

**VERSION C**

**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) Cases involving the termination of parental rights ~~or NRS Chapter 432B;~~

(11) Cases involving juvenile certifications under NRS 62B.390; and

(12) 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) ~~(11)~~ Matters raising as a principal issue a question of first impression involving the United States or Nevada Constitutions or common law; and

(2) 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]:** After further discussion, the subcommittee recommends that cases originating in business court *remain* within mandatory assignment to the Nevada Supreme Court. Jordan Smith and Colby Williams oppose this recommendation. Full commission should discuss further.

**Commented [DW2]:** The subcommittee agrees with the proposal from Emily McFarling and Chief Judge Gibbons' concurrence that the Court of Appeals will ordinarily hear cases involving the protection of children from abuse and neglect under NRS Chapter 432B.

This revision is necessary to accomplish that change.

**Commented [DW3]:** The Clark County Public Defender's Office and Washoe County Public Defender's Office agree to Chief Judge Gibbons and Emily McFarling's proposal that cases involving juvenile justice under NRS Title 5 can ordinarily be assigned to the Court of Appeals; however, this is as long as cases involving juvenile certifications to adult court under NRS 62B.390 will always be retained by the Nevada Supreme Court.

The subcommittee concurs with this proposal.

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

(4)(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 [DW4]:** The parties discussed Debbie Leonard's proposal to harmonize this language with the language in NRAP 40B(a)(3), which speaks of "fundamental issues of statewide public importance." The subcommittee preferred to keep the language as-is because the standards were not meant to be identical.

**Commented [DW5]:** After discussion, our subcommittee prefers "ordinarily" over "presumptively"; we feel this language will increase flexibility in case assignments as explained below regarding tort cases. Chief Judge Gibbons noted that changing this language to "ordinarily" should make it less likely that orders or judgments from tort cases with no damages would be routinely assigned to the COA.

**Commented [DW6]:** Sharon and Sally objected to the addition of this language. Sharon felt it conflicted with section (a) and Sally felt it was confusing; however, the remainder of our subcommittee agreed that the language reflects the error-correction purpose of the Court of Appeals. We should discuss this further at the Commission meeting.

~~(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 [DW7]:**

Chief Judge Gibbons explained the Court of Appeals' position that it is strongly opposed to modifying this rule to carve out defense verdicts, MSJs and MTDs. All subcommittee members concurred that the rule should not be changed. If we say that these cases will be "ordinarily" assigned to the Court of Appeals (instead of "presumptively" assigned to the Court of Appeals), the Supreme Court will have more discretion to retain appeals from defense verdicts or pretrial orders with important legal issues.

**Commented [DW8]:** Judge Bulla proposed an increase of the dollar value from \$75,000 to \$150,000 and the subcommittee concurred with that recommendation. Chief Judge Gibbons explained that the dollar values for arbitrations, small claims, justice court, and district court have gone up, and this number should be revised as well.

**Commented [DW9]:** The subcommittee agrees with Emily McFarling and Chief Judge Gibbons' proposal that the rule be amended to clarify where guardianship, civil child protection abuse/neglect, and juvenile justice cases go. Chief Judge Gibbons agreed to the CCPD/WCPD's proposed carve-out that would require that juvenile certification to adult criminal court cases be assigned to the Supreme Court.

**(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.

**Commented [DW10]:** Because the subcommittee opted to use the word “ordinarily” above, we made this revision for consistency.

**(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.”

**Commented [DW11]:** The subcommittee reconsidered Jordan’s proposed language, “Any reassignment may take place only on order of the Supreme Court”, and decided not to add that language here. Subcommittee members expressed concern that the proposed language could invite reassignment motions, and the addition is unnecessary.