

EXHIBIT B

AMENDMENT TO RULES 3, 3C, 3D, 3E, 4, 9, 14, 16, 25, 26, 27, 28.1, 28.2, 31, 35, 36, 39, 40, 40A, AND 46 AND FORMS 5 AND 11, AND ADOPTION OF NEW RULE 12A OF THE NEVADA RULES OF APPELLATE PROCEDURE

RULE 3. APPEAL—HOW TAKEN

* * *

(g) Forwarding Appeal Documents to Supreme Court.

(1) District Court Clerk's Duty to Forward.

(A) Upon the filing of the notice of appeal, the district court clerk shall immediately forward to the clerk of the Supreme Court the required filing fee, together with 3 certified, file-stamped copies of the following documents:

- the notice of appeal;
- the case appeal statement;
- the district court docket entries;
- the civil case cover sheet, if any;
- the judgment(s) or order(s) being appealed;
- any notice of entry of the judgment(s) or order(s) being appealed;
- any certification order directing entry of judgment in accordance with NRCP 54(b);
- the minutes of the district court proceedings; and
- a list of exhibits offered into evidence, if any.

(B) If, at the time of filing of the notice of appeal, any of the enumerated documents have not been filed in the district court, the district

court clerk shall nonetheless forward the notice of appeal together with all documents then on file with the clerk.

~~[(B)]~~ (C) The district court clerk shall promptly forward any later docket entries to the clerk of the Supreme Court.

(2) Appellant's Duty. An appellant shall take all action necessary to enable the clerk to assemble and forward the documents enumerated in this subdivision.

RULE 3C. FAST TRACK CRIMINAL APPEALS

* * *

(d) Rough Draft Transcript. A rough draft transcript is a computer-generated transcript that can be expeditiously prepared in a condensed fashion, but is not proofread, corrected or certified to be an accurate transcript.

(1) Format. For the purposes of this Rule, a rough draft transcript shall:

(A) Be printed on paper 8 1/2 by 11 inches in size, double-sided, with the words "Rough Draft Transcript" printed on the bottom of each page;

(B) Be produced with a yellow cover sheet;

(C) Include a concordance indexing key words in the transcript;

and

(D) Include an acknowledgment by the court reporter or recorder that the document submitted under this Rule is a true original or copy of the rough draft transcript.

(2) Notification of Court Reporter or Recorder. When a case may be subject to this Rule, the presiding district court judge shall notify the court

reporter or recorder for the case before trial that a rough draft transcript may be required.

(3) Request for Rough Draft Transcript.

(A) Filing and Service.

(i) When a rough draft transcript is necessary for an appeal, trial counsel shall file a rough draft transcript request form with the district court and shall serve a copy of the request form upon the court reporter or recorder and opposing counsel.

(ii) Trial counsel shall serve and file the rough draft transcript request form on the same date the notice of appeal is served and filed.

(iii) Trial counsel shall file with the clerk 2 file-stamped copies of the rough draft transcript request form and proof of service of the form upon the court reporter or recorder and opposing counsel.

(B) Form. The rough draft transcript request shall substantially comply with Form 5 in the Appendix of Forms.

(C) Necessary Transcripts. Counsel shall order transcripts of only those portions of the proceedings that counsel reasonably and in good faith believes are necessary to determine whether appellate issues are present. In particular, transcripts of jury voir dire, opening statements, closing arguments, and the reading of jury instructions shall not be requested unless pertinent to the appeal.

(D) No Transcripts. If no transcript is to be requested, trial counsel shall serve and file with the clerk a certificate to that effect within the same period that a rough draft transcript request form must be served and filed under subparagraph (A). Such a certificate shall substantially comply with Form 14 in the Appendix of Forms.

(E) Court Reporter or Recorder's Duty.

(i) The court reporter or recorder shall submit an original rough draft transcript, as requested by appellant's or respondent's counsel, to the district court no more than ~~[20 days]~~ 21 days after the date that the request is served.

(ii) The court reporter or recorder shall also deliver certified copies of the rough draft transcript to the requesting attorney and counsel for each party appearing separately no more than ~~[20 days]~~ 21 days after the date of service of the request. The court reporter or recorder shall deliver an additional certified copy of the rough draft transcript to the requesting attorney for inclusion in the appendix. Within ~~[5 days]~~ 7 days after delivering the certified copies of the rough draft transcript, the court reporter or recorder shall file with the clerk a certificate acknowledging delivery of the completed transcript and specifying the transcripts that have been delivered and the date that they were delivered to the requesting party. Form 15 in the Appendix of Forms is a suggested form of certificate of delivery.

(iii) Relevant portions of the trial or hearing that were audio recorded or video recorded shall be submitted in typewritten form. The court will not accept audio- or videotapes in lieu of a rough draft transcript.

(4) Supplemental Request for Rough Draft Transcript.

(A) Opposing counsel may make a supplemental request for portions of the rough draft transcript that were not previously requested. The request shall be made no more than 3 days after opposing counsel is served with the transcript request made under Rule 3C(d)(3)(A).

(B) In all other respects, opposing counsel shall comply with the provisions of this Rule governing a rough draft transcript request when making a supplemental rough draft transcript request.

(5) Sufficiency of the Rough Draft Transcript. Trial counsel shall

review the sufficiency of the rough draft transcript. If a substantial question arises regarding an inaccuracy in a rough draft transcript, the court may order that a certified transcript be produced.

(6) Exceptions. The provisions of Rule 3C(d)(1) shall not apply to preparation of transcripts produced by means other than computer-generated technology. But time limits and other procedures governing requests for and preparation of transcripts produced by means other than computer-generated technology shall conform with the provisions of this Rule respecting rough draft transcripts.

* * *

(f) Filing of Fast Track Response and Appendix.

(1) Fast Track Response.

(A) Time for Service and Filing. Within [~~20 days~~] 21 days from the date a fast track statement is served, the respondent shall serve and file a fast track response that substantially complies with Form 7 in the Appendix of Forms.

(B) Length and Contents. Except by court order granting a motion filed in accordance with Rule 32(a)(7)(D), the fast track response shall not exceed 11 pages in length or shall comply with the type-volume limitations stated in Rule 3C(h)(2). The fast track response shall include additional authority and factual information necessary to rebut the contentions in the fast track statement. The fast track response also shall include a statement, setting forth whether the matter should be retained by the Supreme Court or assigned to the Court of Appeals, including reference to any appropriate provisions in Rule 17. If the respondent believes that the Supreme Court

should retain the case despite its presumptive assignment under Rule 17 to the Court of Appeals, the statement shall identify the specific issue(s) or circumstance(s) that warrant retaining the case and an explanation of their importance or significance.

(C) References to the Appendix. Every assertion in the fast track response regarding matters in a rough draft transcript or other document shall cite to the page and volume number, if any, of the appendix that supports the assertion.

(D) Number of Copies to Be Filed and Served. An original and 1 copy of the fast track response shall be filed with the clerk, and 1 copy shall be served on counsel for each party separately represented.

(2) Appendix.

(A) Joint Appendix. Counsel have a duty to confer and attempt to reach an agreement concerning a possible joint appendix.

(B) Respondent's Appendix. In the absence of an agreement respecting a joint appendix, respondent shall prepare and file an original and 1 copy of a separate appendix with the fast track response. Respondent shall serve a copy of the appendix on counsel for each party separately represented.

(C) Form and Contents. The preparation and contents of appendices shall comply with Rules 30 and 32 and shall be paginated sequentially.

(g) Filing of Supplemental Fast Track Statement and Response.

(1) Supplemental Fast Track Statement.

(A) When Permitted; Length. A supplemental fast track statement of not more than 5 pages or its equivalent calculated under the type-volume limitation provisions of Rule 3C(h)(2) may be filed when appellate counsel differs from trial counsel and can assert material issues that should be

considered but were not raised in the fast track statement.

(B) Time for Service and Filing; Number of Copies. When permitted under subparagraph (A), an original and 1 copy of a supplemental fast track statement shall be filed with the clerk, and 1 copy shall be served upon opposing counsel, no more than [~~20 days~~] 21 days after the fast track statement is filed or appellate counsel is appointed, whichever is later.

(2) Supplemental Fast Track Response. No later than [~~10 days~~] 14 days after a supplemental fast track statement is served, the respondent may file and serve a response of not more than 5 pages or its equivalent calculated under the type-volume limitation provisions of Rule 3C(h)(2).

* * *

(i) Extensions of Time.

(1) Preparation of Rough Draft Transcript.

(A) [~~Five-Day~~] Seven-Day Telephonic Extension. A court reporter or recorder may request by telephone a [~~5-day~~] 7-day extension of time to prepare a rough draft transcript if the preparation requires more time than is allowed under this Rule. If good cause is shown, the clerk or a designated deputy may grant the request by telephone or by written order of the clerk.

(B) Additional Extensions by Motion. Subsequent extensions of time for filing rough draft transcripts shall be granted only upon motion to the court. The motion shall justify the requested extension in light of the time limits provided in this Rule, and shall specify the exact length of the extension requested. Extensions of time for the filing of rough draft transcripts shall be granted only upon demonstration of good cause. Sanctions may be imposed if

a motion is brought without reasonable grounds.

(2) Fast Track Statement and Response; Supplemental Statement and Response.

(A) [~~Five-Day~~] Seven-Day Telephonic Extension. Counsel may request by telephone a [~~5-day~~] 7-day extension of time for filing fast track statements and responses, and supplemental fast track statements and responses. If good cause is shown, the clerk may grant the request by telephone or by written order of the clerk.

(B) Additional Extensions by Motion. Subsequent extensions of time for filing fast track statements and responses, and supplemental fast track statements and responses shall be granted only upon motion to the court. The motion shall justify the requested extension in light of the time limits provided in this Rule, and shall specify the exact length of the extension requested. Extensions of time for the filing of fast track statements and responses, and supplemental fast track statements and responses shall be granted only upon demonstration of extreme need or merit. Sanctions may be imposed if a motion is brought without reasonable grounds.

* * *

**RULE 3D. JUDICIAL DISCIPLINE: RIGHT TO APPEAL; HOW
TAKEN; RULES GOVERNING**

* * *

(d) Notice of Appeal. An appeal to the Supreme Court from a commission order shall be taken by filing a notice of appeal with the clerk of

the commission and serving a copy of the notice on the prosecuting counsel, if any. Filing and service must be made within [~~15 days~~] 14 days after service on the respondent of the commission's formal order of suspension, censure, removal, retirement, or other discipline, together with its formal findings of fact and conclusions of law. Upon the filing of the notice of appeal, the clerk of the commission shall immediately transmit to the clerk of the Supreme Court 2 file-stamped copies of the notice of appeal.

* * *

RULE 3E. FAST TRACK CHILD CUSTODY APPEALS

* * *

(c) Request for Transcripts or Rough Draft Transcripts.

(1) Rough Draft Transcript. For the purposes of this Rule, a rough draft transcript is a computer-generated transcript that can be expeditiously prepared in a condensed fashion, but is not proofread, corrected or certified to be an accurate transcript. A rough draft transcript shall:

(A) be printed on paper 8 1/2 by 11 inches in size, double-sided, with the words "Rough Draft Transcript" printed on the bottom of each page;

(B) be produced with a yellow cover sheet;

(C) include a concordance, indexing key words contained in the transcript; and

(D) include an acknowledgment by the court reporter or recorder that the document submitted pursuant to this Rule is a true original or copy of the rough draft transcript.

(2) Transcript Requests.

(A) Filing and Serving Request Form. The parties have a duty to confer and attempt to reach an agreement concerning the transcripts necessary for the court's review on appeal. When a transcript is necessary for an appeal, appellant shall file the transcript or rough draft transcript request form with the district court and shall serve a copy of the request form upon the court reporter or recorder and the opposing party. Appellant shall file and serve the request form within [~~10 days~~] 14 days of the date that the Supreme Court approves the settlement conference report indicating that the parties were unable to settle or, if the case was exempted or removed from the settlement program, within [~~10 days~~] 14 days of the date that the case was exempted or removed from the settlement program. Appellant shall file with the clerk of the Supreme Court 2 file-stamped copies of the transcript or rough draft transcript request form and proof of service of the form upon the court reporter or recorder and the opposing party. The transcript request form shall substantially comply with Form 3 or 11 in the Appendix of Forms unless the party filing the form is proceeding pro se, in which case the transcript request form shall substantially comply with Form 17 in the Appendix of Forms. If no transcript is to be requested, appellant shall file with the clerk of the Supreme Court and serve the opposing party with a certificate to that effect within the same period that the transcript request form must be filed and served under this subsection. Such a certificate shall substantially comply with Form 14 in the Appendix of Forms.

(B) Appellant shall order transcripts of only those portions of the proceedings that appellant reasonably and in good faith believes are necessary to determine the appellate issues.

(C) The court reporter or recorder shall submit an original

transcript or rough draft transcript, as requested by appellant, to the district court no more than ~~[20 days]~~ 21 days after the date that the request is served. The court reporter or recorder shall also deliver certified copies of the transcript or rough draft transcript to the requesting and opposing parties no more than ~~[20 days]~~ 21 days after the date when the request is served. Within ~~[5 days]~~ 7 days after delivering the certified copies of the rough draft transcript, the court reporter or recorder shall file with the clerk of the Supreme Court a certificate acknowledging delivery of the completed transcript and specifying the transcripts that have been delivered and the date that they were delivered to the requesting party. Form 15 in the Appendix of Forms is a suggested form of certificate of delivery. The preparation of transcripts shall conform with the provisions of this Rule.

(D) When a transcript request form is submitted by a pro se party who is proceeding in forma pauperis, the court reporter or recorder shall take no action on the request unless directed to do so by the Supreme Court or Court of Appeals in accordance with Rule 9(b).

(E) Relevant portions of the trial or hearing that were audio recorded or video recorded shall be submitted in typewritten form. The court will not accept audio- or videotapes in lieu of transcripts.

(3) Supplemental Request for Transcripts or Rough Draft Transcripts. The opposing party may make a supplemental request for portions of the transcript or rough draft transcript that were not previously requested. The request shall be made no more than ~~[5 days]~~ 7 days after appellant served the transcript request made pursuant to subsection (c)(2) of this Rule. In all other respects, the opposing party shall comply with the provisions of this Rule governing a transcript or rough draft transcript request when making a supplemental transcript request.

(4) Sufficiency of the Rough Draft Transcript. In the event that appellant elects to use rough draft transcripts, appellant shall be responsible for reviewing the sufficiency of the rough draft transcripts. In the event that a substantial question arises regarding a rough draft transcript's accuracy, the court may order the production of a certified transcript.

(d) Filing Fast Track Statement, Response and Appendix.

(1) Filing Fast Track Statement. Within 40 days after the Supreme Court approves the settlement conference report indicating that the parties were unable to settle the case or, if the appeal is removed or exempted from the settlement program, within 40 days after the appeal is removed or exempted, appellant and cross-appellant shall file and serve an original and 1 copy of both a fast track statement form and an appendix with the clerk of the Supreme Court and serve 1 copy of the fast track statement and appendix on the opposing party. The fast track statement shall substantially comply with Form 12 in the Appendix of Forms. The fast track statement shall not exceed 16 pages in length or shall comply with the type-volume limitations stated in Rule 3E(e)(2). The fast track statement shall include the following:

- (A) A statement of jurisdiction for the appeal;
- (B) A statement of the case and procedural history of the case;
- (C) A concise statement summarizing all facts material to a consideration of the issues on appeal;
- (D) An outline of the alleged district court error(s);
- (E) Legal argument, including authorities, pertaining to the alleged error(s) of the district court;
- (F) When applicable, a statement regarding the sufficiency of the rough draft transcript;
- (G) When applicable, a reference to all related or prior appeals,

including the appropriate citations for those appeals; and

(H) A statement, setting forth whether the matter should be retained by the Supreme Court or assigned to the Court of Appeals, including reference to any appropriate provisions in Rule 17. If the appellant believes that the Supreme Court should retain the case despite its presumptive assignment under Rule 17 to the Court of Appeals, the statement shall identify the specific issue(s) or circumstance(s) that warrant retaining the case and an explanation of their importance or significance.

(2) Filing Fast Track Response. Within [~~20 days~~] 21 days from the date a fast track statement is served, the respondent and cross-respondent shall file an original and 1 copy of a fast track response and serve 1 copy of the fast track response on the opposing party. The fast track response shall substantially comply with Form 13 in the Appendix of Forms. The fast track response shall not exceed 11 pages in length or shall comply with the type-volume limitations stated in Rule 3E(e)(2). The fast track response shall include additional authority and factual information necessary to rebut the contentions in the fast track statement. In cases involving a pro se appellant and/or cross-appellant, Rule 46A(c) shall not apply and the respondent/cross-respondent shall file a fast track response as required by this Rule.

(3) Expanded Fast Track Statement or Response. A party may seek leave of the court to expand the length of the fast track statement or response. The requesting party must demonstrate that the complexity of the case and the issues presented warrant granting the request. A request for expansion must be filed at least [~~10 days~~] 14 days before the fast track statement or response is otherwise due, and must specify the number of additional pages requested.

(4) Appendix. The parties have a duty under Rule 30 to confer and

attempt to reach an agreement concerning a possible joint appendix to be filed with the fast track statement. In the absence of an agreement respecting a joint appendix, appellant shall prepare and file a separate appendix with the fast track statement, and respondent may prepare and file a separate appendix with the fast track response. The preparation and contents of appendices shall comply with Rules 30 and 32 and shall be paginated sequentially. Every assertion in the fast track statement or response regarding matters in an appendix shall cite to the specific page number that supports that assertion.

(5) Pro Se Appellant; Appendix. A pro se appellant or cross-appellant shall not file an appendix. If the court's review of the record is necessary in such a case, the court may direct that the complete record be transmitted as provided in Rule 11(a)(2). Pro se parties are encouraged, but not required, to support assertions made in the fast track statement or response regarding matters in the record by citing to the specific page number in the record that supports the assertions.

* * *

(f) Extensions of Time.

(1) Transcripts or Rough Draft Transcripts. A court reporter or recorder may request, by telephone, a [~~5-day~~] 7-day extension of time for the preparation of a transcript or rough draft transcript if such preparation requires more time than is allowed under this Rule. The clerk of the Supreme Court or designated deputy may, for good cause, grant such requests by telephone or by written order.

(2) Fast Track Statements or Responses. Either party may request, by telephone, a [~~5-day~~] 7-day extension of time for filing a fast track statement

or response. The clerk of the Supreme Court or designated deputy may, for good cause, grant such requests by telephone or by written order.

(3) Subsequent Request for Extensions. Any subsequent request for an extension of time must be made by written motion to the court. The motion must justify the requested extension in light of the time limits provided in this Rule, and shall specify the exact length of the extension requested. Extensions of time for the filing of fast track statements and responses shall be granted only upon demonstration of extreme need or merit. Sanctions may be imposed if a subsequent motion for an extension of time is brought without reasonable grounds.

* * *

RULE 4. APPEAL—WHEN TAKEN

* * *

(b) Appeals in Criminal Cases.

(1) Time for Filing a Notice of Appeal.

(A) Appeal by Defendant or Petitioner. Except as otherwise provided in NRS 34.560(2), NRS 34.575(1), NRS 176.09183(6), NRS 177.055, and Rule 4(c), the notice of appeal by a defendant or petitioner in a criminal case shall be filed with the district court clerk within 30 days after the entry of the judgment or order being appealed.

(B) Appeal by the State. Except as otherwise provided in NRS 34.575(2), NRS 176.09183(4), and NRS 177.015(2), when an appeal by the state is authorized by statute, the notice of appeal shall be filed with the district

court clerk within 30 days after the entry of the judgment or order being appealed.

(2) Filing Before Entry of Judgment. A notice of appeal filed after the announcement of a decision, sentence or order—but before entry of the judgment or order—shall be treated as filed after such entry and on the day thereof.

(3) Effect of a Motion on a Notice of Appeal.

(A) If a defendant timely files a motion in arrest of judgment or a motion for a new trial on any ground other than newly discovered evidence and the motion has not been denied by oral pronouncement or entry of a written order when the judgment of conviction is entered, the notice of appeal from the judgment of conviction may be filed within 30 days after the entry of an order denying the motion.

(B) If a defendant files a motion for a new trial based on the ground of newly discovered evidence before entry of the judgment of conviction and the motion has not been denied by oral pronouncement or entry of a written order when the judgment of conviction is entered, the notice of appeal from the judgment of conviction may be filed within 30 days after the entry of an order denying the motion. If a defendant makes such a motion within 30 days after the entry of the judgment of conviction, the time for the defendant to file the notice of appeal from the judgment of conviction will be similarly extended.

(4) Entry Defined. A judgment or order is entered for purposes of this Rule when it is signed by the judge and filed with the clerk.

(5) Time for Entry of Judgment; Content of Judgment or Order in Postconviction Matters.

(A) Judgment of Conviction. The district court judge shall enter a written judgment of conviction within ~~[10 days]~~ 14 days after

sentencing.

(B) Order Resolving Postconviction Matter. The district court judge shall enter a written judgment or order finally resolving any postconviction matter within [~~20 days~~] 21 days after the district court judge's oral pronouncement of a final decision in such a matter. The judgment or order in any postconviction matter must contain specific findings of fact and conclusions of law supporting the district court's decision.

(C) Sanctions; Counsel's Failure to Timely Prepare Judgment or Order. The court may impose sanctions on any counsel instructed by the district court judge to draft the judgment or order and who does not submit the proposed judgment or order to the district court judge within the applicable time periods specified in Rule 4(b)(5).

(6) Withdrawal of Appeal. If an appellant no longer desires to pursue an appeal after the notice of appeal is filed, counsel for appellant shall file with the clerk of the Supreme Court a notice of withdrawal of appeal. The notice of withdrawal of appeal shall substantially comply with Form 8 in the Appendix of Forms.

(c) Untimely Direct Appeal From a Judgment of Conviction and Sentence.

(1) When an Untimely Direct Appeal From a Judgment of Conviction and Sentence May Be Filed. An untimely notice of appeal from a judgment of conviction and sentence may be filed only under the following circumstances:

(A) A postconviction petition for a writ of habeas corpus has been timely and properly filed in accordance with the provisions of NRS 34.720 to 34.830, asserting a viable claim that the petitioner was unlawfully deprived of the right to a timely direct appeal from a judgment of conviction and sentence;

and

(B) The district court in which the petition is considered enters a written order containing:

(i) specific findings of fact and conclusions of law finding that the petitioner has established a valid appeal-deprivation claim and is entitled to a direct appeal with the assistance of appointed or retained appellate counsel;

(ii) if the petitioner is indigent, directions for the appointment of appellate counsel, other than counsel for the defense in the proceedings leading to the conviction, to represent the petitioner in the direct appeal from the conviction and sentence; and

(iii) directions to the district court clerk to prepare and file—within ~~[5 days]~~ 7 days of the entry of the district court's order—a notice of appeal from the judgment of conviction and sentence on the petitioner's behalf in substantially the form provided in Form 1 in the Appendix of Forms.

(C) If a federal court of competent jurisdiction issues a final order directing the state to provide a direct appeal to a federal habeas corpus petitioner, the petitioner or his or her counsel shall file the federal court order within 30 days of entry of the order in the district court in which petitioner's criminal case was pending. The clerk of the district court shall prepare and file—within 30 days of filing of the federal court order in the district court—a notice of appeal from the judgment of conviction and sentence on the petitioner's behalf in substantially the form provided in Form 1 in the Appendix of Forms.

(2) Service by the District Court Clerk. The district court clerk shall serve certified copies of the district court's written order and the notice of appeal required by Rule 4(c) on the petitioner and petitioner's counsel in the postconviction proceeding, if any, the respondent, the Attorney General, the

district attorney of the county in which the petitioner was convicted, the appellate counsel appointed to represent the petitioner in the direct appeal, if any, and the clerk of the Supreme Court.

(3) Notice of Appeal Filed by Petitioner's Counsel or Petitioner. If the district court has entered an order containing the findings required by Rule 4(c)(1)(B) and the district court clerk has not yet prepared and filed the notice of appeal on the petitioner's behalf, the petitioner or petitioner's counsel may file the notice of appeal from the judgment of conviction and sentence.

(4) Motion to Dismiss Appeal. The state may challenge a district court's written order granting an appeal-deprivation claim by filing a motion to dismiss the appeal with the clerk of the Supreme Court within 30 days after the date on which the appeal is docketed in the Supreme Court. The state's motion to dismiss shall be properly supported with all documents relating to the district court proceeding that are necessary to the Supreme Court's or Court of Appeals' complete understanding of the matter.

(5) Effect on Procedural Bars. When a direct appeal of a criminal conviction and sentence is conducted under this Rule, the timeliness provisions governing any subsequent habeas corpus attack on the judgment shall begin to run upon the termination of the direct appeal, as provided in NRS 34.726(1) and NRS 34.800(2). A habeas corpus petition filed after a direct appeal conducted under this Rule shall not be deemed a "second or successive petition" under NRS 34.810(2).

* * *

**RULE 9. TRANSCRIPT; DUTY OF COUNSEL; DUTY OF THE COURT
REPORTER OR RECORDER**

(a) Counsel's Duty to Request Transcript.

(1) Necessary Transcripts.

(A) Counsel have a duty to confer and attempt to reach an agreement concerning the transcripts necessary for the court's review on appeal.

(B) Unless otherwise provided in these Rules, the appellant shall file a transcript request form in accordance with Rule 9(a)(3) when a verbatim record was made of the district court proceedings and the necessary portions of the transcript were not prepared and filed in the district court before the appeal was docketed under Rule 12.

(C) If no transcript is to be requested, the appellant shall file and serve a certificate to that effect within the period set forth in Rule 9(a)(3) for the filing of a transcript request form. Such a certificate shall substantially comply with Form 14 in the Appendix of Forms.

(2) Multiple Appeals. If more than one appeal is taken, each appellant shall comply with the provisions of this Rule.

(3) Transcript Request Form.

(A) Filing. The appellant shall file an original transcript request form with the district court clerk and 1 file-stamped copy of the transcript request form with the clerk of the Supreme Court no later than ~~[15 days]~~ 14 days from the date that the appeal is docketed under Rule 12.

(B) Service and Deposit. The appellant shall serve a copy of the transcript request form on the court reporter or recorder who recorded the proceedings and on all parties to the appeal within the time provided in subparagraph (A). The appellant must pay an appropriate deposit to the court

reporter or recorder at the time of service, unless appellant is proceeding in forma pauperis or is otherwise exempt from payment of the fees. Where several parties appeal from the same judgment or any part thereof, or there is a cross-appeal, the deposit shall be borne equally by the parties appealing, or as the parties may agree.

(C) Contents of Form. The appellant shall examine the district court minutes to ascertain the name of each court reporter or recorder who recorded the proceedings for which transcripts are necessary. The appellant shall prepare a separate transcript request form addressed to each court reporter or recorder who recorded the necessary proceedings, specifying only those proceedings recorded by the court reporter or recorder named on the request form. The transcript request form must substantially comply with Form 3 in the Appendix of Forms and must contain the following information:

- (i) Name of the judge or officer who heard the proceedings;
- (ii) Date or dates of the trial or hearing to be transcribed; individual dates must be specified, a range of dates is not acceptable;
- (iii) Portions of the transcript requested; specify the type of proceedings (e.g., suppression hearing, trial, closing argument);
- (iv) Number of copies required; and
- (v) A certification by appellant's counsel that the attorney has ordered the required transcripts and has paid the required deposits. This certification shall specify from whom the transcript was ordered, the date the transcript was ordered, and the date the deposit was paid.

(4) Number of Copies of Transcript; Costs. Appellant shall provide a copy of the certified transcript to counsel for each party appearing separately. Unless otherwise ordered, the appellant initially shall pay any costs associated with the preparation and delivery of the transcript. Where several parties

appeal from the same judgment or any part thereof, or there is a cross-appeal, the costs associated with the preparation and delivery of the transcript shall be borne equally by the parties appealing, or as the parties may agree.

(5) Supplemental Request. If the parties cannot agree on the transcripts necessary to the court's review, and appellant requests only part of the transcript, appellant shall request any additional parts of the transcript that the respondent considers necessary. Within ~~[10 days]~~ 14 days from the date the initial transcript request is filed, respondent shall notify appellant in writing of the additional portions required. Appellant shall have ~~[10 days]~~ 14 days thereafter within which to file and serve a supplemental transcript request form and pay any additional deposit required.

(6) In forma pauperis. In a civil case, if appellant is represented by counsel but has been permitted to proceed in forma pauperis or has filed a statement of legal aid eligibility under NRAP 24, counsel may request a waiver of the costs associated with the preparation and delivery of the transcripts by filing a motion with the clerk of the Supreme Court specifying each proceeding for which a transcript is requested and a statement explaining why each transcript is necessary for the court's review on appeal. The court may order that the transcripts be prepared at the expense of the county in which the proceeding occurred, but at a reduced rate established by the county in accordance with NRS 12.015(3).

(7) Consequences of Failure to Comply. A party's failure to comply with the provisions of this Rule may result in the imposition of sanctions, including dismissal of the appeal.

(b) Pro Se Parties' Duty to Request Transcripts in Civil Cases. A pro se appellant in a civil appeal shall identify and request all necessary transcripts. If no transcript is to be requested, the pro se appellant shall file

with the clerk of the Supreme Court and serve upon the parties a certificate to that effect within [~~15 days~~] 14 days of the date the appeal is docketed under Rule 12. Such a certificate shall substantially comply with Form 14 in the Appendix of Forms.

(1) Transcript Request Form.

(A) Filing. A pro se appellant shall have [~~15 days~~] 14 days from the date the appeal is docketed under Rule 12 to file an original transcript request form with the clerk of the Supreme Court. The transcript request form must substantially comply with Form 17 in the Appendix of Forms.

(B) Service, Deposit, and Costs. A pro se appellant who has not been granted in forma pauperis status shall serve a copy of the transcript request form on the court reporter or recorder who recorded the proceedings and on all parties to the appeal within the time provided in subparagraph (A) and must pay an appropriate deposit to the court reporter or recorder at the time of service. Upon receiving the transcript, the litigant(s) requesting that transcript shall file a copy of the transcript with the clerk of the Supreme Court.

(C) Pro Se Appellant Granted in Forma Pauperis Status. A pro se appellant proceeding in forma pauperis shall serve a copy of the transcript request form on all parties to the appeal within the time provided in subparagraph (A), but need not serve that document on the court reporter or recorder. The Supreme Court or Court of Appeals will review any completed transcript request forms and determine which transcripts, if any, shall be prepared and will issue an order directing the preparation of any necessary transcripts.

(2) Respondent's Request for Transcripts. Respondent may request any additional transcripts respondent considers necessary to the Supreme

Court's or Court of Appeals' review. A transcript request form prepared by a pro se respondent must substantially comply with Form 17 in the Appendix of Forms. A transcript request form prepared by counsel must substantially comply with Form 3 in the Appendix of Forms. Respondents shall have [~~10 days~~] 14 days from the date of service of appellant's transcript request form to request any transcripts that respondent deems necessary. If respondent requests a transcript, respondent shall furnish each party appearing separately with a copy of the transcript. Any costs associated with the preparation and delivery of a transcript requested by respondent shall be paid by the respondent unless otherwise ordered by the Supreme Court or Court of Appeals.

(c) Duty of the Court Reporter or Recorder.

(1) Preparation, Filing, and Delivery of Transcripts.

(A) Time to File and Deliver Transcripts. Upon receiving a transcript request form and the required deposit, the court reporter or recorder shall promptly prepare or arrange for the preparation of the transcript. Except as provided in Rule 9(c)(1)(B) and (c)(4), the court reporter or recorder shall—within 30 days after the date that a request form is served:

- (i) file the original transcript with the district court clerk; and
- (ii) deliver to the party ordering the transcript 1 certified copy and an additional certified copy for the appendix.

(B) Appellant's Failure to Pay Deposit. The court reporter or recorder is not obligated to prepare the transcript until receipt of the deposit required by Rule 9(a)(3)(B) or Rule 9(b)(1)(B). If appellant fails to timely pay the deposit, the court reporter or recorder must—no later than 30 days from the date that the transcript request form is served:

- (i) file with the clerk of the Supreme Court a written notice that

the deposit has not been received, setting forth the full amount of the deposit and the amount that remains unpaid; and

(ii) serve a copy of the notice on the party requesting the transcript.

(2) Notice to Clerk of the Supreme Court. Within [~~10 days~~] 14 days after the transcript is filed with the district court and delivered to the requesting party, the court reporter or recorder shall file with the clerk of the Supreme Court a notice that the completed transcript has been filed and delivered. The notice shall specify the transcripts that have been filed and delivered and the date that those transcripts were filed and delivered. Form 15 in the Appendix of Forms is a suggested form of certificate of delivery.

(3) Format of Transcript. A certified transcript may be produced in a conventional page-for-page format. A concordance indexing keywords in the transcript shall be provided.

(4) Extension of Time to Deliver Transcript.

(A) Motion Required. If the court reporter or recorder cannot deliver a transcript within the time provided in Rule 9(c)(1)(A), the reporter or recorder shall seek an extension of time by filing a written motion with the clerk of the Supreme Court on or before the date that the transcripts are due.

(B) Supporting Documentation and Affidavits. A motion to extend the time for delivering a transcript shall be accompanied by the affidavit of the court reporter or recorder setting forth the reasons for the requested extension and the length of additional time needed to prepare the transcript.

(C) Service. The motion must be served on the party requesting the transcript.

(D) Standard for Granting. Requests for extensions of time to prepare a transcript will be closely scrutinized and will be granted only upon

a showing of good cause.

(5) Sanctions for Failure to Comply. A court reporter or recorder who fails to file and deliver a timely transcript without sufficient cause as provided in Rule 9(c)(4) may be subject to sanctions under Rule 13.

(d) Statement of the Evidence When the Proceedings Were Not Recorded or When a Transcript Is Unavailable. If a hearing or trial was not recorded, or if a transcript is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection. The statement shall be served on the respondent, who may serve objections or proposed amendments within [~~10 days~~] 14 days after being served. The statement and any objections or proposed amendments shall then be submitted to the district court for settlement and approval. As settled and approved, the statement shall be included by the district court clerk in the trial court record, and the appellant shall include a file-stamped copy of the statement in an appendix filed with the clerk of the Supreme Court.

**RULE 12A. REMAND AFTER AN INDICATIVE RULING
BY THE DISTRICT COURT ON A MOTION FOR RELIEF
THAT IS BARRED BY A PENDING APPEAL**

(a) Notice to the Appellate Court. If a timely motion is made in the district court for relief that it lacks authority to grant because of an appeal that has been docketed and is pending, the movant must promptly notify the clerk of the Supreme Court if the district court states either that it would grant the motion or that the motion raises a substantial issue.

(b) Remand After an Indicative Ruling. If the district court states that it would grant the motion or that the motion raises a substantial issue,

the Supreme Court or the Court of Appeals may remand for further proceedings but the appellate court retains jurisdiction unless it expressly dismisses the appeal. If the appellate court remands but retains jurisdiction, the parties must promptly notify the clerk of the Supreme Court when the district court has decided the motion on remand.

Advisory Committee Note—2019 Amendment

This new rule is modeled on FRAP 12.1 and works in conjunction with new NRCP 62.1. Like its federal counterpart, Rule 12A does not attempt to define the circumstances in which a pending appeal limits or defeats the district court's authority to act. See FRAP 12.1 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, consistent with *Huneycutt v. Huneycutt*, 94 Nev. 79, 575 P.2d 585 (1978), and its progeny.

RULE 14. DOCKETING STATEMENT

* * *

(b) Time for Filing; Form of Docketing Statement. Within [~~20 days~~] 21 days after docketing of the appeal under Rule 12, the appellant shall file a docketing statement with the clerk of the Supreme Court, on a form provided by the clerk. Legible photostatic copies of the original form provided by the clerk will be accepted by the clerk for filing in lieu of the original form. The appellant may file a docketing statement that is not on the form provided by the clerk so long as it contains every question included in the clerk's form.

An original and 2 copies shall be filed, together with proof of service of a copy of the completed statement on all parties and, if the appeal is assigned to the settlement conference program under Rule 16, on the settlement judge.

* * *

RULE 16. SETTLEMENT CONFERENCES IN CIVIL APPEALS

* * *

(d) Settlement Statement.

(1) Each party to the appeal shall submit a settlement statement directly to the settlement judge within [~~15 days~~] 14 days from the date of the clerk's assignment notice. A settlement statement shall not be filed with the Supreme Court and shall not be served on opposing counsel.

(2) A settlement statement is limited to 10 pages, and shall concisely state: (1) the relevant facts; (2) the issues on appeal; (3) the argument supporting the party's position on appeal; (4) the weakest points of the party's position on appeal; (5) a settlement proposal that the party believes would be fair or would be willing to make in order to conclude the matter; and (6) all matters which, in counsel's professional opinion, may assist the settlement judge in conducting the settlement conference. Form 10 in the Appendix of Forms is a suggested form of a settlement statement.

(e) Settlement Conference. The settlement conference shall be held at a time and place designated by the settlement judge.

(1) Attendance. Counsel for all parties and their clients must attend the conference. The settlement judge may, for good cause shown, excuse a

client's attendance at the conference, provided that counsel has written authorization to resolve the case fully or has immediate telephone access to the client.

(2) Agenda. The agenda for the settlement conference and the sequence of presentation shall be at the discretion of the settlement judge. A subsequent settlement conference may be conducted by agreement of the parties or at the direction of the settlement judge.

(3) Settlement Conference Status Reports. Within [~~10 days~~] 14 days from the date of any settlement conference, the settlement judge shall file a settlement conference status report. The report must state the result of the settlement conference, but shall not disclose any matters discussed at the conference.

(4) Settlement Documents. If a settlement is reached, the parties shall immediately execute a settlement agreement and a stipulation to dismiss the appeal, and shall file the stipulation to dismiss with the clerk of the Supreme Court. The settlement agreement does not need to be filed with the Supreme Court.

* * *

RULE 25. FILING AND SERVICE

(a) Filing.

(1) Filing With the Clerk. A paper required or permitted to be filed in the court shall be filed with the clerk as provided by this Rule.

(2) Filing: Method and Timeliness.

(A) Filing may be accomplished by mail addressed to the clerk at the Supreme Court of Nevada, 201 South Carson Street, Suite 201, Carson

City, Nevada 89701-4702.

(B) Unless the court by order in a particular case directs otherwise, a document is timely filed if, on or before the last day for filing, it is:

(i) delivered to the clerk in person in Carson City;

(ii) mailed to the clerk by first-class mail, or other class of mail that is at least as expeditious, postage prepaid;

(iii) dispatched to a third-party commercial carrier for delivery to the clerk within 3 [~~calendar~~] days;

(iv) deposited in the Supreme Court drop box as provided in Rule 25(a)(3);

(v) transmitted directly to the clerk by facsimile transmission as provided in Rule 25(a)(4); or

(vi) electronically transmitted to the court's electronic filing system consistent with NEFCR 8.

(3) Clerk's Drop Box. A paper may be submitted for filing with the clerk of the Supreme Court by means of the clerk's drop box as provided in this Rule.

(A) Papers Eligible for Drop Box Submission. A paper required or permitted to be filed in the court may be deposited in the drop box located in the Las Vegas office of the clerk of the Supreme Court. A document that requires the payment of a filing fee may be deposited in the drop box accompanied by the filing fee in the form of a check or money order payable to the clerk. No cash shall be deposited in the drop box.

(B) Requests for Emergency or Expedited Relief. A request for emergency or expedited relief, or a response thereto, should not be deposited in the drop box. To ensure timely consideration by the Supreme Court or Court of Appeals, counsel must submit such documents to the clerk's

office in Carson City by the most expeditious means feasible, such as overnight delivery, same-day courier service, or facsimile transmission as provided for in Rule 25(a)(4).

(C) Procedure. A paper may be deposited in the drop box during all hours the Las Vegas office is open. Before being placed in the drop box, a paper must be date and time stamped and enclosed in a sealed envelope. Filing is timely if, on or before the last day of the prescribed filing period, the document is properly date and time stamped and deposited in the drop box. A document is properly date and time stamped if the original document, or the envelope containing the document, bears the drop box stamp. Stamping of copies submitted to the court is not required.

(D) Transmission of Documents to Carson City. A document will be transmitted to the clerk's office in Carson City the next judicial day after its deposit in the drop box. Upon receiving the papers in Carson City, the clerk shall process them in accordance with these Rules.

(4) Filing by Facsimile Transmission. A paper may be filed with the clerk of the Supreme Court by means of facsimile transmission as provided in this Rule.

(A) In Cases Involving Death Penalty. Documents that relate to stays of execution in death penalty cases will be received for filing by the clerk of the Supreme Court through facsimile transmission to the facsimile machine situated in the office of the clerk in Carson City. Such transmission may be made whenever counsel believes that the client's interests will be served.

(B) In Other Cases. In all other cases, documents may be received for filing by the clerk through facsimile transmission only in cases of emergency, and only if an oral request for permission to do so has first been

tendered to the clerk and approved, upon a showing of good cause, by any justice or judge or the clerk.

(C) Procedure. In all instances, including matters relating to stays of execution in death penalty cases, counsel must first notify the clerk of counsel's intention to transmit documents by facsimile. In all cases not involving stays of execution of the death penalty, counsel must be advised by the clerk that approval has been granted under Rule 25(a)(4)(B) before any document may be transmitted. Upon receiving the transmitted documents, the clerk shall make the number of photocopies of the transmissions required by these Rules and shall file the photocopies.

(D) Original; Service. In all cases where a document has been facsimile transmitted and filed under this Rule, counsel must file the original document with the clerk, in the manner provided in Rule 25(a)(2)(B)(i)-(iii), within 3 [~~judicial~~] days of the date of the facsimile transmission. The original shall be accompanied by proof of service on all parties as required by Rule 25(d). A copy of a document filed by facsimile transmission shall be served on all parties to the appeal or review by facsimile transmission and by mail at the time the document is filed with the court.

(E) Costs. The party filing a document by means of facsimile transmission shall be responsible for all costs of the facsimile transmission and the costs of photocopying the documents transmitted. The clerk of the Supreme Court shall promptly inform counsel of the amount of costs. Such costs shall be paid within [~~10 days~~] 14 days of the date of the facsimile request.

(5) Original Signature and Bar Number Required. All documents submitted to the court for filing by a represented party shall include the original signature of at least 1 attorney of record who is an active member of the bar of this state, and the address, telephone number, and State Bar of

Nevada identification number of the attorney and of any associated attorney appearing for the party filing the paper. All documents submitted to this court for filing by unrepresented parties shall include the original signature of the party and shall state the party's address and telephone number.

* * *

(c) Manner of Service.

(1) Service may be any of the following:

(A) personal, including delivery of the copy to a clerk or other responsible person at the office of counsel;

(B) by mail;

(C) by third-party commercial carrier for delivery within 3 ~~calendar~~ days;

(D) by electronic means, if the party being served consents in writing; or

(E) notice by electronic means to registered users of the court's electronic filing system consistent with NEFCR 9.

(2) When reasonable, considering such factors as the immediacy of the relief sought, distance, and cost, service on a party shall be by a manner at least as expeditious as the manner used to file the paper with the court.

(3) Service by mail or by commercial carrier is complete on mailing or delivery to the carrier. Service by electronic means under Rule 25(c)(1)(D) is complete on transmission, unless the party making service is notified that the paper was not received by the party served. Service through the court's electronic filing system under Rule 25(c)(1)(E) is complete at the time that the ~~[court or electronic filing system transmits notice that the document~~

~~has been filed and is available on]~~ document is submitted to the court's electronic filing system.

* * *

RULE 26. COMPUTING AND EXTENDING TIME

~~[(a) Computing Time. The following rules apply in computing any period of time specified in these Rules, a court order, or an applicable statute:~~

~~(1) Exclude the day of the act, event, or default that begins the period.~~

~~(2) Exclude intermediate Saturdays, Sundays, and nonjudicial days when the period is less than 11 days, unless the period is stated as a specific date.~~

~~(3) Include the last day of the period unless it is a Saturday, Sunday, or a nonjudicial day, or — if the act to be done is filing a paper in court — a day on which the weather or other conditions make the clerk's office inaccessible, in which event the period extends until the end of the next day that is not a Saturday, Sunday, or a nonjudicial day.]~~

(a) Computing Time. The following rules apply in computing any time period specified in these rules, in any appellate court order, or in any 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 event that triggers the period;

(B) count every day, including intermediate Saturdays, Sundays,

and legal holidays; and

(C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, 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 26(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 26(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 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;

(B) for filing under Rules 4(d) and 25(a)(2)(B)(ii) and (iii), at the latest time for the method chosen for delivery to the post office, third-party commercial carrier, or prison mailing system;

(C) for filing via the Supreme Court clerk’s drop box under Rule 25(a)(2)(b)(iv), when the Supreme Court building in Las Vegas is scheduled to close; and

(D) for filing by other means, when the 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) By Court Order.

(A) For good cause, the court may extend the time prescribed by these Rules or by its order to perform any act, or may permit an act to be done after that time expires. But the court may not extend the time to file a notice of appeal except as provided in Rule 4(c).

(B) Except as otherwise provided in these Rules, ~~[counsel]~~ a party may, on or before the due date sought to be extended, request by telephone a single 14-day extension of time for performing any act except the filing of a notice of appeal. If good cause is shown, the clerk may grant such a request by telephone or by written order of the clerk. The grant of an extension of time to perform an act under this Rule will bar any further ~~[motion for additional]~~ extensions of time to perform the same act unless ~~[such a motion, which must be in writing, demonstrates]~~ the party files a written motion for an extension of time demonstrating extraordinary and compelling [circumstances.] circumstances why a further extension of time is necessary.

(2) By Stipulation. Except as otherwise provided in these Rules, or

when not otherwise controlled by statute, the time prescribed by these Rules to perform any act may be extended once for appellant(s) and once for respondent(s) by stipulation of the parties. No stipulation extending time is effective unless approved by the court or a justice or judge thereof; and such stipulations must be filed before expiration of the time period that is sought to be extended.

(c) Additional Time After Service. When a party is required or permitted to act within a prescribed period after a paper is served on that party, 3 ~~[calendar]~~ days are added to the prescribed period unless the paper is delivered on the date of service stated in the proof of ~~[service or unless the party being served is a registered user of the electronic filing system.]~~ service. For purposes of this Rule 26(c), a paper that is served electronically is treated as delivered on the date of service stated in the proof of service. Specific due dates set by court order or acts required to be taken within a time period set forth in ~~[the]~~ a court order are not subject to ~~[this]~~ the additional 3-day allowance.

* * *

Advisory Committee Note—2019 Amendment

Subsection (a). Rule 26(a) is modeled on FRAP 26(a) and changes time deadline calculations so that all deadlines 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 has required revisions to other NRAP. 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, some periods have been lengthened. In general,

periods of time of 5 or fewer days were lengthened to 7 days, and periods of time between 6 and 15 days were 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 facilitates “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 timelines 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). The amendments to Rule 26(b)(1)(B) synchronize it with telephonic requests for an extension of time in Rule 31(b).

Subsection (c). In conjunction with the amendments to the Nevada Electronic Filing and Conversion Rules (NEFCR), the amendments to Rule 26(c) clarify that electronic filing does not trigger an additional 3 days to respond. The companion amendments to the NRCP and NEFCR eliminate former inconsistent provisions providing for three days to be added when service is made electronically. The amendments to the NEFCR also require the simultaneous filing and service of documents on submission to a court’s electronic filing system. 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.

RULE 27. MOTIONS

(a) In General.

(1) Application for Relief. An application for an order or other relief

is made by motion unless these Rules prescribe another form. A motion must be in writing and be accompanied by proof of service.

(2) Contents of a Motion. A motion must state with particularity the grounds for the motion, the relief sought, and the legal argument necessary to support it. The motion shall contain or be accompanied by any matter required by a specific provision of these Rules governing such a motion. If a motion is supported by affidavits or other papers, they shall be served and filed with the motion.

(3) Response.

(A) Time to File. Any party may file a response to a motion; Rule 27(a)(2) governs its contents. The response must be filed within 7 days after service of the motion unless the court shortens or extends the time. A motion authorized by Rules 8 or 41 may be acted upon after reasonable notice to the parties that the court intends to act sooner.

(B) Request for Affirmative Relief. A response may include a motion for affirmative relief. The time to respond to the new motion is governed by Rule 27(a)(3)(A). The title of the response must alert the court to the request for relief.

(4) Reply to Response. Any reply to a response shall be filed within [~~5 days~~] 7 days after service of the response. A reply shall not present matters that do not relate to the response.

* * *

(c) Power of a Single Justice or Judge to Entertain Motions; Delegation of Authority to Entertain Motions.

(1) Authority of the Court of Appeals to Entertain Motions. The

Court of Appeals and its judges may entertain motions in appeals that the Supreme Court has transferred to that court.

(2) Order of a Single Justice or Judge. In addition to the authority expressly conferred by these Rules or by law, a justice or judge of the Supreme Court or Court of Appeals may act alone on any motion but may not dismiss or otherwise determine an appeal or other proceeding. The Supreme Court or Court of Appeals may provide that only the Supreme Court or Court of Appeals may act on any motion or class of motions. The court may review the action of a single justice or judge.

(3) Clerk's Orders.

(A) Procedural Motions. The chief justice or judge may delegate to the clerk authority to decide motions that are subject to disposition by a single justice or judge. An order issued by the clerk under this Rule shall be subject to reconsideration by a single justice or judge pursuant to motion filed within ~~[10 days]~~ 14 days after entry of the clerk's order.

(B) Orders of Dismissal. The Supreme Court or Court of Appeals may delegate to the clerk authority to enter orders of dismissal in civil cases where the appellant has filed a motion or parties to an appeal or other proceeding have signed and filed a stipulation that the proceeding be dismissed, specifying terms as to the payment of costs.

* * *

RULE 28.1. CROSS-APPEALS

* * *

(f) Time to Serve and File a Brief. Unless the court orders a different briefing schedule in a particular case, briefs in cross-appeals must be served and filed as provided in this Rule. Motions for extensions of time are governed by Rule 31(b).

(1) All Cross-Appeals Except Child Custody and Visitation.

(A) the appellant's opening brief, within 120 days after the date on which the appeal is docketed in the Supreme Court;

(B) the respondent's combined answering brief on appeal and opening brief on cross-appeal, within 30 days after the appellant's opening brief is served;

(C) the appellant's combined reply brief on appeal and answering brief on cross-appeal, within 30 days after the respondent's combined answering brief on appeal and opening brief on cross-appeal is served; and

(D) the respondent's reply brief on cross-appeal, within 14 days after the appellant's combined reply brief on appeal and answering brief on cross-appeal is served.

(2) Cross-Appeals Involving Child Custody or Visitation.

(A) the appellant's opening brief, within 90 days after the date on which the appeal is docketed in the Supreme Court;

(B) the respondent's combined answering brief on appeal and opening brief on cross-appeal, within [~~20 days~~] 21 days after the appellant's opening brief is served;

(C) the appellant's combined reply brief on appeal and answering brief on cross-appeal, within [~~20 days~~] 21 days after the respondent's combined answering brief on appeal and opening brief on cross-appeal is served; and

(D) the respondent's reply brief on cross-appeal, within [~~10 days~~]

14 days after the appellant's combined reply brief on appeal and answering brief on cross-appeal is served.

RULE 28.2. ATTORNEY'S CERTIFICATE

(a) Certificate Required Upon Filing of Any Brief. Any brief submitted for filing on behalf of a party represented by counsel must contain a certificate signed by at least 1 attorney of record who is an active member of the bar of this state. This certificate must substantially comply with Form 9 in the Appendix of Forms, and must contain the following information:

(1) A representation that the signing attorney has read the brief;

(2) A representation that to the best of the attorney's knowledge, information and belief, the brief is not frivolous or interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(3) A representation by the signing attorney that the brief complies with all applicable Nevada Rules of Appellate Procedure, including the requirement of Rule 28(e) that every assertion in the briefs regarding matters in the record be supported by a reference to the page and volume number, if any, of the appendix where the matter relied on is to be found; and

(4) A representation that the brief complies with the formatting requirements of Rule 32(a)(4)-(6), and either the page- or type-volume limitations stated in Rule 32(a)(7).

(b) Striking a Brief Without the Required Certificate. If a brief does not contain the certification required by this Rule, it shall be stricken unless such a certification is provided within [~~10 days~~] 14 days after the omission is called to the attorney's attention.

~~[(b)]~~ **(c) Sanctions.** The Supreme Court or Court of Appeals may

impose sanctions against an attorney whose certification is incomplete or inaccurate. In addition, the Supreme Court or Court of Appeals may impose sanctions against any attorney who, upon being informed that the brief does not contain the certificate provided for by subsection (a), fails to cure the deficiency within [~~10 days~~] 14 days after the omission is called to his or her attention.

RULE 31. FILING AND SERVICE OF BRIEFS

(a) Time for Serving and Filing Briefs. Unless a different briefing schedule is provided by a court order in a particular case or by these or any other court rules, parties shall observe the briefing schedule set forth in this Rule.

(1) All Appeals Except Child Custody, Visitation, or Capital Cases.

(A) The appellant shall serve and file the opening brief within 120 days after the date on which the appeal is docketed in the Supreme Court.

(B) The respondent shall serve and file the answering brief within 30 days after the appellant's brief is served.

(C) The appellant's reply brief must be served and filed within 30 days after the respondent's brief is served.

(2) Child Custody or Visitation Cases. If an appeal is taken from any district court order affecting the custody or visitation of minor children, including actions seeking termination of parental rights:

(A) The appellant shall serve and file the opening brief within 90 days after the date on which the appeal is docketed in the Supreme Court.

(B) The respondent shall serve and file the answering brief within [~~20 days~~] 21 days after the appellant's brief is served.

(C) The appellant's reply brief must be served and filed within [~~10 days~~] 14 days after the respondent's brief is served.

(D) The Supreme Court or Court of Appeals may order oral argument at its discretion. Where oral argument is not ordered, the matter shall be submitted for decision on the briefs and the appendix within 60 days of the date that the final brief is due.

(3) Direct Appeals in Capital Cases. On direct appeal from a judgment of conviction and sentence of death:

(A) The appellant shall serve and file the opening brief within 120 days from the date that the record on appeal is filed in the Supreme Court.

(B) The respondent shall serve and file the answering brief within 60 days after the appellant's brief is served.

(C) The appellant's reply brief must be served and filed within 45 days after the respondent's brief is served.

(4) Postconviction Appeals in Capital Cases. On appeal from a judgment or order resolving an application for postconviction relief in a capital case:

(A) The appellant shall serve and file the opening brief within 120 days after the date on which the appeal is docketed in the Supreme Court.

(B) The respondent shall serve and file the answering brief within 30 days after service of the opening brief.

(C) The appellant's reply brief must be served and filed within 30 days after the respondent's brief is served.

(b) Extensions of Time for Filing Briefs.

(1) Telephonic Requests. A party may request by telephone a single [~~5-day~~] 14-day extension of time for filing a brief under Rule 26(b)(1)(B). A telephonic request may be made only if there have been no prior requests for

extension of time for filing the brief. [~~Subsequent requests for extensions of time for filing a brief may be made by stipulation if permitted under Rule 31(b)(2) or by~~] No further extensions for filing the brief may be granted except on motion under Rule 31(b)(3).

(2) Stipulations. Unless the court orders otherwise, in all appeals except child custody, visitation, or capital cases, the parties may extend the time for filing any brief for a total of 30 days beyond the due dates set forth in Rule 31(a)(1) by filing a written stipulation with the clerk of the Supreme Court on or before the brief's due date. No extensions of time by stipulation are permitted in child custody, visitation, or capital cases.

(3) Motions for Extensions of Time. A motion for extension of time for filing a brief may be made no later than the due date for the brief and must comply with the provisions of this Rule and Rule 27.

(A) Contents of Motion. A motion for extension of time for filing a brief shall include the following:

- (i) The date when the brief is due;
- (ii) The number of extensions of time previously granted (including a [~~5-day~~] 14-day telephonic extension), and if extensions were granted, the original date when the brief was due;
- (iii) Whether any previous requests for extensions of time have been denied or denied in part;
- (iv) The reasons or grounds why an extension is [~~necessary;~~] necessary (including demonstrating extraordinary and compelling circumstances under Rule 26(b)(1)(B), if required); and
- (v) The length of the extension requested and the date on which the brief would become due.

(B) Motions in All Appeals Except Child Custody,

Visitation, or Capital Cases. Applications for extensions of time beyond that to which the parties are permitted to stipulate under Rule 31(b)(2) are not favored. The court will grant an initial motion for extension of time for filing a brief only upon a clear showing of good cause. The court shall not grant additional extensions of time except upon a showing of extraordinary circumstances and extreme need.

(C) Motions in Child Custody or Visitation Cases. The court will grant a motion for extension of time for filing a brief in child custody or visitation cases only in extraordinary cases that present unforeseeable circumstances justifying an extension of time.

(D) Motions in Capital Cases. The Supreme Court may grant an initial motion for an extension of time of up to 60 days for filing a brief in a capital case upon a showing of good cause. The court shall not grant additional extensions of time except upon a showing of extraordinary circumstances and extreme need.

* * *

(e) Supplemental Authorities. When pertinent and significant authorities come to a party's attention after the party's brief has been filed, but before a decision, a party may promptly advise the Supreme Court or Court of Appeals by filing and serving a notice of supplemental authorities, setting forth the citations. The notice shall provide references to the page(s) of the brief that is being supplemented. The notice shall further state concisely and without argument the legal proposition for which each supplemental authority is cited. The notice may not raise any new points or issues. Any response must be made promptly and must be similarly limited. If filed less than [~~10 days~~] 14 days

before oral argument, a notice of supplemental authorities shall not be assured of consideration by the court at oral argument; provided, however, that no notice of supplemental authorities shall be rejected for filing on the ground that it was filed less than [~~10 days~~] 14 days before oral argument.

Advisory Committee Note—2019 Amendment

The amendments to Rule 31(b) synchronize it with telephonic requests for an extension of time in Rule 26(b)(1)(B).

RULE 35. DISQUALIFICATION OF A JUSTICE OR JUDGE

(a) Motion for Disqualification. A request that a justice or judge of the Supreme Court or Court of Appeals be disqualified from sitting in a particular case shall be made by motion. Unless the court permits otherwise, the motion shall be in writing and shall be in the form required by Rule 27.

(1) Time to File. A motion to disqualify a justice or judge shall be filed with the clerk of the Supreme Court within 60 days after docketing of the appeal under Rule 12, together with proof of service on all other parties. Except for good cause shown, the failure to file a timely motion to disqualify shall be deemed a waiver of the moving party's right to object to a justice's or judge's participation in a case.

(2) Contents of a Motion.

(A) Grounds, Supporting Facts, and Legal Authorities. A motion shall state clearly and concisely in separately numbered paragraphs each ground relied upon as a basis for disqualification with the specific facts alleged in support thereof and the legal argument, including citations to relevant cases, statutes or rules, necessary to support it.

(B) Verification. All assertions of fact in a motion must be

supported by proper sworn averments in an affidavit or by citations to the specific page and line where support appears in the record of the case.

(i) A verification by affidavit shall be served and filed with the motion.

(ii) The affidavit shall be made upon personal knowledge by a person or persons affirmatively shown competent to testify and shall set forth only those facts that would be admissible in evidence.

(iii) The affidavit shall set forth the date or dates when the moving party first became aware of the facts set forth in the motion.

(C) Attorney's Certificate. A motion under this Rule filed by a party represented by counsel shall contain a certificate signed by at least 1 attorney of record who is an active member of the bar of this state. The certificate must contain the following information:

(i) A representation that the signing attorney has read the motion and supporting documents;

(ii) A representation that the motion and supporting documents are in the form required by this Rule; and

(iii) A representation that, based on personal investigation, the signing attorney believes all grounds asserted to be legally valid and all supporting factual allegations to be true, and that the motion is made in good faith and not for purposes of delay or for other improper motive.

(D) Striking a Motion Without an Attorney's Certificate. If a motion does not contain the certification required by [~~this Rule,~~] Rule 35(a)(2)(C), it shall be stricken unless such a certification is provided within [~~10 days~~] 14 days after the omission is called to the attorney's attention.

(b) Response.

(1) By a Party. Any party may file a response to a motion to disqualify

a justice or judge. The response shall be filed within [~~10 days~~] 14 days after service of the motion unless the court shortens or extends the time.

(2) By the Justice or Judge. The challenged justice or judge may submit a response to the motion in writing or orally at any hearing that may be ordered by the court.

(c) Reply. A reply may not be filed unless permission is first obtained from the court.

RULE 36. ENTRY OF JUDGMENT

* * *

(f) Motion to Reissue an Order as an Opinion. A motion to reissue an unpublished disposition or order as an opinion to be published in the *Nevada Reports* may be made under the provisions of this subsection by any interested person. With respect to the form of such motions, the provisions of Rule 27(d) apply; in all other respects, such motions must comply with the following:

(1) Time to File. Such a motion shall be filed within [~~15 days~~] 14 days after the filing of the order. Parties may not stipulate to extend this time period, and any motion to extend this time period must be filed before the expiration of the [~~15-day~~] 14-day deadline.

(2) Response. No response to such a motion shall be filed unless requested by the court.

(3) Contents. Such a motion must be based on one or more of the criteria for publication set forth in Rule 36(c)(1)(A)-(C). The motion must state concisely and specifically on which criteria it is based and set forth argument

in support of such contention. If filed by or on behalf of a nonparty, the motion must also identify the movant and his or her interest in obtaining publication.

(4) Decision. The granting or denial of a motion to publish is entrusted to the sound discretion of the panel that issued the disposition. Publication is disfavored if revisions to the text of the unpublished disposition will result in discussion of additional issues not included in the original decision.

RULE 39. COSTS

* * *

(c) Costs of Briefs, Appendices, Counsel's Transportation; Limitation.

(1) Costs of Copies. The cost of producing necessary copies of briefs or appendices shall be taxable in the Supreme Court or Court of Appeals at rates not higher than those generally charged for such work in the area where the district court is located.

(2) Costs of Counsel's Transportation. The actual costs of round trip transportation for one attorney, actually attending arguments before the Supreme Court or Court of Appeals, between the place where the district court is located and the place where the appeal is argued shall be taxable. For the purpose of this Rule, "actual costs" for private automobile travel shall be deemed to be 15 cents per mile, but where commercial air transportation is available at a cost less than private automobile travel, only the cost of the air transportation shall be taxable.

(3) Bill of Costs. A party who wants such costs taxed shall—within 14 days after entry of judgment—file an itemized and verified bill of costs with

the clerk, with proof of service.

(4) Objections. Objections to a bill of costs shall be filed within [~~5 days~~] 7 days after service of the bill of costs, unless the court extends the time.

(5) Limit on Costs. The maximum amount of costs taxable under this section shall be \$500.

* * *

RULE 40. PETITION FOR REHEARING

* * *

(d) Answer; Reply. No answer to a petition for rehearing or reply to an answer shall be filed unless requested by the court. Unless otherwise ordered by the court, the answer to a petition for rehearing shall be filed within [~~15 days~~] 14 days after entry of the order requesting the answer. A petition for rehearing will ordinarily not be granted in the absence of a request for an answer.

* * *

RULE 40A. PETITION FOR EN BANC RECONSIDERATION

* * *

(b) Time for Filing; Effect of Filing on Finality of Judgment. Any party may petition for en banc reconsideration of a Supreme Court panel's

decision within [~~10 days~~] 14 days after written entry of the panel's decision to deny rehearing. The 3-day mailing period set forth in Rule 26(c) does not apply to the time limits set by this Rule. No petition for en banc reconsideration of a Supreme Court panel's decision to grant rehearing is allowed; however, if a panel grants rehearing, any party may petition for en banc reconsideration of the panel's decision on rehearing within [~~10 days~~] 14 days after written entry of the decision. If no petition for rehearing of the Supreme Court panel's decision is filed, then no petition for en banc reconsideration is allowed.

* * *

(e) Answer and Reply. No answer to a petition for en banc reconsideration or reply to an answer shall be filed unless requested by the court. Unless otherwise ordered by the court, the answer to a petition for en banc reconsideration shall be filed within [~~15 days~~] 14 days after entry of the order requesting the answer. A petition for en banc reconsideration will ordinarily not be granted in the absence of a request for an answer.

* * *

RULE 46. ATTORNEYS

(a) Practice Before Supreme Court or Court of Appeals—Bar Membership Required; Exceptions.

(1) Bar Membership Required. No person may practice law before the Supreme Court or Court of Appeals who is not an active member of the State Bar of Nevada except as provided by SCR 42 and subject to Rule 46(a)(3).

(2) Appearance of Counsel. Counsel for each party shall file a formal

written notice of appearance as counsel of record on appeal within [~~10 days~~ 14 days] after service of the notice of appeal. A notice of appeal signed by an attorney will be treated as a notice of appearance by that attorney. An attorney who will participate in oral argument of a case must have filed a written notice of appearance with the clerk of the Supreme Court no later than [~~5 days~~ 7 days] before the date set for oral argument.

(3) Foreign Counsel. If foreign counsel has been granted permission to appear under SCR 42 upon a motion in district court, that attorney must file a copy of the district court's order with the clerk of the Supreme Court. If foreign counsel appears before the Supreme Court or Court of Appeals in the first instance, that attorney must file a motion in the Supreme Court or Court of Appeals as provided by SCR 42. If foreign counsel is associated on the briefs or any other documents submitted for filing, all such briefs and documents shall be signed by Nevada counsel, who shall be responsible to the court for the content. If foreign counsel is associated upon oral argument, Nevada counsel shall be present during oral argument and shall be responsible to the court for all matters presented.

* * *

(d) Withdrawal, Substitution, or Discharge of Attorney in Criminal Appeals. The withdrawal, substitution, or discharge of an attorney in a criminal appeal pending before the Supreme Court or Court of Appeals shall be governed by this Rule.

(1) In General. After the filing of a notice of appeal, any stipulation or motion that effects a change in the representation of a party to the appeal must be filed in the court.

(2) Substitution. A substitution or change of counsel may be effected by serving and filing a substitution in the Supreme Court or Court of Appeals, signed by the affected attorneys and the client or, in lieu of the client's signature, an affidavit of counsel stating that the client has been informed of and consents to the substitution. The Supreme Court or Court of Appeals may disapprove a substitution that does not have the necessary signatures or affidavit.

(3) Withdrawal.

(A) The attorney shall file a motion to withdraw with the clerk of the Supreme Court and serve a copy of the motion on the attorney's client and any adverse party. The motion shall clearly state whether counsel was appointed or retained and the reasons for the motion. Unless the motion is filed after judgment or final determination as provided in SCR 46, the motion shall be accompanied by:

~~[(A)]~~ (i) In a direct appeal from a judgment of conviction in which the defendant is represented by retained counsel, an affidavit or signed statement from the defendant stating that the defendant has discharged retained counsel, the grounds for that discharge, and whether the defendant qualifies for appointment of new counsel; or

~~[(B)]~~ (ii) In a direct appeal from a judgment of conviction in which the defendant is represented by appointed counsel, an affidavit or signed statement from the defendant stating that the defendant consents to appointed counsel's being relieved and requesting appointment of substitute counsel; or

~~[(C)]~~ (iii) In a postconviction appeal, an affidavit or signed statement from the defendant stating that the defendant wants to proceed without counsel or with substitute counsel retained by defendant.

(B) A motion filed under this Rule that is not accompanied by

defendant's affidavit or signed statement shall set forth the reasons for the omission. A motion that is filed after judgment or final determination as provided in SCR 46 will only be granted if the Supreme Court or Court of Appeals has issued a final decision in the matter and the time for filing a petition for rehearing has expired.

(4) Death, Suspension. Any party to a criminal appeal may notify the Supreme Court or Court of Appeals in writing when an attorney representing a party dies, or is removed or suspended, or ceases to act as an attorney.

* * *

APPENDIX OF FORMS

Form 5. Request for Rough Draft Transcript of Proceeding in the District Court

No.

Dept. No.

IN THE JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF

A. B., Plaintiff }
 v. }
C. D., Defendant }

REQUEST FOR ROUGH DRAFT TRANSCRIPT

TO: [Court Reporter Name]

_____(C.D.)_____, defendant named above, requests preparation of a rough draft transcript of certain portions of the proceedings before the district court, as follows:

Specific individual dates of proceedings for which transcripts are being requested (a range of dates is not acceptable):

Specific portions of the transcript being requested (e.g., suppression hearing, trial, closing argument, etc.):

This notice requests a transcript of only those portions of the district court proceedings that counsel reasonably and in good faith believes are necessary to determine whether appellate issues are present. Voir dire examination of jurors, opening statements and closing arguments of trial counsel, and the reading of jury instructions shall not be transcribed unless specifically requested above.

I recognize that I must serve a copy of this form on the above named court reporter and opposing counsel, and that the above named court reporter shall have [~~twenty (20) days~~] twenty-one (21) days from the receipt of this notice to prepare and submit to the district court the rough draft transcript requested herein.

Dated this day of, 20.....

.....

(Signature of Attorney)

.....
(Nevada Bar Identification No.)

.....
(Law Firm)

.....
(Address)

.....
(Telephone Number)

Form 11. Request for Rough Draft Transcript of Child Custody Proceeding in the District Court

No.

Dept. No.

IN THE JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA IN AND FOR
THE COUNTY OF

A. B., Plaintiff }

v. }

C. D., Defendant }

REQUEST FOR ROUGH DRAFT TRANSCRIPT

TO: [Court Reporter Name]

_____(C.D.)_____, plaintiff/defendant named above, requests preparation of a rough draft transcript of certain portions of the proceedings before the district court, as follows:

Specific individual dates of proceedings for which transcripts are being requested (a range of dates is not acceptable):

Specific portions of the transcript being requested (e.g., suppression hearing, trial, closing argument, etc.):

This notice requests a transcript of only those portions of the district court proceedings that counsel reasonably and in good faith believes are necessary for resolution of appellate issues.

I recognize that I must serve a copy of this form on the above named court reporter and opposing party, and that the above named court reporter shall have [~~twenty days~~] twenty-one (21) days from the receipt of this notice to prepare and submit to the district court the rough draft transcript requested herein.

Dated this day of, 20..... .

.....
(Signature of Attorney)

.....
(Nevada Bar Identification No.)

.....
(Law Firm)

.....
(Address)

.....
(Telephone Number)