

## Coates, Sharon

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**From:** Deborah Westbrook <Deborah.Westbrook@clarkcountynv.gov>  
**Sent:** Thursday, April 28, 2022 11:08 AM  
**To:** Coates, Sharon; Pickering, Justice Kristina; Silver, Justice Abbi; Bassett, Sally; Alexander Chen; David M. Stanton; Dove, Kelly; Echols, Micah S.; Eisenberg, Robert L.; Figler, Dayvid; Finlayson, Charles; Gerber, Travis; Gibbons, Judge Michael; Hosmer-Henner, Adam; Kalicki, Phaedra; Leonard, Debbie; McFarling, Emily; McFarling, Emily ; Petty, John; Polsenberg, Daniel F.; Silva, Steve M.; Smith, Abraham; Smith, Jordan; Springmeyer, Don; JoNell Thomas; Traum, Anne; Williams, J. Colby  
**Cc:** Armour, Susan; O'Dell, Telesia  
**Subject:** NRAP 17 - Final Proposed  
**Attachments:** RULE 17 - Final Proposed.docx

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Hello fellow NRAP Commission Members,

Following our meeting on Monday, I put together the attached Final Proposed version of Rule 17, indicating the areas where we had differences of opinion. If you feel that this document does not accurately reflect what we discussed on Monday, please let us know.

Thanks so much,

Deborah L. Westbrook  
Chief Deputy Public Defender  
Clark County Public Defender's Office  
309 South Third Street, # 226  
Las Vegas, Nevada 89155  
(702) 455-4821

**RULE 17. DIVISION OF CASES BETWEEN THE SUPREME COURT  
AND THE COURT OF APPEALS**

**(a) Cases Always Retained by the Supreme Court.** The Supreme Court ~~shall~~must hear and decide the following:

- (1) All death penalty cases;
- (2) Cases involving ballot or election questions;
- (3) Cases involving judicial discipline;
- (4) Cases involving attorney admission, suspension, discipline, disability, reinstatement, and resignation;
- (5) Cases involving the approval of prepaid legal service plans;
- (6) Questions of law certified by a federal court;
- (7) Disputes between branches of government or local governments;
- (8) Administrative agency cases involving tax, water, or public utilities commission determinations;
- ~~(9) Cases originating in business court;~~
- ~~(9) Cases involving the termination of parental rights or NRS Chapter 432B;~~
- ~~(10) Cases involving juvenile certifications under NRS 62B.390; and~~
- ~~(11) Matters raising as a principal issue an inconsistency in the decisions of the Court of Appeals or of the Supreme Court or a conflict between decisions of the two courts.~~

**(b) Cases Ordinarily Retained by the Supreme Court.** The Supreme Court will ordinarily retain the following types of cases:

- ~~(1) Cases originating in business court;~~
- ~~(2) (11) Matters raising as a principal issue a question of first impression involving the United States or Nevada Constitutions or common law; and~~
- ~~(3) Matters raising as a principal issue a question of law regarding the validity of a statute, ordinance, court rule, or administrative rule or regulation;~~

**Commented [DW1]:** Although the NRAP 17 Subcommittee recommended keeping cases originating in business court in subsection (a), at the 4/25/22 NRAP Commission Meeting, a large majority of members voted to move these cases to subsection (b). This recommendation merits further consideration.

(4) Matters raising as a principal issue a question of state or federal constitutional interpretation; and

(5)(12) Matters raising as a principal issue a question of statewide public importance that has application beyond the parties.

~~or an issue upon which there is an inconsistency in the published decisions of the Court of Appeals or of the Supreme Court or a conflict between published decisions of the two courts.~~

**(bc) Cases Ordinarily Assigned to Court of Appeals.** The Court of Appeals ~~shall~~will hear and decide only those matters assigned to it by the Supreme Court and those matters within its original jurisdiction. Except as provided in Rule 17(a), the Supreme Court may assign to the Court of Appeals any case filed in the Supreme Court. ~~The following case categories are presumptively assigned to the Court of Appeals:~~ The Supreme Court will ordinarily transfer to the Court of Appeals the following:

(1) Cases presenting the application of existing legal principles;

(2)(1) Appeals from a judgment of conviction based on a plea of guilty, guilty but mentally ill, or nolo contendere (Alford);

(3)(2) Appeals from a judgment of conviction based on a jury verdict that:

(A) do not involve a conviction for any offenses that are category A or B felonies;

or

(B) challenge only the sentence imposed and/or the sufficiency of the evidence;

(4)(3) Postconviction appeals that involve a challenge to a judgment of conviction or sentence for offenses that are not category A felonies;

(5)(4) Postconviction appeals that involve a challenge to the computation of time served under a judgment of conviction, a motion to correct an illegal sentence, or a motion to modify a sentence;

**Commented [DW2]:** The NRAP 17 Subcommittee felt that this additional language reflected the error-correction purpose of the Court of Appeals. However, subcommittee members Sharon Dickinson and Sally Bassett objected to its inclusion here. We did not discuss the pros and cons of this proposal at the 4/25/22 NRAP Commission Meeting, so this recommendation may merit further consideration.

~~(6)(5)~~ Appeals from a judgment, exclusive of interest, attorney fees, and costs, of \$250,000 or less in a tort case;

~~(7)(6)~~ Cases involving a contract dispute where the amount in controversy is less than \$~~150,000~~~~75,000~~;

~~(8)(7)~~ Appeals from postjudgment orders in civil cases;

~~(9)(8)~~ Cases involving statutory lien matters under NRS Chapter 108;

~~(10)(9)~~ Administrative agency cases except those involving tax, water, or public utilities commission determinations;

~~(11)(10)~~ Cases involving family law matters other than termination of parental rights, including: ~~or NRS Chapter 432B proceedings;~~

(a) Cases involving domestic relations under NRS Title 11;

(b) Cases involving adult and minor guardianship under NRS Title 13;  
and

(c) Cases involving the protection of children from abuse and neglect under NRS Chapter 432B;

(12) Cases involving juvenile justice under NRS Title 5 other than juvenile certifications under NRS 62B.390;

~~(13)(11)~~ Appeals challenging venue;

~~(14)(12)~~ Cases challenging the grant or denial of injunctive relief;

~~(15)(13)~~ Pretrial writ proceedings challenging discovery orders or orders resolving motions in limine;

~~(16)(14)~~ Cases involving trust and estate matters in which the corpus has a value of less than ~~\$5,430,000~~the applicable federal estate tax exemption amount; and

~~(17)(15)~~ Cases arising from the foreclosure mediation program.

~~(d)(e)~~ **Consideration of Workload.** In assigning cases to the Court of Appeals, due regard will be given to the workload of each court.

**Commented [DW3]:** At the 4/25/22 NRAP Commission Meeting, almost all members present recommended keeping this language the same. However, Justices Pickering and Silver voted to change the language to the following: "Appeals from a judgment awarding damages, exclusive of interest, attorney fees, and costs, of between \$1 and \$250,000 or less in a tort case;" This recommendation merits further consideration.

**~~(e)~~(d) Routing Statements; Finality.** A party who believes that a matter ~~presumptively-ordinarily~~ assigned to the Court of Appeals should be retained by the Supreme Court may state the reasons as enumerated in (a) ~~and (b)~~ of this Rule in the routing statement of the briefs as provided in Rules 3C, 3E, and 28 or a writ petition as provided in Rule 21. A party may not file a motion or other pleading seeking reassignment of a case that the Supreme Court has assigned to the Court of Appeals.

**~~(f)~~(e) Transfer and Notice.** Upon the transfer of a case to the Court of Appeals, the clerk ~~shall-will~~ issue a notice to the parties. With the exception of a petition for Supreme Court review under Rule 40B, any pleadings in a case after it has been transferred to the Court of Appeals ~~shall-must~~ be entitled “In the Court of Appeals of the State of Nevada.”