

1 **NRCP 49 – Proposed**
2 **(Adopt federal rule with edits)**

3 **Rule 49. Special Verdict; General Verdict and Questions**

4 **(a) Special Verdict.**

5 (1) **In General.** The court may require a jury to return only a special
6 verdict in the form of a special written finding on each issue of fact. The court may
7 do so by:

8 (A) submitting written questions susceptible of a categorical or
9 other brief answer;

10 (B) submitting written forms of the special findings that might
11 properly be made under the pleadings and evidence; or

12 (C) using any other method that the court considers appropriate.

13 (2) **Instructions.** The court must give the instructions and
14 explanations necessary to enable the jury to make its findings on each submitted
15 issue.

16 (3) **Issues Not Submitted.** A party waives the right to a jury trial on
17 any issue of fact raised by the pleadings or evidence but not submitted to the jury
18 unless, before the jury retires, the party demands its submission to the jury. If the
19 party does not demand submission, the court may make a finding on the issue. If the
20 court makes no finding, it is considered to have made a finding consistent with its
21 judgment on the special verdict.

22 **(b) General Verdict with Answers to Written Questions.**

23 (1) **In General.** The court may submit to the jury forms for a general
24 verdict, together with written questions on one or more issues of fact that the jury

1 must decide. The court must give the instructions and explanations necessary to
2 enable the jury to render a general verdict and answer the questions in writing, and
3 must direct the jury to do both.

4 **(2) Verdict and Answers Consistent.** When the general verdict and
5 the answers are consistent, the court must approve, for entry under Rule 58, an
6 appropriate judgment on the verdict and answers.

7 **(3) Answers Inconsistent with the Verdict.** When the answers are
8 consistent with each other but one or more is inconsistent with the general verdict,
9 the court may:

10 (A) approve, for entry under Rule 58, an appropriate judgment
11 according to the answers, notwithstanding the general verdict;

12 (B) direct the jury to further consider its answers and verdict; or

13 (C) order a new trial.

14 **(4) Answers Inconsistent with Each Other and the Verdict.** When
15 the answers are inconsistent with each other and one or more is also inconsistent
16 with the general verdict, judgment must not be entered; instead, the court **may**^[RT1]:

17 ~~_____ (A) must~~ direct the jury to further consider its answers and
18 verdict; or

19 ~~_____ (B) -must~~ order a new trial.

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21 ADVISORY COMMITTEE NOTE—2017 AMENDMENT

22 NRCP 49 is amended to conform to the federal rule, but retains permissive
23 language in Rule 49(b)(4), consistent with the prior Nevada rule.

1 DRAFTER’S NOTE—2004 AMENDMENT

2 The amendments to subdivision (a) are technical. Subdivision (b) is amended
3 to include a reference to entry of judgment under Rule 58 consistent with the federal
4 rule. But unlike the federal rule, the Nevada rule retains permissive language in the
5 last sentence of subdivision (b), regarding returning the jury for further
6 consideration of its answers and verdict or ordering a new trial where the jury’s
7 answers to written interrogatories are “inconsistent with each other and one or more
8 is likewise inconsistent with the general verdict.”

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