

## **NRCP 16.3 – Proposed (Keep Nevada with edits)**

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### **Rule 16.3. Discovery Commissioners**

(a) **Appointment and Compensation.** The court may appoint one or more discovery commissioners to serve at the pleasure of the court. In multi-judge districts, appointment shall be by the concurrence of a majority of all the judges of such district. The compensation of a discovery commissioner may not be taxed against the parties, but when fixed by the court must be paid out of appropriations made for the expenses of the district court.

(b) **Powers.**

(1) A discovery commissioner may administer oaths and affirmations.

(2) As directed by the court, or as authorized by these rules or local rules, a discovery commissioner may:

- (A) preside at case conferences;
- (B) preside at discovery resolution conferences;
- (C) preside over discovery motions;
- (D) preside at any other proceeding or conference in furtherance of the commissioner's duties;
- (E) regulate all proceedings before the commissioner;
- (F) enter scheduling orders; and
- (G) take any other action necessary or proper for the efficient performance of commissioner's duties.

(2) If agreed by the parties or ordered by the court, a discovery commissioner also may conduct settlement conferences.

(c) **Report and Recommendation; Objections.**

(1) **Report and Recommendation.** After a discovery motion or other contested matter is heard by or submitted to a discovery commissioner, the commissioner shall prepare a report with the commissioner's recommendations for a resolution of each unresolved dispute. The commissioner may direct counsel to prepare the report. The commissioner must file the report with the court and serve a copy of it on each party.

(2) **Objections.** Within 14 days after being served with a report, any party may file and serve written objections to the recommendations. Written authorities may be filed with an objection, but are not mandatory. If written authorities are filed, any other party may file and serve responding authorities within 7 days after being served with the objections.

(3) **Review.** Upon receipt of a discovery commissioner's report, any objections, and any response, the court may:

(A) affirm, reverse, or modify the commissioner's ruling without a hearing;

(B) set the matter for a hearing; or

(C) remand the matter to the commissioner for reconsideration or further action.

#### **DRAFTER'S NOTE—2018 AMENDMENT**

Rule 16.3(a) and (b) are restated from the former NRCP 16.3, making clear that discovery commissioners may hear discovery motions. Rule 16.3(c) is relocated here from the former NRCP 16.1(d)(2), NRCP 16.2(j)(2), and NRCP 16.205(j)(2). The district court reviews a discovery commissioner's report and recommendation de novo. However, an objecting party may not raise new arguments in support of an objection that could have been raised before the discovery commissioner but were not. *See Valley Health System, LLC v. Eighth Judicial District Court*, 127 Nev. 167, 173, 252 P.3d 676, 680 (2011).