

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;]~~

~~[(10)]~~ (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 a question of first impression involving the United States or Nevada Constitutions or common law; and]~~

~~[(12)]~~ (11) Matters raising as a principal issue ~~[a question of statewide public importance, 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.

(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) Matters raising as a principal issue a question of first impression;
- (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;
- (4) Matters raising as a principal issue a question of state or federal constitutional interpretation; and
- (5) Matters raising as a principal issue a question of statewide public importance that has application beyond the parties.

~~[(b)]~~ (c) 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;
- ~~[(1)]~~ (2)** Appeals from a judgment of conviction based on a plea of guilty, guilty but mentally ill, or nolo contendere (Alford);
- ~~[(2)]~~ (3)** 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;
- ~~[(3)]~~ (4)** Postconviction appeals that involve a challenge to a judgment of conviction or sentence for offenses that are not category A felonies;

~~[(4)]~~ (5) 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;

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

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

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

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

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

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

(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;

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

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

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

~~[(14)]~~ (16) 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

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

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

~~[(d)]~~ (e) **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 Rule 17(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.

~~[(e)]~~ (f) **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.”

REVIEWING NOTE

The NRAP Commission did not unanimously agree on three provisions of this Rule. The majority and minority views are provided below.

The NRAP Commission recommends splitting the existing rule into three subdivisions: (a) cases “always” retained by the Supreme Court; (b) cases “ordinarily” retained by the Supreme Court; and (c) cases “ordinarily” assigned to the Court of Appeals.

The cases “always” retained by the Supreme Court under subdivision (a) are clearly defined categories and will now include cases involving juvenile certifications under NRS 62B.390. While cases involving the termination of parental rights will always be retained by the Supreme Court under subdivision (a), cases arising under NRS Chapter 432B will ordinarily be

assigned to the Court of Appeals under subdivision (c)(11). A majority of the Commission recommends removing cases originating in business court from subdivision (a) and placing them among the cases ordinarily assigned to the Supreme Court under subdivision (b); however, a minority of Commission members would like to see business court cases always retained by the Supreme Court.

For the most part, the cases “ordinarily” retained by the Supreme Court under subdivision (b) are less-clearly defined (e.g. “matters raising as a principal issue a question of first impression”) and are subject to argument/interpretation by the parties in their routing statements.

Subdivision (c) will govern cases “ordinarily” assigned to the Court of Appeals. Cases presenting “the application of existing legal principles” or “the application of settled law” will ordinarily be assigned to the Court of Appeals under subdivision (c)(1). A minority of the Commission recommends that the Court of Appeals no longer ordinarily review decisions granting summary judgment or dismissals of tort claims and has proposed alternate language in subdivision (c)(6) limiting the Court of Appeals’ review of tort cases to “[a]ppeals from a judgment awarding damages, exclusive of interest, attorney fees, and costs of between \$1 and \$250,000.” The Commission recommends raising the amount in controversy for contract disputes assigned to the Court of Appeals from \$75,000 to \$150,000 under subdivision (c)(7). The family law cases ordinarily assigned to the Court of Appeals under subdivision (c)(11) will explicitly include the following: “(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.” Additionally, under subdivision (c)(12), the Court of Appeals will ordinarily hear cases involving juvenile justice under

NRS Title 5 (except for juvenile certifications). Finally, the Commission recommends revising the value limit on trust and estate matters assigned to the Court of Appeals from “\$5,430,000” to “the applicable federal estate tax exemption amount.”