

**2008 REPORT  
OF THE SENIOR JUDGE PROGRAM**



# 2008 REPORT OF THE SENIOR JUDGE PROGRAM

Supreme Court of Nevada  
201 South Carson Street  
Carson City, Nevada 89701  
<http://www.nvsupremecourt.us/>



December 2008

**Supreme Court of Nevada**

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Justice Mark Gibbons

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## 2008 REPORT OF THE SENIOR JUDGE PROGRAM

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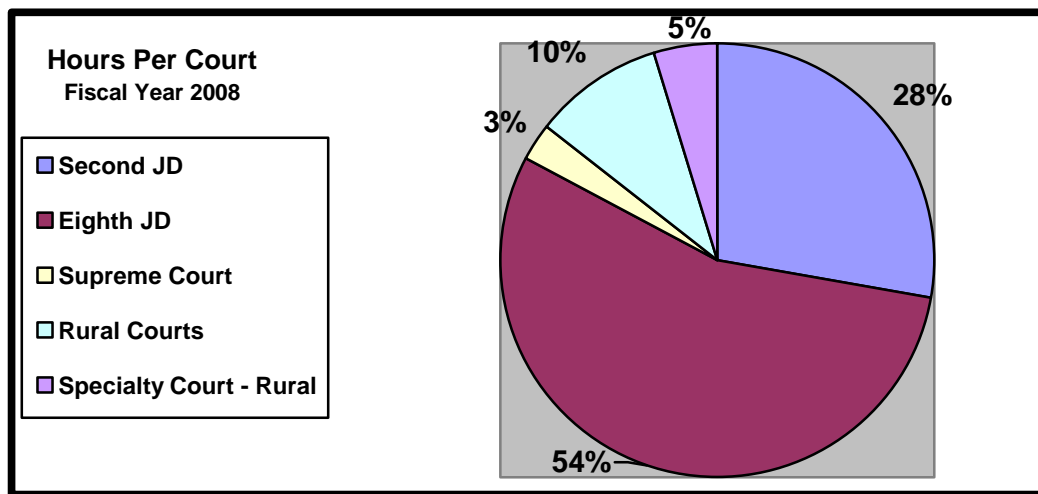
# 2008 REPORT OF THE SENIOR JUDGE PROGRAM

## A. Executive Summary

The Senior Judge Program [the Program] is administered through the Administrative Office of the Courts [AOC] under Supreme Court Rule 10<sup>1</sup> and the Senior Judge Program Policy<sup>2</sup> under authority granted to the Chief Justice of the Supreme Court under Article 6, Section 19 of the Nevada Constitution.<sup>3</sup> The Senior Judge Program assigns justices and judges who have retired from the district court and/or Supreme Court to sit in place of judges or justices who are unavailable. The reasons for the elected judge's inability to hear cases set for a specific time period may be illness, mandatory judicial education, congested court dockets, retirement, or vacations. In addition, judges may be unavailable to sit for specific cases because of recusal or disqualification. The senior judges also sit on several specialty courts and conduct settlement conferences for the district courts. Senior justices also sit on specific Supreme Court appeals.

During fiscal year 2008 (July 1, 2007 through June 30, 2008), the senior justices and judges covered 12,387.12 hours for the district court and Supreme Court. Approximately 28 percent of the hours covered were in the Second Judicial District Court (Reno) and 54 percent of the hours were incurred in the Eighth Judicial District Court (Las Vegas). The remaining time was incurred in assignments in the Supreme Court, the rural courts, and the rural specialty courts (see Table 1).<sup>4</sup>

Table 1: Hours per Court, Fiscal Year 2008



<sup>1</sup> See SCR 10 attached as Appendix A

<sup>2</sup> See Senior Judge Program Policy attached as Appendix B

<sup>3</sup> See Article 6, Section 19 of the Nevada Constitution attached as Appendix C.

<sup>4</sup> The Second Judicial District Court is comprised of Washoe County; the Eighth Judicial District Court is comprised of Clark County; the remaining counties of the State are included in "rural courts."

## **B. Brief History of the Program**

### **1. Financial history**

Since the Program began, there have been changes that have financially impacted the Program and the sources of funding for the Program. In 2001, changes were made to both the Public Employees' Retirement System [PERS] and the Judicial Retirement System to enable senior judges to participate in the Program by establishing the "critical labor shortage" provisions. These changes allowed the senior judges to receive their retirement benefits in addition to the senior judge pay.<sup>5</sup> The critical shortage provisions were due to expire in 2005.

In 2005, financial support for the Program changed from being completely funded through administrative assessments to a combination of administrative assessments and general fund dollars. To the extent that administrative assessments are received beyond targeted annual amounts, general fund dollars are then returned. Chief Justice Nancy Becker and Justice Robert Rose testified extensively before the 2005 Legislature in support of continuation of the Senior Judge Program.<sup>6</sup> In his comments, Justice Rose set forth the justification for the program:

The [Senior Judge Program] is the biggest bang for the buck you will find in the Nevada Judiciary. That is because when you assign a senior judge to a case or for a week in a given area, that judge goes in by himself or herself, handles the business and leaves. There are no additional staffing costs, no overhead costs, such as maintenance of the building and the like, and the judge is only paid for the day or days he or she works. It is a big bargain, and helps us meet the expansion in need.<sup>7</sup>

The critical shortage designation was extended to June 30, 2009. Dana Bilyeu from PERS testified that a PERS actuary would conduct "additional experience reviews" before the 2009 legislative session to see if the critical shortage designation should continue past this sunset date.<sup>8</sup> PERS anticipated having this review completed prior to the November 2008 Board meeting. Funding was continued in the 2007 legislative session for the Program.

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<sup>5</sup> Assembly Bill No. 4, 17<sup>th</sup> Special Session (2001, located at [http://www.leg.state.nv.us/17thSpecial/bills/AB/AB4\\_EN.html](http://www.leg.state.nv.us/17thSpecial/bills/AB/AB4_EN.html)) and Assembly Bill No. 555, 71<sup>st</sup> Leg. (2001, located at <http://www.leg.state.nv.us/71st/Reports/history.cfm?DocumentType=1&BillNo=555>).

<sup>6</sup> Legislative Commission's Budget Subcommittee Minutes, (January 31, 2005).

<sup>7</sup> Id. at Page 30.

<sup>8</sup> Senate Committee on Finance, Minutes, May 2, 2005, Page 31.

## **2. Program participants**

In 2003, when the Program was established in its present form, there were two senior justices and six senior judges commissioned.<sup>9</sup> There are currently 16 senior justices and judges serving in the Program.<sup>10</sup> It is anticipated that five more senior judges will be commissioned effective January 5, 2009.<sup>11</sup>

### **C. How the Program Works**

#### **1. Supreme Court Rule 10<sup>12</sup>**

Supreme Court Rule 10, as amended May 27, 2008, sets forth the eligibility requirements for recall as a senior judge. To be recalled to serve, a judge must have served as a Supreme Court justice or district judge (or combination) for at least four consecutive years, be eligible to retire, and not removed or retired for cause from the court in which he or she will be assigned. Terms of commission are for one year, with renewals on July 1st. Senior judges are not barred from outside employment, including work as a paid mediator or arbitrator; however, they may not provide any legal advice or be a member of any firm or company that gives legal advice.

Senior judges are compensated based upon the gross monthly salary of a regularly elected and qualified judge of the court on which the senior judge served at the time of retirement.

#### **2. Supreme Court Policy for Administration of the Senior Judge Program<sup>13</sup>**

The Supreme Court Policy for Administration of the Senior Judge Program governs the process by which assignments are made, the prioritization of assignments, and the policy regarding payment and reimbursement of expenses for the senior judges and justices.

The underlying rationale for the Senior Judge Program is set forth in this policy, adopted by the Supreme Court (as amended) on April 30, 2008:

The Supreme Court, through the AOC, shall administer the Senior Judge Program (the Program) to help ensure access to timely justice in Nevada's

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<sup>9</sup> The senior justices were Justice Cliff Young and Justice David Zenoff. The senior judges were Judge J. Brennan, Judge S. Huffaker, Judge J. Lehman, Judge J. Pavlikowski, Judge M. Recanzone, and Judge N. Robison.

<sup>10</sup> The senior justices are Justice D. Agosti, Justice R. Rose, and Justice M. Shearing. The senior judges are Judge J. Ames, Judge A. Blake, Judge J. Bonaventure, Judge P. Breen, Judge J. Brennan, Judge G. Hardcastle, Judge S. Jordan, Judge N. Manoukian, Judge T. Marren, Judge C. McGee, Judge J. McGroarty, Judge N. Robison, and Judge J.C. Thompson.

<sup>11</sup> The new senior judges will be Judge S. Bell, Judge R. Estes, Judge L. Gates, Judge J. Iroz, and Judge S. Loehrer.

<sup>12</sup> See Appendix A.

<sup>13</sup> See Appendix B.



district courts and Supreme Court. The purpose of the Program is to handle caseloads that cannot be covered by assignment or reassignment to a sitting district judge from within the same district or to assist with caseload management to ensure timely disposition and handling of cases.

The Policy recognizes that because of the limited number of senior judges and justices and the limitations on the budget, assignments will be made based upon a prioritization of requests. Highest priority is given to the drug court and mental health court programs and coverage for illness or death of a family member. To the extent that resources are available, coverage is also extended to the district courts for judicial vacations or non-mandatory continuing judicial education.

### **3. District Court Protocol<sup>14</sup>**

Under the District Court Protocol, district courts requiring coverage by a senior judge must submit a Request for Assignment to the AOC. The AOC Senior Judge Program Coordinator reviews the Request and, provided that a senior judge or justice is available, proposes the assignment of an appropriate senior judge or justice to the Supreme Court Justice appointed to oversee the Program. If approved, an Order of Temporary Assignment is prepared, signed, and disseminated to the senior judge and to the district court making the request.

### **4. In-depth discussion of specific assignments**

A sitting district judge can be expected to be in court approximately 1,680 hours per year. In fiscal year 2008 (July 1, 2007-June 30, 2008), senior judges and justices covered 12,387.12 hours for the district courts and for the Supreme Court. At this rate, the senior judges covered the equivalent of 7.37 elected judges. In fiscal year 2007, a total of 11,730 hours were covered.<sup>15</sup> Table 2 below shows graphically the number of hours for each reason for request in 2008. The major reasons for the requests for assignment are:

#### **a. Illness/death.**

Coverage for district court judges who become ill, who have scheduled hospital stays, or who have a death in the family, is one of the most important functions of the Program. Although, in fiscal year 2008 the Program was only utilized in the Second and Eighth Judicial Districts for this reason. These assignments usually occur with little advance notice. Coverage is important to ensure that parties and attorneys are not inconvenienced by delays, to assist the court in managing the caseloads, and to avoid the increased work that would occur with continuances and delays. During fiscal year 2008, 5.4 percent of the assignments overall, or 667.25 hours were incurred because of assignments to cover illness/death of a judge or judge's family member.

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<sup>14</sup> The District Court Protocol is attached as Appendix D.

<sup>15</sup> A printout of the number of hours covered for each fiscal year showing the district, reason for the request, number of assignments, and number of hours covered is attached as Appendix E.

b. Recusal/disqualification/peremptory challenge.

Coverage because of disqualification of the judges within a district occurs mostly in the rural courts, although some district court-wide disqualifications may occur, such as with the Darren Mack matters.<sup>16</sup> Coverage for these reasons accounted for 801.92 hours, or 6.5 percent of the total assignments. Under the Senior Judge Program, an effort is made to find other sitting district court judges to handle the rural cases or larger cases in the event of disqualification. Statistics on these cases are not maintained although the assignments are made through the Program.

c. Vacations and non-mandatory education and conferences.

Judicial vacations and non-mandatory education comprise the great percentage of assignment hours billed. The Senior Judge Program Policy provides that senior judges will cover up to 12 hours of mandatory judicial education and any education required by statute or rule for the judges, such as the initial Judicial College courses required of new judges. Any education attended beyond this is considered “non-mandatory education.” Attendance at seminars, bar meetings, or other non-court-required conferences beyond the 12 hours is also considered “non-mandatory education.” As a policy, the Program covers 15 days maximum per judge for vacations or non-mandatory education unless a special situation exists. In fiscal year 2008, the Program covered 2,305.15 hours or 18.6 percent of the total hours for vacations.

d. Mandatory education and court-required conferences.

The Program covered assignments for 497 hours (4.0percent) for mandatory judicial education and 368 hours (3.0percent) for court required conferences.

e. Retirement/suspension.

The Program covered 236 hours when Judge Joseph T. Bonaventure retired in the Eighth Judicial District Court (until the new judge was appointed). The Program also covered 1,678.55 hours for Dept. 23 in the Eighth Judicial District Court because of District Court Judge Halverson's suspension.<sup>17</sup> The total number of hours covered for retirement/suspension is 15.5 percent of the entire number of hours covered. Note should be made, however, that since January 1, 2008, the coverage for Dept. 23 (Judge

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<sup>16</sup> District Court Judge Douglas Herndon was assigned to preside over *State v. Darren Mack*, CR06-1386, filed in the Second Judicial District Court. Senior judges were assigned to cover Judge Herndon's court during the trials and motion hearings. All judges in the Second Judicial District were disqualified from hearing the matter. In addition, senior judges have been assigned to preside over other trials involving Darren Mack, including civil litigation and family court matters.

<sup>17</sup> The Nevada Commission on Judicial Discipline suspended District Court Judge Elizabeth Halverson in July 2007. A final decision of the Commission on Judicial Discipline was reached on November 17, 2008, permanently removing Judge Halverson as a district court judge. Senior judges were assigned to cover that department.

Halverson) has been combined with the specialty drug court assignment in the Eighth Judicial District. This essentially reduced the assignments, as a separate drug court judge was not needed.

f. Specialty courts.

In addition to the hours accumulated for specialty courts under the Dept. 23 assignment (see subsection (e) above), the Program covered 2,869.00 hours (23.2percent) for the drug and mental health courts in the Second, Eighth, and rural district courts.

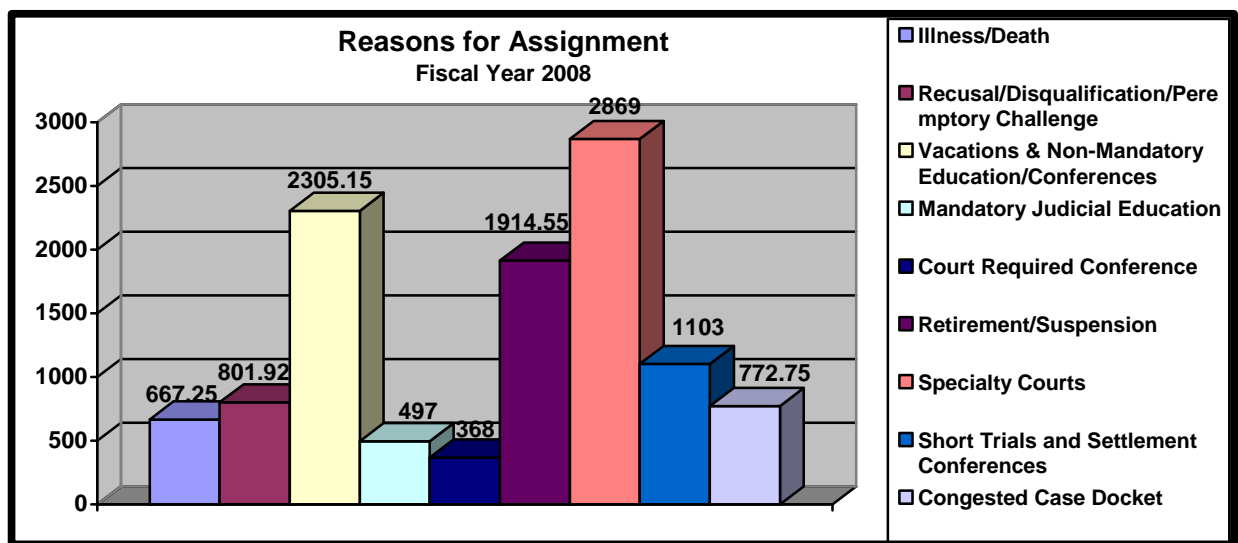
g. Short trials and settlements.

Under the Senior Judge Program, senior judges are assigned to cover a special short trial/settlement program in the Eighth Judicial District Court, as well as covering specific settlement conference assignments, for a total of 1,103 hours in 2008. The short trial program in the Eighth Judicial District has been very successful. According to the latest statistics for this fiscal year, 2009, approximately 80 percent of the cases submitted to the program have been successfully resolved by the senior judges.<sup>18</sup>

h. Congested case docket.

District judges who are facing a long trial sometimes request the assistance of a senior judge. In these cases, normally, the senior judge handles the motion or criminal calendar so the district judge can start the jury trial earlier. In fiscal year 2008, the Program covered 772.75 hours (6.2percent) for this reason.

Table 2: Reasons for Assignment, Fiscal Year 2008



<sup>18</sup> A copy of the most recent statistical analysis of this short trial program is included in Appendix F.

## **5. Accountability**

In requesting pay for assignments in the Program, the senior judges and justices provide detailed information about the matters handled. If requested, additional information, including calendars, are produced.

Sitting district judges and their staff provide annual confidential evaluations on the senior judges' ability; punctuality; and consideration of staff, attorneys, and parties. In addition, the Supreme Court Justices meet annually with the attorneys at the Nevada Family Court Bar meeting to discuss the Program, the senior judges and justices, and potential changes or improvements to the Program.

A comprehensive evaluation by the attorneys in the State Bar is being prepared in conjunction with a Supreme Court effort to have statewide judicial evaluations.

### **D. Statistical Reports**

A computer program has been developed specifically for the Senior Judge Program in order to track the assignments, the names of the district judge requesting the assignment, the senior judge assigned, and the reason for the request. In addition, this Program generates reports regarding the tracked information. Copies of reports are given to the Supreme Court Justices and the district courts on a regular basis.

The software program developed for use by the Senior Judge Coordinator can show in statistics, and bar or pie charts the senior judge usage by court, district, department or reason for assignment for any time period.

The statistical reports are used on a monthly basis to monitor budget constrictions and to allocate assignments and resources. The statistics are also provided to the district courts for their use and used to project future needs of the courts for the senior judges and justices.

#### **1. Hours per District/Assignment Type Summary**

Appendix E contains the charts for fiscal year 2008 and fiscal year 2007, showing the number of assignments for each district, the type of assignment (case assignment, durational assignment, settlement conference, or specialty court), and the number of hours spent on each assignment.

##### **a. Supreme Court.**

For tracking purposes, the Supreme Court is referenced as District 0. Assignments to the Supreme Court cases are for hearing appeals and are limited to retired Supreme Court Justices. Currently, the retired justices available to hear these matters are Justice Deborah Agosti, Justice Miriam Shearing, and Justice Robert Rose.

b. Districts.

i. Judicial Districts 1 through 9: These Districts correspond to the state judicial districts.

ii. District 16: For tracking purposes, and because the assignment covers several judicial districts, the assignment for the rural specialty courts (drug and mental health) is indicated as District 16.

c. Types of assignments.

i. Case Assignment: When a sitting district judge is unavailable hear a case because of a conflict (disqualification/recusal) or because one of the parties files a peremptory challenge of that judge, and no other judge in the judicial district is available to hear the matter, a senior judge may be assigned to that case. Once assigned, the senior judge is responsible for all further matters in that case. Parties may file a peremptory challenge of a senior judge assigned to a case in certain circumstances under Supreme Court Rule 48.1.

ii. Durational Assignment: When a district judge is unable to hear cases for a set period of time (for reasons discussed above in section C3), a senior judge may be assigned to hear all matters scheduled during that period of time. The assignments may be for a strictly civil calendar, a criminal calendar, a family court calendar, or a hybrid calendar.

The AOC Legal Division recently created a calendar showing upcoming durational assignments of the senior judges. This calendar is posted on the Administrative Office of the Courts/Legal Division website at [www.nvsupremecourt.us/ccp/legal/](http://www.nvsupremecourt.us/ccp/legal/).

iii. Settlement conference: A senior judge may be assigned to preside over a settlement conference in a case at the request of the district judge or the parties. Recent changes to the Program Policy permits attorneys to request assignment of a specific senior judge. While such an assignment is not determinative, great weight is given to the parties' desires.

iv. Specialty courts: Senior judges have been involved in presiding over the specialty drug and mental health courts in the Second, Eighth, and rural district courts for the past several years. In January 2008, the assignment of a senior judge for the Eighth Judicial District drug court was combined with the Dept. 23 assignment necessitated by the suspension of Judge Elizabeth Halverson. The Eighth Judicial District Court specialty drug court is now covered by a district court judge.

d. Analysis of charts.

In almost every district, the usage of senior judges by the rural district courts has increased. The hours of assignment in the Second Judicial District decreased

somewhat while the usage for the Eighth Judicial District increased slightly. The total number of hours for fiscal year 2008 shows a slight increase (approximately five percent) from fiscal year 2007.

Because the amount of usage remained almost static over the past two years, it is reasonable to predict that demand will increase over the next biennium with the addition of eight new judicial positions (see NRS 3.012 and 3.018).

## 2. Hours per court – bar graph

The hours incurred for assignments to each court are shown for fiscal years 2007 and 2008 in Tables 3 and 4 below. The Second and Eighth Judicial District Courts are broken down to show assignments for general jurisdiction courts and assignments for family courts. In addition, the rural specialty courts are separately shown.

Table 3: Hours per Court, Fiscal Year 2007

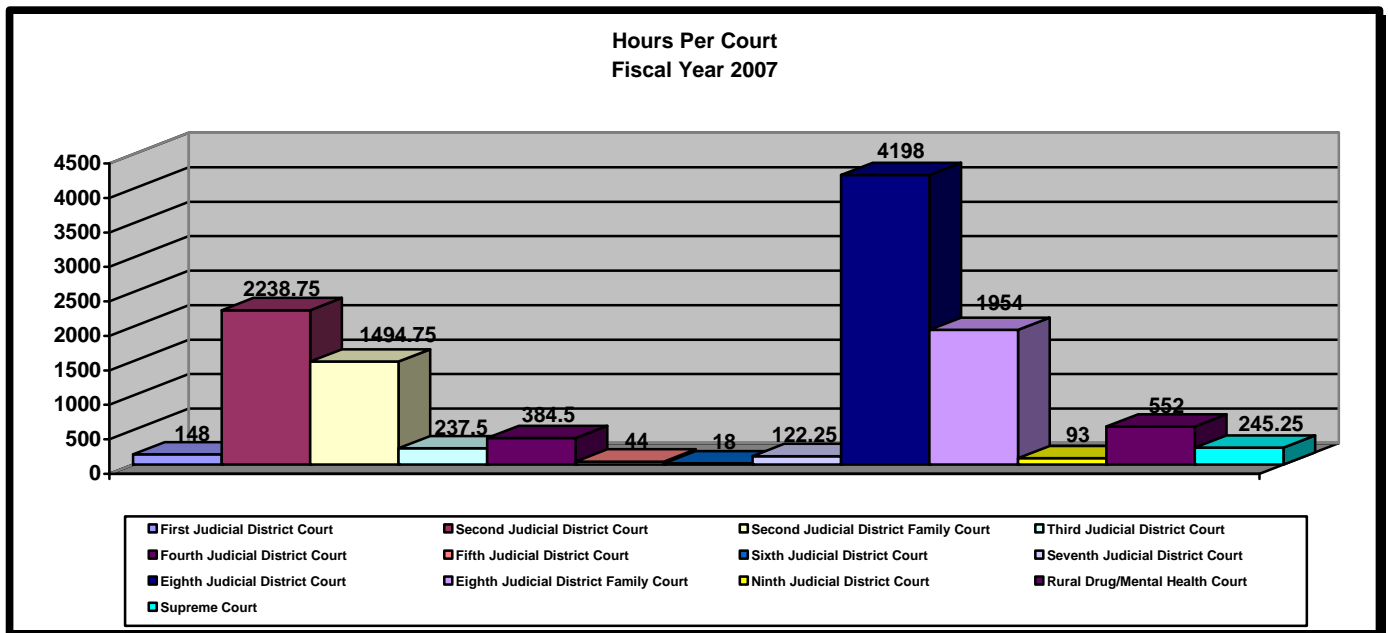
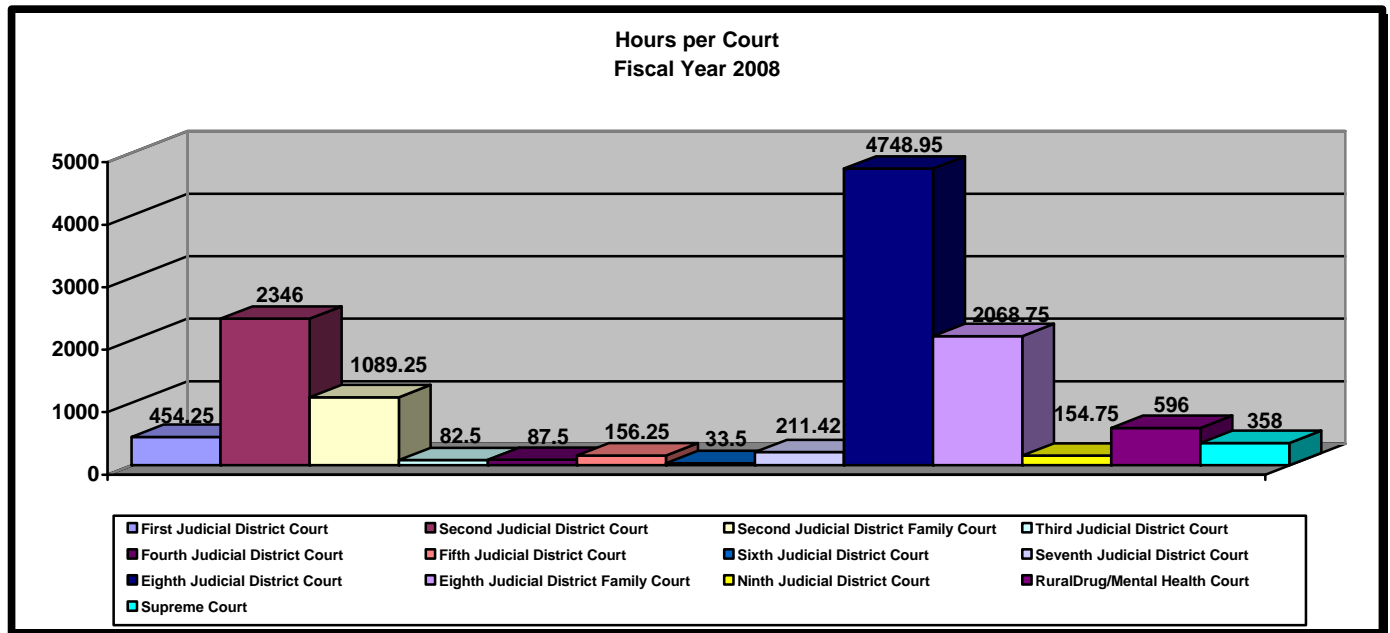


Table 4: Hours per Court, Fiscal Year 2008



## E. Future Usage

### 1. Number of assignments

In January 2009, there will be more than 14 new district court judges from the newly created positions and from positions being vacated by judicial retirement, loss of a seat in the election, or election of a judge into a different department. The number of assignments the Senior Judge Program can cover is not dependent upon the number of judges, however. Rather, it is a function of the amount of the budget which is funded through administrative assessments and general fund dollars.

In fiscal years 2008 and 2009, requests for assignment were denied because of a lack of funds. Because of the financial condition of the State and the desire to maintain spending at the current levels rather than increasing the budget to cover all requests that would likely be generated from the greater number of judicial positions, more requests for assignment of a senior judge will be denied. Usage is anticipated to remain constant to the full extent of the budget available.

### 2. Superior programs

#### a. Short trials and settlement program.

Without a doubt, the success of the senior judge participation in the short trials and settlement program in the Eighth Judicial District Family Court has been impressive. From its inception in October 2006, there has been an overall resolution rate of over 80 percent. This means that 80 percent of the cases (265 cases through July 2008) did not

need further judicial time or court expenditure. Most important, the parties to the actions were able to have their matters concluded expeditiously.<sup>19</sup> The Eighth Judicial District short trial and settlement program is held every other week.

Because of the success of the program in the Eighth Judicial District Court, the Second Judicial District Court recently began its own program for early resolution. One week a month a senior judge is assigned to hear early case conferences and short trials. Although this program just started, the initial report showing a resolution rate of 71 percent (20 cases) is already demonstrating the potential cost-effectiveness of this program.

b. Specialty courts

For many years senior judges have presided over the drug and mental health courts in the Eighth Judicial District Court, the Second Judicial District Court, and in some of the rural courts. These specialty courts permit the Courts to divert people charged with crimes out of the criminal justice system and into a system that can appropriately respond to their addiction and mental health problems. The cost savings to the counties and the state in reduced jail and prison resources is high; the cost savings to the public in having successful graduates from the programs is incalculable.

In December 2008, the Eighth Judicial District Court assigned a district court judge to the expanded daily drug court. The Second Judicial District Court and many of the rural district courts will continue to be covered by the senior judges.

**F. Conclusion**

The Supreme Court is duly proud of the Senior Judge Program. Through this Program, costs to the counties and the State have been significantly reduced by lessening caseloads and continuances without the need for additional district judges. The burden to the overwhelmed sitting district judges has been decreased to some degree, as cases are completed while the judge is absent or in a major trial. The State of Nevada has benefited from reduced jail costs because of the senior judge participation in the alternative specialty courts.

The largest recipient of the Program's benefits, however, has been the public. Cases set for a specific time did not have to be rescheduled because of the illness of the judge; instead, the matters were able to proceed to resolution with the aid of the senior judges. Parties representing themselves in family court – and their children – were often able to have their matters heard and resolved quickly in the short trial and settlement program. Other matters set for trial were able to be resolved with the assistance of a senior judge assigned to a settlement hearing. Participants in the drug and mental health courts were able to proceed toward graduation with the guidance and oversight of the senior judges. Trials were able to start earlier and end sooner because a senior judge presided over the sitting judge's motion calendar.

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<sup>19</sup> See Appendix F.



In his recent article in the *Nevada Lawyer*, Chief Justice Gibbons stated it best:

More and more, the Supreme Court's Senior Judge Program has been called upon to keep the wheels of justice rolling. In the process, the program has saved millions of dollars for taxpayers and untold amounts of money for litigants whose cases otherwise may have languished in the backlog. The Supreme Court is extremely pleased with the effectiveness of this program. It provides a big bang for the public buck and is a boon to litigants and lawyers because cases get resolved in a timely fashion.<sup>20</sup>

Nevada is fortunate to have senior judges with such an invaluable wealth of experience who are willing to dedicate themselves after retirement to the judicial system. This Program not only assists the overburdened courts and the parties in litigation or criminal matters to avoid delays, trials, and uncertainty. It also makes fiscal sense. Legislative funding and support of this valuable program will allow the benefits to the public, the counties, the State, and the courts to continue.

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<sup>20</sup> Chief Justice Mark Gibbons, *Senior Judge Program Keeps Wheels of Justice Rolling*, *Nevada Lawyer*, August 2008 at 32. The complete article may be read at <http://www.nvbar.org/publications/NevadaLawyer/2008/August/chiefjustice.htm>

## **APPENDIX A**

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATIONS  
FOR SENIOR JUSTICE AND JUDGE  
STATUS AND ASSIGNMENT OF  
SENIOR JUSTICES AND JUDGES  
PURSUANT TO SUPREME COURT  
RULE 10.

ADKT No. 362

**FILED**

MAY 27 2008

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

ORDER AMENDING RULE 10  
OF THE SUPREME COURT RULES

WHEREAS, this court has considered the qualifications for senior justices and judges, the process of commissioning and the method for appointing senior justices and judges, and the compensation of senior justices and judges for temporary service pursuant to Supreme Court Rule 10; and

WHEREAS, it appears to this court that amendment of the Supreme Court Rules is warranted, accordingly,

IT IS HEREBY ORDERED that Rule 10 of the Supreme Court Rules shall be amended and shall read as set forth in Exhibit A.

IT IS FURTHER ORDERED that this rule shall be effective 30 days from the date of this order. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada. Publication of this order shall be accomplished by the clerk disseminating copies of this order to all subscribers of the advance sheets of the Nevada Reports and all persons and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk of this court as to the accomplishment of the above-described publication of notice of entry and dissemination of this

order shall be conclusive evidence of the adoption and publication of the foregoing rule amendment.

DATED this 27<sup>th</sup> day of May, 2008.

Gibbons, C.J.  
Gibbons

Maupin, J.  
Maupin

Hardesty, J.  
Hardesty

Parraguirre, J.  
Parraguirre

Douglas, J.  
Douglas

Cherry, J.  
Cherry

Saitta, J.  
Saitta

cc: All Senior Justices  
All Senior Judges  
Administrative Office of the Courts

## EXHIBIT A

### AMENDMENT TO RULE 10 OF THE SUPREME COURT RULES

**Rule 10. Senior justices and judges; designation; service as settlement judge; assignment; duties and powers; compensation and expenses; oath; discipline and removal.**

**1. Eligibility for recall.** The supreme court may recall a former supreme court justice or district judge to active service as a senior justice or senior judge of the Nevada court system, provided that:

(a) He or she has served as a supreme court justice or district judge, or any combination thereof, for at least four consecutive years; and

(b) He or she is eligible to retire or has retired under the provisions of the Nevada Revised Statutes; and

(c) He or she was not removed or retired for cause or defeated for retention in an election for the judicial office that he or she seeks to be recalled for service. [~~from that judicial office or defeated for retention in an election for that office.~~]

**2. Application.** A former supreme court justice or district judge who meets the requirements of subsection 1 of this rule may apply to be commissioned as a senior justice or judge by filing with the clerk of the supreme court a written application on a form approved by the supreme court. The approved application forms shall be available at the supreme court clerk's office.

**3. Investigation and approval.** The supreme court may refer an applicant to the administrative office of the courts or the commission on judicial selection for investigation into the background and qualifications of the applicant and for a recommendation as to whether the applicant should receive a commission as a senior justice or judge. If the supreme court

determines that the applicant remains physically and mentally capable of performing valuable judicial service on a continuing basis, and that the applicant's recall to active service will promote the effective administration of justice, a commission, duly executed and authenticated by the chief justice and clerk, shall thereupon issue under the seal of the supreme court.

4. **Term of commission.** Each senior justice or judge being recalled to service shall serve a term of one year, unless the term is earlier terminated or the senior justice or judge voluntarily resigns his or her commission. The renewal of the one-year term for a senior justice or judge shall be as follows:

(a) ~~[Current senior justices and judges may request a renewed commission no later than June 10, 2007;]~~ Judges who have retired or who are eligible to retire and who are not currently serving as a senior justice or judge may apply for a commission to serve as a senior judge at any time;

(b) The renewal date of the terms of senior justices or judges recalled after adoption of this rule shall be July 1 of each year; however, the supreme court may, in its sole discretion, elect not to renew the commission of a senior justice or judge at the end of that judge's one-year term;

(c) No later than May 1 of each year, a senior justice or judge wishing to continue to serve may request a new commission. The supreme court may require additional information or evaluation prior to extending any judge's term.

(d) Any extended commission shall be for one year.

5. **Extra-judicial employment.** A senior justice or judge is ineligible to practice law in any of the courts of this state or to accept employment which contemplates giving advice on legal matters and shall not be a member of or associated with a firm or attorney that practices law. A senior justice or judge may, however, serve as a private mediator or arbitrator for

compensation provided that the case or matter being mediated or arbitrated did not first come to the senior justice or judge while serving in his or her capacity as senior justice or judge. A senior justice or judge may work for a private arbitration/mediation firm or company that is not affiliated directly or indirectly with a private law firm. Notwithstanding Canon 4C(3) of the Nevada Code of Judicial Conduct, a senior justice or judge may serve as an officer, director, manager, or employee of a business, but full disclosure of such activity shall in all cases be made a matter of record, and the participation of such justice or judge may in all cases be precluded by any party through a timely objection made before consideration of any contested matter.

6. **Eligibility for assignment.** A senior justice or judge, with his or her consent, is eligible for temporary assignment to any state court at or below the level of the court in which he or she was serving at the time of retirement or leaving office, provided that the justice or judge previously served at least two years in that office of temporary assignment and provided that the judge was not removed or retired for cause from that judicial office or defeated for retention in an election for that office. If designated by the governor, at the request of the chief justice or the chief justice's designee, a senior judge may also hear specific cases in the supreme court upon disqualification of a justice thereof. A senior justice or judge may also be assigned to act as a settlement judge in any state court. But no senior justice or judge may serve as a settlement judge unless that justice or judge completes a course in alternative dispute resolution offered by the National Judicial College, or a similar course of study approved by the chief justice. The chief justice may, in appropriate circumstances, waive the educational requirement for service as a settlement judge.

The cost of any course taken by a senior justice or judge to qualify that justice or judge to serve as a settlement judge shall be paid from funds appropriated for judicial education or from the senior judge budget if approved by the chief justice.

**7. Temporary assignment to district court.** A district court requiring supplemental judicial assistance may request that the supreme court temporarily assign a senior justice or judge to that court. Any request for a temporary assignment must be submitted to the Administrative Office of the Courts in a form and manner prescribed by that office. The chief justice or the chief justice's designee shall approve the assignment in writing. The Administrative Office of the Courts shall advise the district court of the assignment by issuing an assignment memorandum signed by the chief justice or the chief justice's designee.

**8. Temporary assignment to supreme court.** The temporary assignment of a senior justice to the supreme court shall be made by order signed by the chief justice or the chief justice's designee and filed with the clerk of the supreme court. The chief justice, as in the case of sitting district court judges, may request the governor to issue a special commission assigning a senior judge to hear and determine a case in the supreme court.

**9. Duties and powers.** Each senior justice or judge assigned as provided in this rule has all the judicial powers and duties, while serving under the assignment, of a regularly elected and qualified justice or judge of the court to which he or she is assigned. Without specific assignment, senior justices and judges may perform routine ministerial acts, including the solemnization of marriages, and the administering of oaths, but shall not admit to bail any person accused of crime.



10. **Compensation.** A senior justice or judge assigned as provided in this rule shall receive as compensation for the time actually engaged in the performance of duties under the assignment an amount proportional to the gross monthly salary of a regularly elected and qualified judge of the court on which he or she qualified for retirement. The compensation shall be paid upon the certificate of the justice or judge that the services were performed for the number of hours shown in the certificate.

Each senior justice or judge shall be deemed to have a home court. The home court for a judge residing in Nevada is the district court closest to his or her residence. If a judge has more than one residence, the home court is the district court closest to the assignment. For a judge residing outside of Nevada, the home court is the district court closest to the assignment to which the judge can fly or drive.

~~[A judge residing in Nevada who lives more than 65 miles from his or her home court shall receive mileage reimbursement for travel from the judge's residence to the home court for assignments. For multiple-day assignments, if the judge elects to remain in a hotel close to the assignment rather than commute, then the judge will also receive reimbursement for hotel accommodations and meals. Except as provided below, time spent traveling from the judge's residence to the home court will not be compensated. A judge residing more than 65 miles outside of Nevada will be deemed to live more than 65 miles from his or her home court and is entitled to compensation as set forth above.~~

~~— If a judge must travel more than 30 miles from his or her home court for an assignment, the judge will be reimbursed for transportation and lodging expenses and per diem at the rates~~

~~included in the Policies & Procedures for Judicial Expenditures. In addition, the judge is entitled to claim and receive compensation for the time incurred during travel.]~~ A senior justice or judge shall be entitled to compensation for travel time, travel expenses and per diem expenses as set forth in the Supreme Court Policy for Administration of the Senior Judge Program.

11. **Oath.** To accept a commission as a senior justice or judge, a former supreme court justice or district judge must take, subscribe and file with the clerk of the supreme court, the following oath or affirmation:

“I, ....., do solemnly swear (or affirm) that I will support, protect and defend the Constitution and Government of the United States, and the Constitution and Government of the State of Nevada, against all enemies, whether domestic or foreign, and that I will bear true faith, allegiance and loyalty to the same, any ordinance, resolution or law of any State notwithstanding, and that I will well and faithfully perform all the duties of the office of a senior justice (or judge) of the Nevada court system on which I am about to enter; (if an oath) so help me God; (if an affirmation) under the pains and penalties of perjury.”

12. **Discipline and removal.** The supreme court may for cause revoke the commission of any senior justice or judge, either following notice and opportunity for hearing before the court, or after proceedings before the commission on judicial discipline. The supreme court may temporarily suspend the commission of any senior justice or judge.

## **APPENDIX B**

# SUPREME COURT OF NEVADA

## POLICY

Topic: Administration of the Senior Judge Program

**POLICY STATEMENT:** The Supreme Court, through the Administrative Office of the Courts (AOC), shall maintain fiscal oversight and effect the formal assignment of senior justices and judges and district judges to district courts requiring supplemental judicial assistance. The program is intended to provide temporary relief during unexpected or necessary absences and to ensure timely disposition and handling of cases.

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**POLICY:** The Supreme Court, through the AOC, shall administer the Senior Judge Program (the Program) to help ensure access to timely justice in Nevada's district courts and Supreme Court. The purpose of the Program is to handle caseloads that cannot be covered by assignment or reassignment to a sitting district judge from within the same district or to assist with caseload management to ensure timely disposition and handling of cases.

**AUTHORITY:** Article 6, Section 19 of the Nevada Constitution grants authority to the Chief Justice, as the administrative head of the Nevada court system to "recall to active service any retired justice or judge of the court system who consents to such recall and who has not been removed or retired for cause or defeated for retention in office" and to assign both senior and district judges to assist in other judicial districts.

NRS 3.040 provides the Chief Justice authority to assign sitting district court judges to other districts as necessary "to expedite judicial business and to equalize the work of the district judges."

Supreme Court Rule 10 (SCR 10), as amended on September 29, 2003, and May 21, 2007, governs the eligibility and commissioning of senior judges, their duties and powers, and the AOC's role in assigning senior judges.

ADKT 321, dated January 22, 2001, grants the State Court Administrator authority to assign district judges to other judicial districts.

SCR 48.1 provides for assignment of district judges in instances of peremptory challenge.

NRS 3.220 allows a district judge to hear and decide cases outside of the district in which he or she was elected. Further Article 6, Section 19 of the Nevada Constitution permits the Chief Justice to appoint district judges to hear and decide cases outside of their respective judicial districts. Therefore, an order of appointment is required before a district judge can hear and decide cases outside the judicial district in which the judge

was elected. If a district judge sits without the requisite order of appointment, the State Court Administrator may withhold reimbursement of travel expenses.

#### **COMMISSION:**

##### **1. Investigation of Senior Judge Applicants**

As prescribed in SCR 10, the Administrative Office of the Courts shall perform an investigation into the background and qualifications of senior judge applicants at the request of the Supreme Court. This investigation shall include, at a minimum, a criminal background check and disciplinary history through the Nevada State Bar, and state and federal authorities.

##### **2. Terms of appointment**

Senior judges meeting the criteria required by the Supreme Court will be appointed for a one-year term from July 1 of each year. The appointment may be extended for additional one-year terms at the discretion of the Supreme Court. Any senior judge requesting a renewal of the commission shall submit a letter to that effect to the Supreme Court no later than May 1 of each year.

#### **TRAINING and EDUCATION:**

At any time the Supreme Court may require mandatory attendance at educational seminars for the senior judges. The senior judges will be paid their costs for attendance at any such training.

Judges wishing to take assignments as settlement judges must complete the courses on mediation and settlement offered by the National Judicial College unless waived by the Chief Justice.

The Senior Judge Program will pay for the education and training offered in the State of Nevada necessary to permit a senior judge to properly adjudicate cases he is assigned to hear. Seminars and courses offered outside the State of Nevada must be approved in advance.

#### **PROCEDURE FOR ASSIGNMENT:**

##### **1. Types of Assignment**

Senior and visiting district judges may serve under one of the following types of assignments:

Case assignment: Judge is assigned to a specific case or matter within a specific case, duration notwithstanding.

**Duration assignment:** Judge is assigned for a specific period of time to a particular district and/or department under the supervision of the Chief Judge or his designee (in Courts with a Chief Judge), or the Presiding Judge.

**Specialty Court assignment:** Judge is assigned to sit on a specialty court for a specific period of time.

**Settlement assignment:** Judge is assigned to evaluate or settle a specific case or is assigned for a period of time for up to four (4) months under the direction of the Chief Judge or requesting judge to mediate cases.

## **2. Reasons for Assignment & Priorities**

Assignments will be considered and approved as available resources and funding may allow. Unless the Chief Justice otherwise orders, assignments are prioritized as follows:

- A. Judicial illness or death (including illness or death of a family member)
- B. Judicial retirement creating the necessity for an interim judge
- C. District-wide recusals or disqualifications in emergency matters, especially those involving the custody or safe-keeping of children.
- D. Specialty court assignments.
- E. Mandatory judicial education (including new judges training and judicial education required for Continuing Legal Education credits (12 credits per year)) or for Committee assignments made by the Supreme Court
- F. Peremptory challenges (in rural districts only)
- G. Recusals and disqualifications
- H. Settlement conferences or case conferences
- I. Matters which must be heard or resolved within specific statutory time-frames, including 5-year rule cases
- J. Congested court dockets and/or caseload management
- K. Judicial vacation, non-mandatory judicial education, or other personal time, limited to fifteen (15) days per year unless additional time is approved by the Chief Justice due to extraordinary circumstances. Attendance at committees not under the direction of the Supreme Court shall be considered personal time.

## **3. Request for Assignment of a District or Senior Judge**

If a district judge becomes unavailable for a case or calendar session(s) due to any of the reasons listed in Section #2 above, the requesting district court should make every attempt to have that case reassigned to another judge in that same district. Typically, this type of reassignment is governed by local District Court Rules and is handled by the clerk of court and/or court administrator and formal assignment by the AOC is not required. If assignment to another judge in the district is not possible, that district may request district

or senior judge services from the State Court Administrator. The following guidelines govern requests for judicial assistance by a district:

- A. The request must be made in writing utilizing the attached form prescribed by the AOC [the "Request for Assignment" or RFA]. Requests for Assignments should be submitted at least two weeks in advance of the requested assignment date unless circumstances otherwise require. Judges may not be available on shorter notice.
- B. The request will be directed to the AOC Senior Judge Program Coordinator via facsimile or mail or other method designated by the Senior Judge Program Coordinator.
- C. The Request for Assignment must be signed by the Chief Judge of the district, or his designee, or the division (civil, criminal, or family) Presiding Judge or by the requesting judge in districts in which there is no Chief or Presiding Judge.
- D. The reason for the request indicated under Number 2 above shall be clearly articulated.
- E. If applicable, the specific dates and locations the senior judge or visiting district judge is needed must be identified.
- F. The type of calendar or cases that will be assigned to the senior judge or visiting district judge must be specified.
- G. The amount of time the assigned judge is being requested to serve (i.e., half time, full time) and the types of assignment requested should be indicated.
- H. In requests for a senior judge for settlement purposes, the court or the parties may request the assignment of a specific senior judge or judges, although this request is not a guarantee that the assignment will be made.

To ensure proper wording of the Memorandum of Temporary Assignment and as a courtesy to the assigned judge, copies of any back-up documentation should also be submitted to the AOC with the Request for Assignment (i.e., peremptory challenges, disqualifications, or recusals).

#### **4. Assignment of a District or Senior Judge**

Upon receipt of the Request for Assignment, the State Court Administrator, or his designee, will make a determination of available funds, availability of other judges within the district, documented need, and availability and willingness of judges to serve as requested. If approved, the State Court Administrator, or his designee, shall then locate and recruit a sitting district judge. If no sitting judges are available, the State Court Administrator or his designee shall assign a senior judge, properly commissioned under SCR 10, to serve.

Judges can be assigned to a specific case or for a length of time, depending on a court's need and a judge's availability. The State Court Administrator, if necessary, can renew or extend assignments, but the renewal or extension must be requested in writing by the respective court following the procedure detailed in Section #3 above.

**5. Memorandum of Temporary Assignment**

The assignment of either a sitting district judge or senior judge will be confirmed by Memorandum of Temporary Assignment signed by the Chief Justice or his designee and filed by the State Court Administrator or his designee.

The AOC shall provide a list to the Chief Justice (or his designee) detailing the parties and counsel of record of any particular case to be assigned to ensure no conflicts of interest exist. If it is determined that a conflict of interest does exist between a Justice and the parties and/or counsel of record, the Order shall be signed by an alternative Associate Justice with whom no conflict of interest exists.

**6. Requests for Subsequent Reassignments**

Occasionally it may be necessary to reassign a case or calendar a second or third time subsequent to the original assignment. A change of venue, successive preemptory challenges, or the death or illness of an assigned judge may require that the case or calendar be reassigned. In such instances, another Request for Assignment must be submitted to the AOC by the district court in which the case is currently pending.

**7. Notification**

Via copies of the Memorandum of Temporary Assignment, the State Court Administrator will notify the Chief Judge of the requesting district, the Presiding Judge of the relevant Division, or the requesting judge if there is no Chief Judge, the assigned district or senior judge, and the clerks of court and/or court administrators within the requesting and assigned districts. The clerk of court/court administrator within the requesting district is responsible for notifying all parties in an action of the judicial assignment. Inquiries to the AOC from individual litigants or their counsel will be referred to the clerk of court's office within the requesting district.

If there is a change in the assignment as a result of a case or calendar being continued or vacated, it is the responsibility of the requesting district judge or district court administrator to ensure the assigned judge is notified or that an alternative schedule is in place to utilize the assigned judge when the judge arrives. The requesting district judge or district court administrator shall also notify the AOC Senior Judge Program Coordinator as soon as possible (via fax or e-mail) that a change in the assignment has occurred so that a revised Memorandum of Temporary Assignment can be generated, if necessary.



## **FACILITIES/SUPPORT BY DISTRICT COURT:**

The district in which the assigned judge is being utilized will provide all required assistance for the senior judge or visiting district judge, including providing copies of the files at the request of the senior judge. It is important that the senior judges or visiting district judges are made aware of the resources available to prepare court orders and other documents. The requesting district judge, district court administrator or other assigned staff should make the assigned judge aware of the available clerical and law clerk resources and any local procedures and practices.

Other arrangements including, but not limited to, those for facilities and support, shall be the responsibility of the district requesting the assignment.

## **REQUEST FOR PAYMENT:**

### **Senior Judges**

**Requests for payment must be submitted within thirty (30) days of the time or expense for which the request is made. Invoices for expenses or time submitted after the 30-day period will result in delays in payment senior judges shall complete a payment request form developed by the AOC.**

### **District Judges**

District judges assigned outside their district shall submit travel claims in accordance with the Supreme Court's Policies and Procedures for Judicial Expenditures. All travel claims submitted relating to judicial assignments shall reference the appropriate Memorandum of Temporary Assignment number.

To ensure the Senior Judge Program budget as a whole does not exceed authorized amounts, senior judges need to ensure that they do not exceed the days authorized in the Memorandum of Temporary Assignment. Additional days must be covered with an amended Memorandum of Temporary Assignment, requested by the District Court. .

## **COMPENSATION AND RETIREMENT BENEFITS OF SENIOR JUDGES:**

### **1. Compensation**

Beginning May 1, 2008, the senior judges will be compensated at an hourly rate proportional to the gross monthly base salary of the court from which they retired plus full longevity. The hourly pay rate will be calculated on a 250-day judicial year, eight (8) hours per day. The Supreme Court deems 250 days as a full time equivalent for purposes of recalculating retirement benefits.

Beginning May 1, 2008, compensation will be paid according to the following schedule:

- For each durational assignment or assignments that are set for one day, the senior judge will be either for a half day (for any assignment ending before 1:00pm) or a full day for all preparation, travel time (except as set forth below) and court time at the rate set by the AOC. No more than eight hours for any one day of a durational assignment will be compensated except for extraordinary circumstances or when necessary travel of more than 60 miles must take place outside of the normal working day. The Chief Judge or his designee or the Presiding Judge of the Division may utilize the senior judge in any way that helps the Court during the durational assignment. The senior judge will indicate the number and type of matters handled during the durational assignment.
- For each case assignment for which work must be done outside of the time spent on a durational assignment, the senior judge will be compensated for each hour spent on the case at the hourly rate set by the AOC. The senior judge shall prepare a contemporaneous timesheet and indicate what activities were done and how much time each took with sufficient specificity for the AOC to monitor and support the compensation request.
- For each Supreme Court assignment or pro per appeal assigned to a senior justice, the justice will receive a flat daily rate (8 times the hourly rate set by the AOC) for all preparation, travel, conference, court, and writing time incurred on the matter. If more than one appeal is assigned for the same date, the senior justice will receive compensation for one flat daily rate for all matters heard that day.

In extraordinary situations arising during a durational assignment, a senior judge may incur additional time, such as when the senior judge is in a lengthy trial. A senior judge may make application for additional hourly time incurred in these situations, but must provide a contemporaneous and detailed explanation as to why the work could not have been accomplished during the normal work day and a detailed explanation of the work involved in the extra hours.

In addition to the time incurred on an assignment, a senior judge may request compensation for time incurred during travel of more than 60 miles (each way), but only if the travel time was necessarily incurred outside of a normal work day. In such a case, the senior judge must submit an explanation for the need for the extra-hours travel.

Senior judges may submit more than one request for payment each month; however, invoices shall be processed once a month. Signed original invoices shall be forwarded to the AOC by the 5<sup>th</sup> judicial day of the month following the performance of the work in order to have them processed expeditiously. All pay requests submitted relating to judicial assignments shall reference the appropriate Memorandum of Temporary Assignment number and shall include a copy of the Memorandum.

2. **Travel claims**

In submitting a request for compensation for travel time from May 1, 2008, the senior judge may request time for travel only if the senior judge must travel more than sixty miles from his home court to the assigned court and cannot accomplish the travel within the normal working hours. Travel time shall be compensated at 30% of the normal hourly rate. If travel is by vehicle rather than air for personal reasons (unless prior approval is received) travel time compensation shall be limited to what a reasonable travel time by air would have been.

3. **Retirement benefits**

Senior judges may accrue retirement benefits if a critical labor shortage is declared in accordance with NRS Chapter 286.523 or 1A.380 or as otherwise provide by statute. Senior judges occupying positions so designated may re-enroll in the Public Employees Retirement System (PERS) or Judicial Retirement System (JRS) and earn additional service credit while still collecting their pension benefits and receiving compensation for senior service if permitted under those plans. A re-enrollment form may be obtained through the AOC.

Currently the AOC pays a retirement contribution for senior judges in the old and new JRS and for those in the PERS.

4. **Reimbursable Expenses**

In addition for paying for educational expenses as outlined above, the AOC will pay:

**For Senior Judges**

a. **Travel Expenses**

The home court ["home court"] for each senior judge living in Nevada is the district court closest to his residence. In the case of Judges with two residences, the home court is that district court closer to the assignment. For any senior judge living outside of Nevada, the home court is whichever district court the judge can fly to or drive to that is closest to the assignment. A senior judge shall be entitled to claim reimbursement for mileage and/or flight expenses for any travel from his home court to any other judicial district for an assignment consistent with AOC policy and using the form provided by the AOC. Any senior judge who lives more than sixty (60) miles outside of the assigned district and who has received a multiple-day assignment and elects to remain in a hotel close to the assignment rather than commute, will receive reimbursement for hotel accommodation and meals. Any senior judge living more than 60 miles outside of the State of Nevada will be deemed to live more than sixty (60) miles from the assigned court and be entitled to per diem compensation for multiple day assignments as set forth above.

All other costs are the responsibility of the requesting court. **Requests for reimbursement for travel expenses must be sent to the AOC no more than thirty (30) days after incurring the expense or payment may be delayed.** The AOC will process payment upon receipt of the travel claim. Payment will be forwarded directly to the assigned judge.

b. Health Insurance Premiums

Senior judges may be reimbursed for their personal health insurance costs up to the amount paid by the Supreme Court for Supreme Court employees. Insurance premiums will be reimbursed retroactively at the end of each calendar year for each month in the preceding calendar year in which the senior judge qualified for health insurance coverage benefits by working 10 judicial days or more per month. In order to obtain reimbursement, the senior judge must submit an invoice with documentation to the AOC, delineating the months for which reimbursement is requested and the total amount of the reimbursement.

c. State Bar Dues

Senior judges will be reimbursed for their Nevada state bar dues for every year in which the Senior Judge holds a commission from the Court and sits on the bench. In order to obtain reimbursement, the senior judge must submit an invoice to the AOC attaching proof of payment for bar dues. In the alternative, the senior judge may present the billing invoice to AOC and the AOC may elect to pay the invoice directly.

d. Other

All commissioned Rule 10 senior judges agree that they are not entitled to any other compensation other than as specifically set forth above, including sick leave pay or vacation pay.

**For District Judges**

Travel Expenses


In addition to their normal salary, district judges assigned to another district via a formal Memorandum of Temporary Assignment will receive travel expenses incurred as a result of that assignment to another district as requested on the travel claim and approved by the State Court Administrator or his designee. Travel expenses are limited to transportation, lodging and per diem at the rates included in the Supreme Court Travel Policy. All other costs are the responsibility of the requesting court. The AOC will process payment request forms immediately upon receipt and payment will be forwarded directly to the assigned Judge.

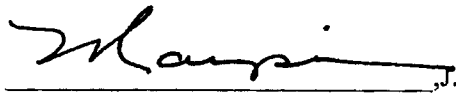
**FINANCIAL REPORTING AND FISCAL ACCOUNTABILITY**

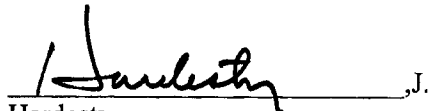
The State Court Administrator shall, by June 15<sup>th</sup> of each year, query all districts as to their estimated need for judicial assistance. The State Court Administrator shall then notify the Chief Judge or District Judge if there is no Chief Judge, and court administrator in each district of the funds available for judicial assistance for the upcoming fiscal year beginning July 1.

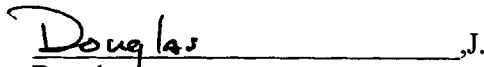
In October, January, and April of each year, the State Court Administrator shall report senior judge expenditures to date for the current fiscal year to each Chief Judge, or district judge if there is no Chief Judge, and court administrator in each district.

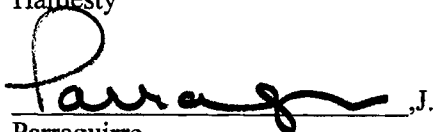
Approved by the Court on the  
30<sup>th</sup> day of April 2008.


  
Gibbons C.J.

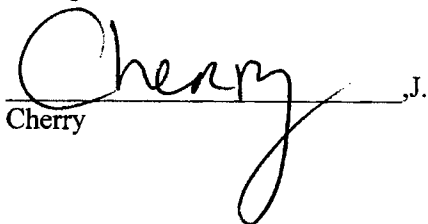
  
Maupin

  
Hardesty

  
Douglas

  
Parraguirre

  
Saitta

  
Cherry

## **APPENDIX C**

## The Constitution of the State of Nevada

### Article 6

#### Sec. 19. Administration of court system by chief justice.

1. The chief justice is the administrative head of the court system. Subject to such rules as the supreme court may adopt, the chief justice may:

(a) Apportion the work of the supreme court among justices.

(b) Assign district judges to assist in other judicial districts or to specialized functions which may be established by law.

(c) Recall to active service any retired justice or judge of the court system who consents to such recall and who has not been removed or retired for cause or defeated for retention in office, and may assign him to appropriate temporary duty within the court system.

2. In the absence or temporary disability of the chief justice, the associate justice senior in commission shall act as chief justice.

3. This section becomes effective July 1, 1977.

[Added in 1976. Proposed and passed by the 1973 legislature; agreed to and passed by the 1975 legislature; and approved and ratified by the people at the 1976 general election. See: Statutes of Nevada 1973, p. 1960; Statutes of Nevada 1975, p. 1934.]

## **APPENDIX D**



# SUPREME COURT OF NEVADA

## POLICY

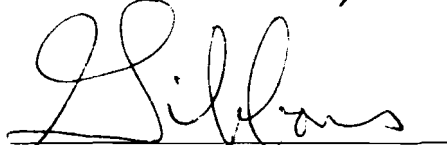
Topic: Protocol for District Courts' use in requesting  
the assignment of senior judges and justices


**Policy Statement:** To the extent possible the district courts shall follow the procedure established in the protocol in requesting the assignment of senior judges or justices to durational, case, or specialty court matters.

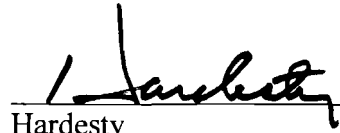
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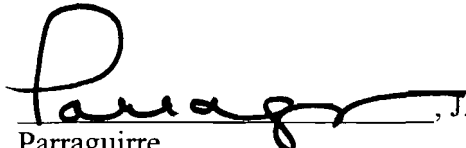
The attached Protocol of the district courts' use in requesting the assignment of senior judges and justices is hereby adopted.

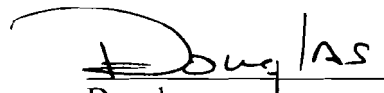
DATED: this 7 day of September 2008.

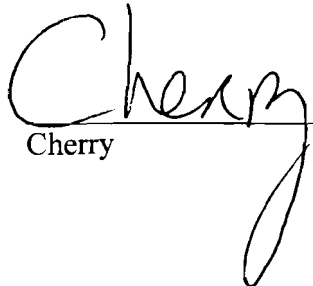
  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

Copy: Administrative Office of the Courts  
All District Courts

**PROTOCOL  
DISTRICT COURTS' USE  
IN REQUESTING THE ASSIGNMENT  
OF SENIOR JUDGES AND JUSTICES**

The following protocol sets forth requirements and procedures for District Courts to use in requesting assignment of Senior Judges and Justices.

Senior Judges and Justices may be used to assist a District Court Judge when that Judge is unavailable because of illness, judicial education, disqualification, caseload management, or other reasons set forth below. In addition, Senior Judges and Justices may be assigned to specialty courts, short trials and settlements in family court, and settlements in all other cases at the request of the District Court.

The District Courts are to follow the procedure and requirements set forth below.

1. Prior to requesting assignment of a Senior Judge or Justice, except for specialty court or settlement conferences, the District Court shall ascertain whether there is any other Judge in the district available to cover the calendar or case for which the assignment is requested.
2. To request a Senior Judge or Justice, a Request for Assignment (RFA) on a form prescribed by the AOC must be prepared and submitted to the Senior Judge Program via email, fax, or regular mail. Once an automated system is in place, the District Courts shall utilize that system.
3. The RFA is to be signed by the Chief Judge or Presiding Judge in Clark or Washoe County, or by the requesting Judge in all other counties. In the absence of the Chief Judge, the court administrator or court executive officer may sign the RFA if authorized by the Chief or requesting Judge. In emergency situations, an RFA can be made orally or by email without signature but must be followed by an appropriately signed RFA.
4. Assignments are made based upon prioritization of need. The requesting Court shall set forth the basis for the request so that the Program can determine the prioritization of the request. In the event the number of requests exceeds the capability of the Program, the Senior Judge Program Coordinator will make assignments based upon the prioritization.
5. Assignments for all reasons other than requests for coverage for personal time or non-mandatory education as set forth in Paragraph 7 below may be filled without limitation if senior judges are available.
6. Requests made for a Judge to attend education mandated by statute for new Judges or for the number of hours required for the Judge to satisfy CLE or Judicial Education credits each year may be made for the days of the mandatory education programs (currently twelve (12) hours per year other than new judge training at the National Judicial College or NCJFCJ).
7. Unless permitted by prior authorization from the Senior Judge Program, requests for judicial vacation, conferences, or for attendance at non-mandatory education (including programs offered by the National Judicial College to

permit a Judge to obtain a Master's Degree or Doctorate), or other reasons designated in the Senior Judge Policy are considered "personal time" and are limited to fifteen (15) days per District Judge per fiscal year. To this end, the District Court shall maintain a record of the number of days requested by each District Judge for personal reasons and shall not submit an RFA for assignment of a Senior Judge for personal reasons in excess of fifteen (15) days per year without first obtaining permission for the coverage from the Senior Judge Program Coordinator.

8. No senior judge coverage shall be provided to District Courts to assist new judges in training or orientation.
9. Under no circumstances may a District Court or District Judge utilize a Senior Judge without a Memorandum of Temporary Assignment in place or orally granted by the Senior Judge Program Coordinator or Supreme Court Justice, except that the Chief or Presiding Judge in Clark or Washoe County, or any other Judge in the other Districts may re-assign a Senior Judge to a different department when a durational assignment has been made for the period of that duration.
10. No requests for coverage shall be made directly to the Senior Judges or Justices.
11. A request for a Senior Judge or Justice to mediate a specific case may include a request for assignment of a particular Senior Judge, although assignment of that particular Judge is dependent upon other factors and at the discretion of the Senior Judge Program Coordinator.
12. The Senior Judge Program is designed to provide coverage for Supreme Court Justices or District Judges. As such, the Senior Judges and Justices cannot be assigned to cover interim shortages or illnesses of court masters or commissioners. If a District Judge is unable to cover his/her calendar because that District Judge is covering for a court master or commission, a Senior Judge or Justice may be requested to cover the District Court calendar.
13. It is imperative that requests be made as soon as the need is known.
14. If a modification is required to a previously issued Memorandum of Temporary Assignment, the requesting District shall submit an RFA citing the number of the Memorandum of Temporary Assignment and indicating the need for the modification (e.g., trial continuance, further requirement of the senior judge in hearing the case, etc.).

## **APPENDIX E**

*Hours/Cost per District/Assignment Type Fiscal Year 2007*

Judicial District	Assignment Type	Number of Assignments	Number of Hours
Supreme Court	Supreme Court Appeals	10	89.75
Supreme Court	Supreme Court Matters	1	6.5
Supreme Court	Training	12	149.00
<b>Total</b>		<b>23</b>	<b>358</b>
1	Case Assignment	13	116.50
1	Settlement Conference	3	31.50
<b>Total for 1</b>		<b>16</b>	<b>148.00</b>
2	Case Assignment	18	423.50
2	Durational	85	1,628.50
2	Durational – Civil	1	22.50
2	Durational – Criminal	5	54.25
2	Durational – Family	1	38.00
2	Settlement Conference	10	112.75
2	Specialty Court - Urban	6	1,454.00
<b>Total for 2</b>		<b>126</b>	<b>3,733.50</b>
3	Case Assignment	5	237.50
<b>Total for 3</b>		<b>5</b>	<b>237.50</b>
4	Case Assignment	14	279.50
4	Durational	2	105.00
<b>Total for 4</b>		<b>16</b>	<b>384.50</b>
5	Case Assignment	5	44.00
<b>Total for 5</b>		<b>5</b>	<b>44.00</b>
6	Case Assignment	2	18.00
<b>Total for 6</b>		<b>2</b>	<b>18.00</b>
7	Case Assignment	13	122.25
<b>Total for 7</b>		<b>13</b>	<b>122.25</b>
8	Case Assignment	17	184.00
8	Durational	33	2,655.00
8	Durational – Civil	1	34.00
8	Durational – Criminal	2	36.00
8	Durational – Family	48	1,253.50
8	Settlement Conference	22	387.00
8	Short/Trial Settlement – Family	18	641.50
8	Specialty Court – Urban	24	961.00
<b>Total for 8</b>		<b>165</b>	<b>6,152.00</b>
9	Case Assignment	7	78.00
9	Durational	1	15.00
<b>Total for 9</b>		<b>8</b>	<b>93.00</b>
16	Specialty Court – Rural	7	552.00
<b>Total for 16</b>		<b>7</b>	<b>552.00</b>
<b>Grand Total</b>		<b>386</b>	<b>11,730.00</b>

*Hours/Cost per District/Assignment Type Fiscal Year 2008*

<b>Judicial District</b>	<b>Assignment Type</b>	<b>Number of Assignments</b>	<b>Number of Hours</b>
Supreme Court	Supreme Court Appeals	9	358
<b>Total</b>		<b>9</b>	<b>358</b>
1	Case Assignment	25	441.25
1	Durational	2	7
1	Settlement Conference	1	6
<b>Total for 1</b>		<b>28</b>	<b>454.25</b>
2	Case Assignment	13	279.00
2	Durational	23	693.00
2	Durational – Civil	2	55.00
2	Durational – Criminal	3	19.50
2	Durational – Family	43	847.75
2	Settlement Conference	10	89.00
2	Specialty Court - Urban	7	1452.00
<b>Total for 2</b>		<b>101</b>	<b>3435.25</b>
3	Case Assignment	7	82.50
<b>Total for 3</b>		<b>7</b>	<b>82.50</b>
4	Case Assignment	9	33.00
4	Durational	1	30.50
4	Durational – Civil	1	24.00
<b>Total for 4</b>		<b>11</b>	<b>87.50</b>
5	Case Assignment	9	156.25
<b>Total for 5</b>		<b>9</b>	<b>156.25</b>
6	Case Assignment	3	33.50
<b>Total for 6</b>		<b>3</b>	<b>33.50</b>
7	Case Assignment	11	211.42
<b>Total for 7</b>		<b>11</b>	<b>211.42</b>
8	Case Assignment	17	437.75
8	Durational	47	2,890.20
8	Durational – Civil	21	578.00
8	Durational – Criminal	8	110.00
8	Durational – Family	50	968.00
8	Settlement Conference	16	108.00
8	Short/Trial Settlement – Family	26	908.75
8	Specialty Court – Urban	17	817.00
<b>Total for 8</b>		<b>202</b>	<b>6,817.70</b>
9	Case Assignment	13	107.00
9	Durational	3	19.00
9	Settlement Conference	1	9.50
9	Short Trial/Settlement – Family	1	19.25
<b>Total for 9</b>		<b>18</b>	<b>154.75</b>
16	Specialty Court – Rural	7	596.00
<b>Total for 16</b>		<b>7</b>	<b>596.00</b>
<b>Grand Total</b>		<b>406</b>	<b>12,387.12</b>

## **APPENDIX F**

# Senior Judge Program

■ Total Percent of Cases Resolved

