

NRCP 39 – Proposed (Adopt Federal rule with retained NV edits)

Rule 39. Trial by Jury or by the Court

- (a) **By Jury.** When a jury trial has been demanded under Rule 38, the action must be designated on the docket as a jury action. The trial on all issues so demanded must be by jury unless:
- (1) the parties or their attorneys file a stipulation to a nonjury trial or so stipulate on the record; or
- (2) the court, on motion or on its own, finds that on some or all of those issues there is no federal right to a jury trial.
- (b) **By the Court.** Issues on which a jury trial is not properly demanded are to be tried by the court. But the court may, on motion, order a jury trial on any or all issues for [RTI] which a jury might have been demanded.
- (c) **Advisory Jury**; and <u>Jury</u> **Trial by Consent.** In an action not triable of right by a jury, the court, on motion or on its own; [RT2]
 - (1) may try any issue with an advisory jury; or,
- (2) may, with the parties' consent, try any issue by a jury whose verdict has the same effect as if a jury trial had been a matter of right, unless the action is against the United States and a federal statute provides for a nonjury trial.

Advisory Committee Note—2017 Amendment

NRCP 39 is conformed to the federal rule, but the rule retains the Nevada distinctions in Rule 39(c).

Advisory Committee Note—2004 Amendment

When Nevada adopted the rule, the federal rule was revised to eliminate language in subdivision (c) of the federal rule that permits the court to impanel an advisory jury on its own motion. The court accepted the Advisory Committee's recommendation that the Nevada rule retain this distinction from the federal rule. Thus, there are no amendments to this rule.