wrongfully enjoined or restrained. ~~No such~~The State, its officers, and its agencies are not required to give security ~~shall be required of the State or of an officer or agency thereof~~.

~~The provisions of Rule 65.1 apply to a surety upon a bond or undertaking under this rule.~~

(d) ~~**Form**~~**Contents and Scope of Every Injunction ~~or~~and Restraining Order.**

(1) **Contents.** Every order granting an injunction and every restraining order ~~shall set forth~~must:

(A) state the reasons ~~for~~why it issued;

(B) state its ~~issuance; shall be specific in~~ terms~~; shall~~ specifically; and

(C) describe in reasonable detail~~,~~ and not by ~~reference~~referring to the complaint or other document~~,~~ the act or acts ~~sought to be~~ restrained~~; and is binding~~ or required.

(2) **Persons Bound.** The order binds only ~~upon~~the following who receive actual notice of it by personal service or otherwise:

(A) the parties ~~to~~;

(B) the ~~action, their~~parties' officers, agents, servants, employees, and attorneys~~,~~; and ~~upon those~~

(C) other persons who are in active concert or participation with ~~them who receive actual notice of the order by personal service or otherwise.~~anyone described in Rule 65(d)(2)(A) or (B).

(e) ~~Reserved~~**Applicability.**

~~(f~~ (1) **When Inapplicable.** This rule is not applicable to ~~suits~~actions for divorce, alimony, separate maintenance, or custody of children. In such ~~suits~~actions, the court may make prohibitive or mandatory orders, with or without notice or bond, as may be just.

~~**RULE 65.1. SECURITY: PROCEEDINGS AGAINST SURETIES**~~

(2) **Other Laws Not Modified.** These rules supplement and do not modify statutory injunction provisions.

Advisory Committee Note—2019 Amendment

Rules 65(a)-(d) are conformed to FRCP 65, with edits adapting the rule for use in Nevada. Rule 65(e) is Nevada-specific. Rule 65(e)(1) retains the language of the former NRCP 65(f), pertaining to family law actions. Rule 65(e)(2) confirms that this rule supplements and does not supplant the statutory injunction provisions in NRS Chapter 33 and elsewhere in the NRS.

Rule 65.1. Proceedings Against a Security Provider

Whenever these rules require or ~~permit the giving of~~ allow a party to give security ~~by a party~~, and security is given ~~in the form of a bond or~~

~~stipulation or other undertaking with~~ with one or more ~~sureties~~security providers, each ~~surety~~provider submits to the court's jurisdiction ~~of the court~~ and irrevocably appoints the court clerk ~~of the court~~ as ~~the surety's~~its agent ~~upon whom~~ for receiving service of any papers ~~affecting the surety's~~that affect its liability on the ~~bond or undertaking may be served.~~security. The ~~surety's~~security provider's liability may be enforced on motion without ~~the necessity of~~ an independent action. The motion and ~~such~~any notice ~~of the motion as~~that the court ~~prescribes~~orders may be served on the court clerk ~~of the court~~, who ~~shall forthwith mail copies to the sureties if their addresses are~~ must promptly send a copy of each to every security provider whose address is known.

~~RULE~~Rule 66. ~~RECEIVERS~~Receivers

These rules govern an action in which the appointment of a receiver is sought or a receiver sues or is sued. An action ~~wherein~~in which a receiver has been appointed ~~shall not~~may be dismissed ~~except~~only by court order ~~of the court~~.

~~RULE~~Rule 67. ~~DEPOSIT IN COURT~~Deposit in Court

(a) **Depositing Property.**

(1) In an action in which any part of the relief sought is a money judgment ~~for a sum of money or~~, the disposition of a sum of money, or the disposition of any other deliverable thing ~~capable of delivery~~, a party, upon notice to every other party~~,~~ and by leave of court, may deposit with the court all or any part of ~~such sum~~the money or thing ~~to be held by the clerk of the court, or upon court order to be deposited in an interest-bearing account or invested in an interest-bearing instrument, subject to withdrawal, in whole or~~

~~in part, at any time thereafter upon order of the court~~.

~~(b~~ (2) When ~~it is admitted by the pleading or examination of~~ a party~~, that the party has~~ admits having possession or control of any money or other deliverable thing ~~capable of delivery~~, which, being the subject of litigation, is held by the party as trustee for another party, or which belongs or is due to another party, on motion, the court may order all or any part of the ~~same, upon motion,~~money or thing to be deposited ~~in~~with the court~~, or deposited in an interest-bearing account or invested in an interest-bearing instrument, or delivered to such party, upon such conditions as may be just, subject to the further direction of the court.~~.

~~RULE~~ (b) **Custodian; Investment of Funds.**

(1) Unless ordered otherwise, the deposited money or thing must be held by the clerk of the court.

(2) The court may order that:

(A) money deposited with the court be deposited in an interest-bearing account or invested in a court-approved, interest-bearing instrument, subject to withdrawal, in whole or in part, at any time thereafter upon order of the court; or

(B) money or a thing held in trust for a party be delivered to that party, upon such conditions as may be just, subject to the further direction of the court.

Rule 68. ~~OFFERS OF JUDGMENT~~Offers of Judgment

(a) **The Offer.** At any time more than ~~10~~21 days before trial, any party may serve an offer in writing to allow judgment to be taken in accordance with

its terms and conditions. Unless otherwise specified, an offer made under this rule is an offer to resolve all claims in the action between the parties to the date of the offer, including costs, expenses, interest, and if attorney fees are permitted by law or contract, attorney fees.

(b) **Apportioned Conditional Offers.** An apportioned offer of judgment to more than one party may be conditioned upon the acceptance by all parties to whom the offer is directed.

(c) **Joint Unapportioned Offers.**

(1) **Multiple Offerors.** A joint offer may be made by multiple offerors.

(2) **Offers to Multiple Defendants.** An offer made to multiple defendants will invoke the penalties of this rule only if-:

(A)- there is a single common theory of liability against all the offeree defendants, such as where the liability of some is entirely derivative of the others or where the liability of all is derivative of common acts by another-,; and

(B)- the same entity, person, or group is authorized to decide whether to settle the claims against the offerees.

(3) **Offers to Multiple Plaintiffs.** An offer made to multiple plaintiffs will invoke the penalties of this rule only if-:

(A)- the damages claimed by all the offeree plaintiffs are solely derivative, such as ~~that~~where the damages claimed by some offerees are entirely derivative of an injury to the others or ~~that~~where the damages claimed by all offerees are derivative of an injury to another-,; and

(B)- the same entity, person, or group is authorized to decide whether to settle the claims of the offerees.

(d) ~~**Judgment Entered Upon**~~ **Acceptance**~~.~~ ~~If within 10~~ **of the Offer**

and Dismissal or Entry of Judgment.

(1) Within 14 days after ~~the~~ service of the offer, the offeree ~~serves~~may accept the offer by serving written notice that the offer is accepted.

(2) Within 21 days after service of written notice that the offer is accepted, the obligated party may pay the amount of the offer and obtain dismissal of the claims, rather than entry of a judgment.

(3) If the claims are not dismissed, at any time after 21 days after service of written notice that the offer is accepted, either party may ~~then~~ file the offer and notice of acceptance together with proof of service. The clerk ~~shall~~must then enter judgment accordingly. The court ~~shall~~must allow costs in accordance with ~~NRS 18.110~~NRS 18.110 unless the terms of the offer preclude a separate award of costs. Any judgment entered ~~pursuant to~~under this section ~~shall~~must be expressly designated a compromise settlement. ~~At his option, a defendant may within a reasonable time pay the amount of the offer and obtain a dismissal of the claim, rather than a judgment.~~

(e) **Failure to Accept Offer.** If the offer is not accepted within ~~10~~14 days after service, it ~~shall~~will be considered rejected by the offeree and deemed withdrawn by the offeror. Evidence of the offer is not admissible except in a proceeding to determine costs, expenses, and fees. The fact that an offer is made but not accepted does not preclude a subsequent offer. With offers to multiple offerees, each offeree may serve a separate acceptance of the apportioned offer, but if the offer is not accepted by all offerees, the action ~~shall~~will proceed as to all. Any offeree who fails to accept the offer may be subject to the penalties of this rule.

(f) **Penalties for Rejection of Offer**~~. If the offeree rejects an offer and fails to obtain a more favorable judgment,~~.

(1) **In General.** If the offeree rejects an offer and fails to obtain a

more favorable judgment:

(A) the offeree cannot recover any costs, expenses, or ~~attorney's~~attorney fees and ~~shall~~may not recover interest for the period after the service of the offer and before the judgment; and

~~(2~~ (B) the offeree ~~shall~~must pay the offeror's post-offer costs and expenses, including a reasonable sum to cover any expenses incurred by the offeror for each expert witness whose services were reasonably necessary to prepare for and conduct the trial of the case, applicable interest on the judgment from the time of the offer to the time of entry of the judgment and reasonable ~~attorney's~~attorney fees, if any be allowed, actually incurred by the offeror from the time of the offer. If the offeror's attorney is collecting a contingent fee, the amount of any ~~attorney's~~attorney fees awarded to the party for whom the offer is made must be deducted from that contingent fee.

(2) **Multiple Offers.** The penalties in this rule run from the date of service of the earliest rejected offer for which the offeree failed to obtain a more favorable judgment.

(g) **How Costs, Expenses, Interest, and Attorney Fees Are Considered.** To invoke the penalties of this rule, the court must determine if the offeree failed to obtain a more favorable judgment. ~~Where~~If the offer provided that costs, expenses, interest, and if attorney fees are permitted by law or contract, attorney fees, would be added by the court, the court must compare the amount of the offer with the principal amount of the judgment, without inclusion of costs. ~~Where~~, expenses, interest, and if attorney fees are permitted by law or contract, attorney fees. If a ~~defendant~~party made an offer in a set amount ~~which~~that precluded a separate award of costs, expenses, interest, and if attorney fees are permitted by law or contract, attorney fees, the court must compare the amount of the offer, together with the offeree's pre-

offer taxable costs, expenses, interest, and if attorney fees are permitted by law or contract, attorney fees, with the principal amount of the judgment.

(h) **Offers After Determination of Liability.** When the liability of one party to another has been determined by verdict, order, or judgment, but the amount or extent of the liability remains to be determined by further proceedings, the party adjudged liable may make an offer of judgment, which ~~shall have~~has the same effect as an offer made before trial if it is served within a reasonable time not less than ~~10~~14 days ~~prior to~~before the commencement of hearings to determine the amount or extent of liability.

~~RULE~~Advisory Committee Note—2019 Amendment

The amendments retain much of former NRCP 68. But as amended Rule 68(f)(2) now provides that, when multiple offers are given, the penalties in Rule 68(f)(1) run from the offer earliest in time that is more favorable than the judgment. The existence of any subsequent offer, whether more or less favorable, does not change the penalty for rejecting the relevant offer. This amendment changes the approach to multiple settlement offers that is prescribed by *Albios v. Horizon Communities, Inc.*, 122 Nev. 409, 132 P.3d 1022 (2006). Experience under *Albios* suggests that parties are reluctant to make subsequent settlement offers when the penalty for rejecting a favorable offer applies only to the last offer of judgment. The revisions should encourage settlement.

Rule 69. ~~EXECUTION~~Execution

(a) **In General.** ~~Process to enforce a judgment for the payment of~~

(1) **Money Judgment; Applicable Procedure.** A money ~~shall be~~judgment is enforced by a writ of execution, unless the court directs

otherwise. The procedure on execution~~,~~ and in proceedings supplementary to and in aid of ~~a~~ judgment~~, and in proceedings on and in aid of~~ or execution ~~shall be in accordance~~ must accord with ~~the practice and procedure of the State.~~ these rules and state law.

(2) **Obtaining Discovery.** In aid of the judgment or execution, the judgment creditor or a successor in interest ~~when that~~whose interest appears of record~~,~~ may obtain discovery from any person~~,~~ including the judgment debtor~~, in the manner~~ as provided in these rules~~.~~ or by state law.

(b) **Service of Written Notice of Entry Required ~~Prior to~~Before Execution.** ~~Prior to execution upon a judgment, service~~Service of written notice of entry of ~~the~~a judgment must be made in accordance with Rule 58(e) before execution upon the judgment.

~~**RULE 70. JUDGMENT FOR SPECIFIC ACTS; VESTING TITLE**~~

Advisory Committee Note—2019 Amendment

Rule 69 modernizes the language of former NRCP 69 and complements NRS Chapter 21.

Rule 70. Enforcing a Judgment for a Specific Act

(a) **Party's Failure to Act; Ordering Another to Act.** If a judgment ~~directs~~requires a party to ~~execute a conveyance of~~ convey land ~~or~~, to deliver ~~deeds~~a deed or other ~~documents~~document, or to perform any other specific act and the party fails to comply within the time specified, the court may ~~direct~~order the act to be done at the ~~cost of the~~ disobedient ~~party~~ party's expense by ~~some other~~another person appointed by the court ~~and~~. When done, the act ~~when so done~~ has ~~like~~the same effect as if done by the party.

(b) **Vesting Title.** If the real or personal property is within this state,

the court—instead of ordering a conveyance—may enter a judgment divesting any party's title and vesting it in others. That judgment has the effect of a legally executed conveyance.

(c) **Obtaining a Writ of Attachment or Sequestration.** On application ~~of the~~by a party entitled to performance of an act, the clerk ~~shall~~must issue a writ of attachment or sequestration against the disobedient party's property to compel obedience.

(d) **Obtaining a Writ of Execution or Assistance.** On application by a party who obtains a judgment or order for possession, the clerk must issue a writ of execution or assistance.

(e) **Holding in Contempt.** The court may also hold the disobedient party ~~to compel obedience to the judgment. The court may also in proper cases adjudge the~~in contempt.

Advisory Committee Note—2019 Amendment

Rule 70 complements Nevada statutes addressing attachment, execution, and contempt contained in NRS Chapters 21, 22, and 31.

Rule 71. Enforcing Relief For or Against a Nonparty

When an order grants relief for a nonparty or may be enforced against a nonparty, the procedure for enforcing the order is the same as for a party ~~in contempt. If real or personal property is within the State, the court in lieu of directing a conveyance thereof may enter a judgment divesting the title of any party and vesting it in others and such judgment has the effect of a conveyance executed in due form of law. When any order **or** judgment is for the delivery of possession, the party in whose favor~~.

Rule 71.1. Reserved

Advisory Committee Note—2019 Amendment

NRS Chapter 37 addresses eminent domain, making it ~~is entered is entitled~~unnecessary to ~~a writ of execution or assistance upon application~~adopt FRCP 71.1.

~~**RULE 71. PROCESS IN BEHALF OF AND AGAINST PERSONS NOT PARTIES**~~

~~When an order is made in favor of a person who is not a party to the action, that person may enforce obedience to the order by the same process as if the person were a party; and, when obedience to an order may be lawfully enforced against a person who is not a party, that person is liable to the same process for enforcing obedience to the order as if a party.~~

IX. APPEALS

[Rules 72 to 76A, inclusive, were abrogated and replaced by Nevada Rules of Appellate Procedure, effective July 1, 1973.]

X. DISTRICT COURTS AND CLERKS

~~**RULE 77. DISTRICT COURTS AND CLERKS**~~

Rule 77. Conducting Business; Clerk's Authority

(a) ~~**District Courts Always**~~**When Court Is Open.** ~~The~~Every district ~~courts shall be deemed~~court is considered always open for ~~the purpose of~~ filing any ~~pleading or other proper~~ paper, ~~of~~ issuing and returning ~~mesne and final~~ process, ~~and of~~ making ~~and directing all interlocutory motions, orders, and rules~~a motion, or entering an order.

(b) **~~Trials and Hearings; Orders in Chambers.~~** ~~All trials upon~~**Place for Trial and Other Proceedings.** Every trial on the merits ~~shall~~must be conducted in open court and, so far as convenient, in a regular ~~court room, except~~courtroom, but a private trial may be had as provided by statute. ~~All~~Any other ~~acts~~act or ~~proceedings~~proceeding may be done or conducted by a judge in chambers, without the attendance of the clerk or other court ~~officials and at any place either within~~official, or ~~without the~~anywhere inside or outside the judicial district~~; but~~. But no hearing~~, —~~other than one ex parte~~, shall —~~may be conducted outside ~~the district without the consent of~~this state unless all ~~parties~~the affected ~~thereby~~parties consent.

(c) **Clerk's Office ~~and~~ Hours; Clerk's Orders ~~by Clerk. The~~ .**

(1) **Hours.** Every clerk's office and branch office must be open—with ~~the~~a clerk or ~~a~~ deputy ~~in attendance shall be open~~ on duty—during business hours ~~on all days~~every day except Saturdays, Sundays, and ~~nonjudicial days. All motions and applications in the clerk's office for issuing mesne process, for issuing final process~~legal holidays.

(2) **Orders.** Subject to ~~enforce and execute judgments, for entering defaults~~the court's power to suspend, alter, or ~~judgments by default, and for other proceedings which do not require allowance or order of the court are grantable of course by the clerk; but~~rescind the clerk's action ~~may be suspended or altered or rescinded by the court upon~~for good cause ~~shown.~~, the clerk may:

(A) issue process;

(B) enter a default;

(C) enter a default judgment under Rule 55(b)(1); and

(D) act on any other matter that does not require the court's action.

(d) **Reserved.**

~~**RULE 78. MOTION DAY**~~

~~Unless local conditions make it impracticable, each district court shall establish regular times and places, at intervals sufficiently frequent for the prompt dispatch of business, at which motions requiring notice and hearing may be heard and disposed of; but the judge at any time or place and on such notice, if any, as the judge considers reasonable may make orders for the advancement, conduct, and hearing of actions.~~

~~To expedite its business, the court may make provision by~~

Advisory Committee Note—2019 Amendment

The amendments to Rule 77(c)(1) clarify that in jurisdictions with more than one clerk's office, the main office and all branch offices must remain open during business hours.

Rule 78. Hearing Motions; Submission on Briefs

(a) **Providing a Regular Schedule for Oral Hearings.** A court may establish regular times and places for oral hearings on motions.

(b) **Providing for Submission on Briefs.** By rule or order, a court may provide for ~~the submission~~submitting and ~~determination of~~determining motions on briefs, without oral ~~hearing upon brief written statements of reasons in support and opposition~~hearings.

~~**RULE**~~**Rule 79.** ~~**RESERVED**~~

~~**RULE 80. STENOGRAPHIC REPORT OR TRANSCRIPT AS EVIDENCE**~~

~~(a)~~ **Reserved**~~.~~

~~**(b) Reserved.**~~

~~**(c) Stenographic Report or**~~

Rule 80. Transcript or Recording of Testimony as Evidence~~. Whenever the testimony of a witness at a trial or hearing which was~~

If recorded or stenographically reported testimony at a hearing or trial is admissible in evidence at a later trial, ~~it~~the testimony may be proved by ~~the~~:

(a) a transcript ~~thereof duly~~ certified by the person who stenographically reported ~~the testimony~~it; or

(b) an audio or audiovisual recording certified by the court in which the recording was made.

Advisory Committee Note—2019 Amendment

The amendments to Rule 80(a) retain former NRCP 80(c)'s provision for stenographic transcripts and add Rule 80(b) to govern audio or audiovisual recordings made by the court. The judge or any court employee who operates the recording equipment (e.g., the court clerk, judicial assistant, law clerk, recorder, bailiff, or any other employee) may make the certification required by "the court" in Rule 80(b). Nevada's law of evidence governs the admissibility of a transcript of a certified recording.

XI. GENERAL PROVISIONS

~~**RULE 81. APPLICABILITY IN GENERAL**~~

Rule 81. Applicability of the Rules in General; Remanded Actions

(a) **To What Proceedings Applicable.** These rules do not govern procedure and practice in any special statutory proceeding insofar as they are

inconsistent or in conflict with the procedure and practice provided by the applicable statute.

~~**RULE**~~ (b) **Reserved.**

(c) **Remanded Actions.** A plaintiff whose action is removed from state to federal court and thereafter remanded must file and serve written notice of entry of the remand order. No default may be taken against a defendant in the remanded action until 14 days after service of written notice of entry of the remand order. Within that time, a defendant may move or plead as it might have done had the action not been removed.

(d) **Reserved.**

Advisory Committee Note—2019 Amendment

The amendments delete the second and third sentences of former NRCP 81(a) as no longer needed and make stylistic revisions to NRCP 81(c).

Rule 82. ~~JURISDICTION AND VENUE UNAFFECTED~~Jurisdiction and Venue Unaffected

These rules ~~shall~~do not ~~be construed to~~ extend or limit the jurisdiction of the district courts or the venue of actions ~~therein.~~in those courts.

~~**RULE 83. RULES BY DISTRICT COURTS**~~

~~Each~~**Rule 83. Rules by District Courts; Judge's Directives**

(a) **Local Rules and District Court Rules.**

(1) **Local Rules.** A judicial district ~~court by action of a majority of the judges thereof may from time to time~~may make and amend rules governing ~~its~~ practice ~~not inconsistent with these rules. Copies of rules and amendments~~

~~so made~~therein by ~~any~~ submitting the proposed rules, approved by a majority of its district ~~court shall upon their promulgation be furnished~~judges, to the ~~Supreme Court, but shall not become effective until 60 days after approval by the~~Nevada Supreme Court ~~and publication or as~~ for its review and approval. A local rule must be consistent with—but not duplicate—these rules. Unless otherwise ordered by the Supreme Court, a new or amended local rule takes effect 60 days after it is approved by the Supreme Court.

(2) **Reference.** The local rules of practice and the District Court Rules are referred to collectively in these rules as the local rules.

(3) **Requirements of Form.** A local rule imposing a requirement of form must not be enforced in a way that causes a party to lose any right because of a nonwillful failure to comply.

(b) **Procedure When There Is No Controlling Law.** In all cases not provided for by rule, the district courts may regulate their practice in any manner not inconsistent with these rules.

~~RULE~~Rule 84. ~~FORMS~~Forms

The forms contained in the Appendix of Forms are ~~sufficient~~authorized for use in Nevada courts.

Advisory Committee Note—2019 Amendment

The amendments delete the general-practice forms previously appended to the NRCP. In their place, the introduction to Appendix of Forms lists some of the on-line, self-help, and other resources available to practitioners and self-represented parties. As amended, the Appendix of Forms includes forms addressing waiver of service under Rule 4.1, consent to electronic service, and financial disclosures in family court. The elimination of the general-practice

forms does not alter existing pleading standards or otherwise change the requirements of Rule 8.

~~**RULE**~~

Rule 85. ~~TITLE~~Citation

These rules may be ~~known and~~ cited as ~~the Nevada Rules of Civil Procedure, or abbreviated N.R.C.P~~NRCP.

~~**RULE**~~**Rule 86. ~~EFFECTIVE DATES~~**

~~**(a)**~~ **Effective ~~Date.~~Dates**

(a) **In General.** These rules ~~will~~and any amendments take effect on the date specified by the Supreme Court. They govern all proceedings~~:~~:

(1) in actions ~~brought~~commenced after ~~they take effect~~the effective date; and ~~also all further proceedings~~

(2) in actions then pending, ~~except to the extent~~unless:

(A) the Supreme Court specifies otherwise, or

(B) the court determines that ~~in the opinion of the court their application~~applying them in a particular action ~~pending when the rules take effect~~ would not be feasible or would work an injustice~~, in which event the former procedure applies~~.

(b) **Effective Date of Amendments.** The Nevada Rules of Civil Procedure became effective January 1, 1953. Subsequent amendments have been as follows:

(1) Amendment of Rules 5(b) and (d), effective January 4, 1954.

(2) Amendment of Rules 11 and 45(d)(1), effective May 15, 1954.

(3) Amendment of Rule 51, effective February 15, 1955.

(4) Amendment of Rules 3, 75(b), and 75(g), effective October 1, 1959.

(5) Amendment of Rules 38(b), 38(d), 65(b), 73(c), and 73(d), effective September 1, 1960.

(6) Amendment of Rules 4(d)(2), 5(a), 5(b), 6(a), 6(b), 7(a), 13(a), 14(a), 15(d), 24(c), 25(a)(1), 25(d), 26(e), 28(b), 30(f)(1), 41(b), 41(e), 47(a), 48, 50(a), 50(b), 50(c), 50(d), 52(b), 54(b), 56(c), 56(e), 59(a), 62(h), 77(c), 86, Forms 22-A and 22-B, 27, 30, 31, and 32, effective March 16, 1964.

(7) Amendment of Rule 86 and Form 31, effective April 15, 1964.

(8) Amendment of Rules 73(c), 73(d)(1)), and 86, effective September 15, 1965.

(9) Amendment of Rules 4(b), 5(a), 8(a), 12(b), 12(g), 12(h), 13(h), 14(a), 17(a), 18(a), 19, 20(a), 23, 23.1, 23.2, 24(a), 26, 29, 30, 31, 32, 33, 34, 35, 36, 37(a), 37(b), 37(c), 37(d), 41(a), 41(b), 42(b), 43(f), 44(a), 44(b), 44(c), 44.1, 45(d)(1), 47(b), 50(b), 53(b), 54(c), 65(a), 65(b), 65(c), 65.1, 68, 69(a), 77(e), 86(b), and Form 24, effective September 27, 1971.

(10) Amendment of Rules 6 and 81, effective July 1, 1973; the abrogation of Rules 72, 73, 74, 75, 76, 76A, and Form 27, effective July 1, 1973.

(11) Amendment of Rules 1, 4, 5, 6, 8, 9, 10, 11, 13, 14, 15, 16, 16.1, 17, 18, 19, 20, 22, 23, 23.1, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 41, 43, 44, 44.1, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 58, 59, 60, 62, 63, 64, 65, 65.1, 67, 69, 71, 77, 78, 81, and 83 and Forms 3, 19, 31, and the Introductory Statement to the Appendix of Forms, effective January 1, 2005, and the adoption of new Form 33.

(12) Adoption of Rules 4.1, 4.2, 4.3, 4.4, 5.1, 5.2, 62.1, and 71.1, the amendment of all other rules and the introduction to the Appendix of Forms, the deletion of the former forms, and the adoption of Forms 1 through 6, effective March 1, 2019.

APPENDIX OF FORMS

Introduction

1. The 2019 NRCP amendments delete the general-practice forms previously appended to the NRCP. Current sources of forms available to practitioners and parties include:

The State of Nevada Self-Help Center
http://selfhelp.nvcourts.gov/forms
First Judicial District Court Forms
http://carson.org/government/departments-a-f/courts/district-court-clerk/district-court-forms
Second Judicial District Court Forms
https://www.washoecourts.com/Main/FormsAndPackets
Eighth Judicial District Court Forms
http://www.clarkcountycourts.us/self-help-centers/
Ninth Judicial District Court Forms
https://douglasdistrictcourt.com/forms/
Clark County Law Library
http://www.clarkcountynv.gov/lawlibrary/Pages/LegalForms.aspx
Washoe County Law Library
https://www.washoecourts.com/LawLibrary/SelfHelp
Nevada Supreme Court Law Library
https://nvcourts.gov/Law_Library/Representing_Yourself/

Sources for legal assistance include:

Lawyer Referral and Information Service
https://www.nvbar.org/lawyerreferral/lawyer-referral-information-service/public-1/
Nevada State Bar
http://www.nvbar.org/
Nevada Attorney General
http://ag.nv.gov/
V.A.R.N. – Volunteer Attorneys for Rural Nevadans
http://www.varn.org/newsite/resources/self-help-court-forms/
Nevada Legal Services
https://nlslaw.net/get-legal-help/helpful-links/
The Legal Aid Center of Southern Nevada
https://www.lacsn.org/
Washoe Legal Services
https://washoelegalservices.org/

2. Forms 1 and 2 are patterned on the waiver of service forms appended to FRCP 4, but are modified for use in Nevada. When preparing Forms 1 and 2, in the places on the forms that require "Attorney or Plaintiff Information" and "Caption," an attorney or self-represented litigant should insert the attorney or plaintiff information and caption required by local rules. For example, in the district courts these requirements are located in DCR 12, FJDCR 19, WDCR 10, EDCR 7.20, 10JDCR 16, and other local court rules, and in the appellate courts in NRAP 27 and 32.

3. Form 3, Consent to Service by Electronic Means (former Form 33), provides a form to establish consent to electronic service among parties outside

of an EFS under Rule 5(b)(2)(E). In general, the form should not be filed with the court. A party that is not authorized to register with an EFS may, however, use Form 3 under NEFCR 9(c)(2) to consent to electronic service though the EFS. In that case, it should be filed with the court with the required attorney, party, and caption information.

4. Forms 4, 5, and 6 are provided for use with Rules 16.2 and 16.205 in family law actions.

Form 1. Rule 4.1 Request to Waive Service of Summons

(Attorney or Plaintiff Information)

(Caption)

Notice of a Lawsuit and Request to Waive Service of Summons under Rule 4.1 of the Nevada Rules of Civil Procedure

To (name the defendant or—if the defendant is a corporation, partnership, association, or other entity—name an officer or agent authorized to receive service):

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is enclosed with this letter.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons and complaint by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within (give at least 30 days or at least 60 days if the defendant is outside the United States) from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

If you return the signed waiver, I will file it with the court. The lawsuit will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you, and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you.

Your Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4.1(a) of the Nevada Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. You have a duty to cooperate in saving unnecessary expenses even if you believe that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property. If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 of the Nevada Rules of Civil Procedure on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond to the complaint than if a summons had been served.

I certify that this request is being sent to you on the date below.

Date: _____

_____
(Signature of the attorney or self-represented party)

_____
(Printed name)

_____
(Address)

_____
(Email address)

_____
(Telephone number)

Form 2. Rule 4.1 Waiver of Service of Summons

(Attorney or Plaintiff Information)

(Caption)

Waiver of Service of Summons
under Rule 4.1 of the Nevada Rules of Civil Procedure

To (name the plaintiff's attorney or the self-represented plaintiff):

I have received your request to waive service of a summons in this lawsuit along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons

and complaint in this lawsuit.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the lawsuit, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 of the Nevada Rules of Civil Procedure within 60 days from _____, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: _____

_____
(Signature of the attorney or unrepresented party)

_____
(Printed name)

_____
(Address)

_____
(Email address)

_____
(Telephone number)

Form 3. Consent to Service by Electronic Means Under Rule 5

The undersigned party hereby consents to service of documents by electronic means as designated below in accordance with Rule 5(b)(2)(E) of the Nevada Rules of Civil Procedure.

Party name(s):

_____

_____

Documents served by electronic means must be transmitted to the following person(s):

_____

_____

Facsimile transmission to the following facsimile number(s):

_____

_____

Electronic mail to the following email address(es):

_____

_____

Attachments to email must be in the following format(s):

_____

_____

Other electronic means (specify how the documents must be transmitted)

_____

The undersigned party also acknowledges that this consent does not require service by the specified means unless the serving party elects to serve by that means.

Dated this _____ day of _____, 20_____.

Signed: _____
Attorney for Consenting Party
or Consenting Party

Address: _____

Telephone: _____

Fax number: _____

Email address: _____