

NEVADA COURT OF APPEALS

INTERNAL OPERATING PROCEDURES



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Rule 1. Court Organization.

(a) *Composition of the Court.* The Nevada Court of Appeals is comprised of a chief judge and two associate judges. The position of chief judge is appointed by the chief justice of the Supreme Court of Nevada. Nev. Const. art. 6, § 3A; NRS 2A.050. The chief judge may designate a judge to serve as associate chief judge in their absence. If no one is so designated, the judge with the most seniority on the court of the other judges will then serve as associate chief judge, or as otherwise needed.

(b) *Selection of Substitute.* When necessary, the chief justice of the supreme court will randomly select a substitute district court judge from among the names of those eligible to serve on the court of appeals under NRS 2A.020 and forward their name to the governor for appointment. The chief justice may also recall for temporary duty a retired supreme court justice or court of appeals judge possessing the qualifications stated in Nev. Const. art. 6, § 19, to sit in place of a judge who is disqualified or has recused.

(c) *Chief Judge.* The chief judge administers the court's caseload, and may assign or reassign cases, giving notice thereof to the other judges and chief assistant clerk of the court assigned to the court of appeals (COA clerk), in order to balance the workload of the individual judges or to ensure the efficient operation of the court. The chief judge will cause to be scheduled any events that assist the court in the disposition of its caseload.

(d) *Chief Assistant Clerk of the Court.* The COA clerk aids the chief judge in managing the court's caseload, assigning cases, and resolving procedural

motions. The COA clerk further assists in editing chambers dispositions, finalizing chambers orders for filing, and preparing opinions for filing. The COA clerk records the court's votes in conference and following oral argument and circulates notes to the court following each conference or oral argument.

(e) *Quorum*. A quorum of the court will be two judges. The concurrence of a majority of the court is necessary to decide a case. If a quorum of the court consisting of only two judges, due to unavailability or disqualification, is unable to reach a consensus, a substitute senior supreme court justice, senior court of appeals judge, or district judge may be appointed as provided in section (b) above.

(f) *Executive Meetings*. The chief judge may call for an executive meeting of the court. The purpose of an executive meeting is to formulate and approve general policies and administrative matters of the court. At the discretion of the chief judge, the COA clerk or other clerk's office employee, the director of the Administrative Office of the Courts, and the director of the court's central legal staff may be requested to attend the executive meetings of the court, but not all may be required to attend any given executive meeting. The chief judge will distribute the agenda by email no less than three working days prior to the executive meeting and will provide the minutes of the meeting within ten working days after the meeting.

(g) *Voluntary Recusal or Disqualification of Judges*. A judge may voluntarily recuse or disqualify themselves under any circumstances sufficient to require such action. The grounds for disqualification of a judge include, but are not limited to, those set forth in NRS 1.225 and Rule 2.11 of the Nevada Code of Judicial Conduct. The judges may also look to the guidance provided by the ABA's Standing Committee on Ethics and Professional Responsibility in Formal Opinion 488 when evaluating whether the judge's impartiality might

reasonably be questioned based on a relationship other than those identified in Rule 2.11 of the Nevada Code of Judicial Conduct. As soon as a judge determines whether they should recuse or be disqualified in a case, the judge will promptly notify the COA clerk and the chief judge. When appropriate under Rule 2.11(C) of the Nevada Code of Judicial Conduct, the judge should disclose the basis for the disqualification and afford the parties an opportunity to waive disqualification.

Rule 2. Case Management.

(a) *Decisional Tracks.* After transfer from the supreme court, cases are assigned to decisional tracks in order to tailor the decision-making process to the requirements of each case and thereby provide for its fair and expeditious resolution. There are two decisional tracks: (1) chambers track and (2) staff track. The COA clerk will recommend assignment to a decisional track. Traditionally, a weight has been assigned to each case based on the complexity of the issues presented and the anticipated time necessary for resolution in the chambers track. As an alternative to the weighting system, the chief judge may assign cases to promote the efficiency of case resolution. The chief judge will review the recommendation and, considering the foregoing criteria, approve it, modify it, or request further review from the COA clerk or central legal staff as deemed appropriate.

(1) *Screening Process.* The chief judge will review the COA clerk's decisional track screening recommendations every week, or as otherwise deemed appropriate, to approve the screening recommendations as to whether cases transferred to the court of appeals should be assigned to chambers or staff decisional tracks. The chief judge may delegate authority to the COA clerk to

assign certain case types directly to an appropriate decisional track upon transfer without additional screening.

(2) *Screening Criteria.* The following criteria govern the screening process:

(i) Cases tracked for chambers' decisions involve analysis of legal issues with potential precedential value or involve complex or multiple issues. Generally, cases tracked to chambers require considerable personal attention from the judges, such as those presenting potential unsettled questions of general importance or those presenting issues whose resolution by the court may clarify important areas of Nevada law.

(ii) Cases tracked to staff generally involve issues that can be resolved by the application of settled law and issues with no impact beyond the litigants. In addition, staff will initially review and make recommendations in postconviction habeas and related cases, pro se cases, foreclosure mediation cases, and probation revocation cases, and also conduct the initial review of writ petitions and recommend if an answer is warranted.

(3) *Track Assignment.*

(i) A brief screening memorandum and track recommendation will be prepared by the COA clerk for approval by the chief judge.

(ii) The chief judge will assign each case either to the staff decisional track or the chambers decisional track and may direct the COA clerk to assign the case to a specific judge or schedule the case for oral argument. When a judge in conjunction with the chief judge determines a case has been improperly tracked, or to promote efficiency in resolving the case, the chief judge will direct the COA clerk to reassign the case to a different decisional track.

(b) *Clustering*. Grouping or clustering cases enables the court to decide unrelated cases raising the same or similar issues in a consistent and efficient manner. To this end, when identifying issues, the COA clerk or the clerk's office screening team will also identify cases that present the same or similar issues and make a recommendation to group or cluster those cases. The chief judge, with input from the COA clerk or the clerk's office screening team, may identify the primary case of the group when appropriate.

(c) *Aging Case Report*. The director of central staff or the supervisory staff attorneys will generate and distribute to the judges an aging case report each quarter for staff cases. Likewise, the COA clerk will generate and distribute a similar report for chambers cases on a quarterly basis. The reports will identify by case number all matters that have been ripe for disposition and pending for more than 90 days without decision. A case is deemed ripe for disposition once briefing and screening is completed and as of the date of its assignment from the clerk's office to chambers or staff, or the date of its submission, if different. The reports will include a brief statement as to the reasons for the case's age. The court will review the aging case reports quarterly at conference and make recommendations where appropriate.

Rule 3. Oral Argument.

(a) *Scheduling and Location*. The COA clerk will schedule cases for oral argument as directed by the chief judge after consultation with the judges and the COA clerk. Arguments will be scheduled, whenever possible and as appropriate, during the third or fourth full week of the month. Oral arguments will generally be held in Las Vegas and, at the direction of the chief judge, may be held in Carson City, or elsewhere in Nevada. Oral arguments will generally be scheduled every other month and may be scheduled monthly as required.

However, during July and December, arguments will be scheduled only at the discretion of the chief judge after consulting with the other judges and the COA clerk.

(b) *Argument Determination.* The judges will determine which cases require oral argument. If two judges vote to hold oral argument in a case, or if the chief judge or the assigned judge in a chambers-tracked case who has had the opportunity to evaluate the case requests it, the matter will be scheduled for argument. The chief judge will notify the COA clerk of the cases requiring oral argument no later than six weeks prior to the start of oral argument week, or as otherwise determined to be appropriate by the chief judge.

(c) *Notice.* The COA clerk will, if possible, send a notice of oral argument to counsel at least six weeks prior to the scheduled hearing date. At the chief judge's discretion, in consultation with the other judges, the notice may include any particular issues to be addressed by counsel at oral argument. Reminder notices will generally be sent approximately two weeks prior to the scheduled hearing date. The notices will state the scheduled time, location, and length of the argument.

(d) *Priority.* When scheduling appeals for argument, the COA clerk will generally afford priority in calendaring to cases, in no particular order, where pro bono counsel has been assigned; direct and pretrial criminal appeals; family law matters, particularly those involving child custody or guardianship issues; civil appeals previously processed by the court or those that involve potentially dispositive procedural issues. However, when pending cases raise the same or similar legal issues, the court may advance or defer the hearing or consideration of a case so that related issues can be heard at the same time.

(e) *Post-Argument Conferences.* At the conclusion of each day's argument, or as often during the day as practicable, the judges will confer on the cases

they have heard. Each judge will be afforded an opportunity to express their views. The judges will attempt to reach a tentative decision regarding the disposition of each case and whether it should be in the form of a published opinion or unpublished order. The COA clerk will attend the conferences and record the tentative votes of the judges.

(f) *Post-Conference Notes.* Following the conclusion of all arguments at oral argument and post-argument conferences, the COA clerk will prepare and circulate post-conference notes indicating the judges' votes regarding each case's disposition and whether the disposition will be in the form of a published opinion or unpublished order, and any other pertinent or relevant information. The COA clerk will update C-Track "next action" items for the argued cases if a judge, central staff, or the clerk's office needs to take further action on a case following oral argument.

Rule 4. Portable Agendas and Oral Presentations

(a) *Portable Agendas.* Central staff will distribute summaries of cases and draft dispositions by portable agenda via email for review and approval by the court on a weekly basis unless otherwise directed by the chief judge. The criminal and civil distributions will rotate every other week, with the distribution occurring on the second court day of the week, unless otherwise scheduled by the chief judge in consultation with the director of central staff. The director of central staff will be responsible for ensuring that portable agendas are regularly distributed. Judges will provide their votes or edits on the draft dispositions, or request to hold a case for further discussion at oral presentations, by the deadline set forth in the distribution or as otherwise directed by the chief judge.

(b) *Oral Presentations.* The court will schedule oral presentations by staff, generally on the second Tuesday of the month, when required by the judges based on their review of the cases on the portable agenda. The director of central staff will assist the judges in determining which staff cases may be appropriate for oral presentation. If appropriate, in addition to the materials provided in the portable distribution, staff may provide additional information in the form of written summaries and draft dispositions in advance of the oral presentation to assist the court in its resolution in advance of oral presentations or as otherwise requested by the court. The director of central staff will attend each oral presentation and ensure that the final disposition for each case is timely filed.

Rule 5. Assignment and Preparation of Chambers Cases.

(a) *Assignment by the COA Clerk.* On the first court day of every month, the COA clerk will assign cases to chambers based upon criteria set forth in Rule 2 above.

(b) *Preparation of Cases by Chambers.* Cases will be prepared for consideration by the court according to one of two tracks at the discretion of the assigned judge. Under either track, the appropriate materials to be considered by the court, including the district court order(s) at issue and other pertinent documents from the record, will be distributed at or before the next available conference distribution deadline that is at least 30 days after the case assignment date.

(1) *Bench Memorandum Track.* Under the judge's supervision, the law clerks will prepare a bench memorandum for those cases deemed appropriate by the assigned judge. The bench memorandum will, with supporting citations to the record, briefing, law, or other sources, summarize the relevant facts of a

case based on the record, the parties' arguments as set forth in the briefs, and the relevant law; provide an objective and independent analysis of the issues presented by the parties; and recommend whether the case merits oral argument and whether a published opinion may be appropriate. Although the bench memorandum is prepared by the assigned chambers, it is used by all judges participating in the case to assist in understanding and resolving the case. Accordingly, any judge participating in the case may contact the bench memorandum's author to discuss or request additional information about the case. Copies of bench memoranda must be distributed to each participating judge and may be distributed to such other staff members as a judge directs, particularly where the court is considering publishing an opinion. Bench memoranda will be considered at the scheduled conference where the court will vote on the next appropriate action on the case. Draft dispositions may also be distributed with bench memoranda if deemed appropriate and may be considered with the bench memoranda at the conference. Alternatively, in more complex cases, draft dispositions will be distributed at the following scheduled chambers conference for consideration by the judges.

(2) *Short Memorandum or Oral Presentation Track.* If deemed appropriate by the assigned judge, law clerks may prepare a short form memorandum and draft disposition. Such cases may be considered on a staff portable agenda as provided in Rule 4(a), at a court conference, or may be orally presented by the assigned judge or law clerk, at either a chambers conference or at a staff oral presentation session that coincides with the distribution deadline provided in Rule 5(b). When a chambers case is placed on a portable agenda, any judge may request to hold a case for further discussion at the next scheduled conference by the deadline set forth in the distribution, or as otherwise directed by the chief judge.

The court may, upon majority vote of the court, or at the direction of the chief judge, alter the chambers decisional track process as deemed appropriate after considering efficiency and caseload management.

(c) *Argument Determination.* Generally, oral argument will be held in those cases involving unsettled areas of the law, cases in which pro bono counsel has been appointed and oral argument has not been waived, or in cases where oral argument will substantially aid the court in understanding the facts or in resolving the issues on appeal. Unless otherwise decided by the court or where oral argument is mandatory, within 14 days after consideration of the bench memorandum or other case preparation materials at a court conference, the chief judge will inform the COA clerk if oral argument is to be scheduled. The COA clerk will schedule the oral argument calendar as directed by the chief judge. A case submitted without argument to the court may be scheduled for argument after further review by the court if the chief judge or the assigned judge in the chambers-tracked case who has had the opportunity to evaluate the case requests it, or if any two judges vote to schedule oral argument for that case.

(d) *Disposition.* The judge assigned to the case will have the responsibility to produce the disposition voted by the majority. In the event the judge assigned the case is not in the majority and for good cause is unable to draft a proposed majority disposition, the chief judge will select a judge to supervise a law clerk from the chambers assigned the case, or may reassign the case to the chambers of a judge in the majority. At the time a draft disposition is prepared, the author of the majority disposition must research the issue-tracking and opinion databases to ensure the draft disposition is prepared with a full awareness of the court's other cases addressing the same or similar issues.

(e) *Editing.* The first draft of chambers' dispositions should be edited by the clerk's office editing team. Chambers will provide the editing team with a source packet to assist the team in reviewing the draft disposition. The assigned chambers will inform the other chambers if a circulated disposition has not been reviewed by the clerk's office editing team. Chambers may also request disposition editing by central legal staff in addition to or in lieu of the clerk's office editing where deemed appropriate.

(1) Once a case is deemed submitted (after a post-argument conference, or if the initial draft disposition was not approved for filing at a court conference), the COA clerk will schedule a deadline for a draft disposition of 60 days pursuant to Rule 8(b) where one has not yet been prepared and edited.

(2) The clerk's office editing team will have seven working days from receipt of a draft disposition to edit and substantively cite- and source-check the draft. The day the draft is sent is not included in calculating the time for editing. The clerk's office editing team may request additional time if appropriate, or required, to comply with the supreme court's IOP's or rules. *See* subsection (7) below.

(3) If the draft is an order and substantive review by central legal staff has not been requested by the originating chambers or the chief judge, the clerk's office editing team will return the draft to chambers upon completion of its review without input from central legal staff.

(4) If the draft is an opinion or substantive review by central legal staff has been requested, the draft will also be reviewed by central legal staff, which will have five working days from receipt of the draft from the clerk's office editing team to review it for substantive and technical errors and summarize any such errors in a short memo or in redlined tracked changes. The central legal staff will either provide the memo or redlined tracked changes to the

clerk's office editing team, who will include the memo or tracked changes from central staff with the draft that is returned to chambers; or return the memo or redlined tracked changes directly to chambers and the clerk's office editing team.

(5) When the draft is returned to the originating chambers, the chambers will incorporate the edits as promptly as practicable. If the draft is an opinion, chambers may return the draft opinion to the clerk's office editing team for final review. Chambers may request further review by central staff if substantive changes have been made to the original draft. When a second substantive review by central staff is requested, the central legal staff will provide its feedback in the manner and timeline described above in Rule 5(e)(4).

(6) The clerk's office editing team will have five working days to conduct the final review of draft opinions.

(7) The clerk's office editing team or central legal staff may request extensions of the time deadlines stated in this rule from the originating chambers. Such requests should be made in advance of the deadline.

(8) If the assigned chambers intends to accept most or all edits to a draft, it may circulate via email an editable link of the redlined proposed disposition to the other chambers and the COA clerk for review. If the assigned chambers intends to decline or comment on the edits, it will circulate via email a PDF of the redline of the edited disposition containing all of the editing team's edits; central legal staff's edits, if any; and the assigned chambers' responses; and an editable link of a clean version of proposed disposition to the judges in the other chambers and the COA clerk for review. If the edits are minimal, the assigned chambers may elect to circulate the link with the minimal edits for review, instead of circulating a clean version in the link. Once all chambers have agreed on the edits to a proposed disposition, the assigned chambers will

have a final clean version of the disposition uploaded to C-Track and circulated to all chambers and the COA clerk.

(9) Once the editing process is complete, the draft will be distributed as a final draft for the conference to which the case has been assigned or can be circulated for the next available court conference.

Rule 6. Assignment and Preparation of Staff Cases.

(a) *Assignment of Cases.* The director of central staff, in connection with the supervisory staff attorneys, will monitor the caseloads of the staff attorneys and make case assignments based on appropriate considerations, including subject-matter specializations, case age, and case weight if appropriate.

(b) *Argued Cases.* Under the director of central staff's direction and that of a judge, if assigned by the chief judge, a staff attorney will prepare a memorandum for each staff case to be scheduled for oral argument. Except in cases requiring emergency or expedited consideration, the memorandum will be completed in time to be circulated to the court no later than 14 days prior to the scheduled oral argument date. Where that deadline cannot be met in cases requiring emergency consideration or cases selected for oral argument following a staff oral presentation, the director of central staff will consult with the chief judge to establish an appropriate deadline and will notify the other judges participating in the case and the COA clerk of that deadline.

(c) *Submitted Cases.* At the discretion of the director of central staff, staff may present cases to the court either by oral presentation or portable agenda. The judges in conjunction with the director of central staff may request any case on the portable agenda to be presented by staff at the scheduled oral presentations.

(d) *Disposition.* Under the supervision of the director of central staff and supervisory staff attorneys, staff will prepare a proposed disposition for each case transferred to staff. However, the chief judge may assign a judge to supervise the staff's preparation of the bench memorandum or disposition in any case, particularly where the court is considering publication of an opinion.

(1) *Time Limits for Cases Submitted to Staff.* The director of central staff or supervisory staff attorneys will report to the chief judge as provided in Rule 2(c) above as to all cases that have been pending in staff without a draft disposition being circulated for more than 90 days beyond the date of assignment.

(2) *Time Limits for Circulation of Oral Presentation Cases.* Draft dispositions for cases selected for oral presentations will be circulated no later than five days before the oral presentation date or as otherwise set by the chief judge according to the court schedule. In emergency situations, the director of central staff may add a case to the oral presentation agenda less than seven days before the oral presentation date. An unsigned draft that is passed on at oral presentations must be edited, if necessary, and recirculated for a court conference, oral presentation session, or portable agenda as soon as possible, but in no event more than 30 days after the original oral presentation. If the court directs staff to prepare an opinion or an alternate disposition, the time limits in Rule 5(e)(1) will apply.

(3) *Time Limits for Argued and Discussion Only Cases.* Once a majority is determined in a staff case that has been argued or considered for discussion only at oral presentations or conference, the matter will be deemed submitted. If the majority is determined at oral presentations, the director of central staff will notify the COA clerk. The director of central staff will circulate a draft disposition within 30 days after the deemed submitted date. If

a subsequent conference produces a new majority, the new majority draft will be circulated within 30 days. If a majority of the court determines that a staff case constitutes an emergency, the timelines for preparation of a disposition will be suspended and the director of central staff will consult with the chief judge to establish deadlines consistent with the emergency nature of the matter.

(4) *Extensions of Time.* The above time limits may be changed by the chief judge for good cause or when extraordinary circumstances preclude timely circulation. When a case is reassigned from chambers to staff, or from staff to chambers, any applicable deadlines will begin to run from the date the court agreed upon the disposition of the case or when it is reassigned to staff, or the date of its submission, if that is later than the assignment date.

Rule 7. Conferences.

(a) *Scheduling.* Under the direction of the chief judge, the COA clerk will schedule conferences for consideration of cases and administrative matters. All conferences will be made available in Las Vegas and Carson City via videoconference.

(b) *Attendance.* Each judge will attend conferences in person or by videoconference. The chief judge may grant limited exceptions. The COA clerk will also attend unless otherwise directed by the court.

(c) *Draft Circulation and Deadline.* Copies of draft decisions must be distributed to each chambers and the COA clerk, and may be distributed to such other staff members as a judge or department head directs. Except as provided below, drafts to be considered at a conference must be uploaded into OnBase via C-Track no later than 6:00 p.m. on the scheduled draft distribution deadline day, unless the chief judge extends the time for good cause. The COA

clerk will set the distribution deadline at least 14 days prior to the conference, or as directed by the chief judge according to the court's schedule. The central legal staff may add additional items to the draft conference agenda, provided that the proposed draft is circulated at least 14 days before the conference. The practice of adding items to the agenda prior to distribution of a draft is discouraged but not prohibited; however, the chief judge must approve adding a case to an agenda if the draft is not timely distributed.

Once a draft uploaded for conference has been reviewed by the editing team and, if requested, by central staff, the assigned chambers will circulate, via email, to all chambers, a redline of the disposition in PDF that includes all edits from editing team and staff and, if needed, the chambers' responses to those edits. The assigned chambers will also circulate, in the same email, an editable link to a clean version of the draft disposition for the court's consideration. If the suggested edits from editing team or staff are minimal, the assigned chambers may choose to circulate only an editable link that includes those edits in redline.

(d) *Agenda*. The COA clerk, based on the drafts distributed, prepares the conference agenda for the conferences. To ensure that conferences are productive, the chief judge will work with the COA clerk to limit the items placed on the agenda to those that are ripe for discussion or further action by the judges or staff. The COA clerk will distribute the agenda by 3:00 p.m. the next working day after the distribution deadline, or as directed by the chief judge according to the court schedule. Unless unavailable, the chief judge will approve the conference agenda prior to distribution. After the agenda is distributed, no case will be removed or added without a showing of good cause and the express authorization of the chief judge. Notwithstanding the provisions of this rule, the chief judge may add or remove an item to or from the

agenda at any time. Copies of the agenda will be provided to each judge, judicial assistant and law clerk, COA clerk, and the director of central staff when appropriate.

(e) *Discussion and Voting.* All final drafts of opinions and orders will be considered, along with such other matters on the agenda as may be requested by the chief judge or any of the other judges or staff. Each judge will have the opportunity to be heard on each case or agenda item before a final vote is taken unless disqualified as discussed in Rule 7(f). The COA clerk will record the vote and any other action taken with respect to each agenda item and, as soon as practicable after the conference, will prepare and distribute a conference report to those judges and staff members receiving the agenda.

(f) *Disqualifications.* A judge who has recused or otherwise disqualified from participating in the disposition of a matter will leave the conference room during any discussion of the matter. Further, any input as to the substance of the case by a disqualified judge is prohibited and no member of the disqualified judge's chambers will access such matter through C-Track. This does not include any staff attorney assigned to chambers, but who is not a member of the judge's chambers unless disqualification is required based on input from the staff attorney, supervisor or director. If a law clerk of a judge's chambers is disqualified on a case, the law clerk will be screened from any participation in the case and will not have access to the matter through C-Track. Alternatively, the chief judge may reassign the case to another chambers if appropriate.

(g) *Passes.* A judge may request that consideration of a case or matter on a conference agenda be passed to the next conference or, with the approval of the chief judge, to a later conference. Such a request will be honored unless the chief judge determines that the matter is of such urgency that discussion or issuance of an immediate disposition is necessary.

When a matter that previously was passed again appears on the agenda, the judge who requested that the case or matter be passed may request another postponement, but it will be granted for good cause only, and with the consent of a majority. If the majority is ready to sign a final opinion or order concerning a case that appeared on a previous agenda and was passed, that opinion will be signed and filed unless a further postponement is granted. The judge who does not agree with the majority may designate how they would like to have their participation in the case designated, i.e., concurrence in whole or in part, concurrence in result only, or dissent in whole or in part. If no particular designation is given by a judge, the judge will be deemed to have concurred. If a majority is not prepared to sign a final opinion or order, the case or matter will be placed on the next conference agenda.

Rule 8. Time Limits for Disposition Preparation.

(a) *Precirculated Disposition.* If the draft disposition for a case was circulated and approved by all chambers before conference and a final version was uploaded, the court will vote on the final version via email or at the next conference, where necessary. If approved, the COA clerk will finalize the disposition for filing. If the final version is not approved, the COA clerk will place the item on the next conference agenda and note in the conference notes any action needed to be taken.

(b) *Majority Decision.* Once a majority is determined at the post-argument or court conference, the matter will be deemed submitted and the judge or staff to prepare the order or majority opinion will be designated pursuant to Rule 4(a) or Rule 5(d). The author of the order or opinion will prepare a draft disposition for circulation within 60 days after submission. In the absence of a majority at the initial conference, the matter will be continued

until a subsequent conference produces a majority. At that time, the submission date will be determined as in the first post-argument or submitted case conference. If a subsequent conference produces a new majority, the new majority draft will be circulated within 30 days from the date the vote changes. This rule will apply to staff-tracked cases and chambers-tracked cases.

(c) *Concurrence or Dissent.* Any judge desiring to submit a dissenting or concurring opinion or memorandum to an order containing additional authority will do so within 30 days from the time the majority draft has been distributed. If a judge in the majority wishes to prepare a separate opinion or other draft to the position stated in a concurrence or dissent, that judge will have 30 days to prepare an opinion or other draft from the date of circulation of the draft to which it is responding. The chief judge may, if necessary, set a final deadline for submission of any further revisions to the majority, concurrence, or dissent. If the draft by the dissenting or concurring judge is not timely circulated, the opinion or order may be signed and filed with only an appropriate notation, such as “I dissent” or “I concur in the result only.”

(d) *Unsigned Drafts.* An unsigned draft must be edited and recirculated within 30 days of the original draft conference.

(e) *Extensions of Time.* The above time limits may be changed by the chief judge when good cause precludes timely circulation. When a case is assigned to a judge other than at a post-argument conference, the matter will be deemed submitted when a majority of the court has agreed upon a disposition and a judge is assigned to prepare the disposition.

(f) *Emergencies.* If a majority of the court votes that a matter constitutes an emergency, the timelines for preparations of a disposition, including dissents or concurrences, will be suspended, and deadlines consistent with the emergency nature of the matter will be established by the chief judge.

Rule 9. Orders and Opinions.

(a) *Manner of Disposition.* The court will decide how a case will be disposed of, either by order or opinion. An opinion may be prepared if the case presents a novel question of law, clarifies an important question of law, or sets new legal precedent. Although it is contemplated that most court decisions will be by order, the court “will decide a case by published opinion if it . . . [p]resents an issue of first impression”; “[a]lters, modifies, or significantly clarifies a rule of law previously announced by either the Supreme Court or the Court of Appeals”; or “[i]nvolves an issue of public importance that has application beyond the parties.” NRAP 36(c)(1). An opinion will not be mandatory when reversing a judgment that does not involve the above.

(b) *Per Curiam vs. Authored.* A judge will have the option of authoring any opinion assigned to that judge to prepare, or may designate the majority opinion as “per curiam.” However, if the decision is not unanimous, or any other judge signs a separate opinion (concurring, concurring in part, dissenting, etc.), the per curiam designation will not be used, and the published opinion will designate the name of the authoring judge. That is, only unanimous opinions may be designated as per curiam opinions. Unpublished orders, which may be cited as persuasive authority as of August 15, 2024, may be authored if there is a unanimous vote of the court to designate such orders as authored dispositions.

(c) *Electronic Version of Opinions.* When an opinion is submitted to the COA clerk for filing, the authoring chambers will provide the COA clerk with an accurate electronic copy of the opinion. The author will ensure that the electronic copy is in proper format for publication on the Internet. The COA clerk will coordinate with the publishing team to schedule the opinion for filing and publication.

(d) *Circulation of Opinions (Greensheeting Process)*. Prior to filing and publication, the COA clerk, through the Reporter of Decisions, will circulate copies of all opinions to all participating judges and all court attorneys. The purpose of the circulation is to determine whether there is a conflict of filed or draft opinions and to flag any significant errors in content or style. Staff attorneys designated by the director of central staff will check all opinions for conflicts and will notify the author of any significant, potential inconsistencies with existing caselaw or inconsistencies with other proposed dispositions. The clerk's office editing team will review the opinion for technical and procedural accuracy, and finalize the opinion for publication on the Internet. Unless otherwise notified within five calendar days of circulation, the COA clerk will file and publish the opinion. Absent extraordinary circumstances and the authorization of the chief judge, opinions will be filed and published on Thursdays. There will be no substantive changes made to any opinion during this final review process. If an authoring judge believes such substantive changes need to be made, that chambers will request the chief judge to pull the opinion from the publication process. If the chief judge approves such a request, the chief judge will notify the COA clerk as soon as possible.

Rule 10. Deciding Cases on Points Not Argued. If the court determines that it might decide a case upon the basis of a significant point not raised by the parties in their briefs, or addressed by the district court, it may order additional briefing or oral argument before issuing a disposition predicated upon the particular point.

Rule 11. Petitions for Rehearing.

(a) *Initial Determination Required.* When a petition for rehearing is filed, the COA clerk will circulate copies of the petition, the challenged disposition, and the current docket sheet to each judge participating in the decision of the matter, as well as to the director of central staff and assigned central staff supervisor in staff-tracked cases, and will schedule the petition for discussion at a conference no earlier than 30 days preceding the next conference upload deadline, or as otherwise directed by the chief judge. The judges will then determine whether to deny the petition summarily or to order an answer to the petition based upon the petition, the original disposition, and/or the previously distributed bench or short form memorandum and will also direct the clerk's office or central legal staff to prepare the appropriate order. Additional memoranda may be prepared by staff or chambers, or at the request of a judge, in connection with any petition for rehearing. Petitions for rehearing of staff-tracked cases may be considered at staff oral presentations rather than a court conference at the discretion of the chief judge and the director of central staff.

(b) *Determination When Answer Ordered.* When the answer to the rehearing petition is filed, the COA clerk will circulate copies of the answer to each judge participating in the decision of the matter and will schedule the rehearing for discussion at the next conference. The judges will then determine whether to grant rehearing. A petition will only be granted upon the affirmative vote of a majority of the judges. If rehearing is to be granted, the judges will also decide whether additional briefing or oral argument is warranted. Summary denial of the petition or correction of the court's decision may also be ordered.

(c) *Action by Court if Rehearing Granted.* If rehearing is to be granted, an order granting rehearing and reinstating the matter will be signed and filed as

soon as practicable after the determination is made. Once a majority has been determined, the matter will be deemed submitted for decision, and the judge or staff to prepare the order or majority opinion will be designated pursuant to Rule 5(d). The time limits for preparation of a disposition on rehearing are determined pursuant to Rule 8.

(d) *Correction of Decision on Denial of Rehearing.* When the court decides to correct a decision, the corrected decision will issue as soon as practicable after the determination is made. If the corrected decision is not signed and filed within 30 days, the COA clerk will schedule the rehearing for discussion at the next conference.

Rule 12. Emergency Proceedings. When a matter is designated as an emergency pursuant to NRAP 27(e), the COA clerk or the clerk's office legal division will preliminarily review the matter to confirm that it qualifies as an emergency and identify the critical legal issue(s) presented. If the matter is, in fact, an emergency, the COA clerk or the clerk's office legal division will contact the chief judge, or their designee, who will confirm the assessment of the emergency and determine if the matter can be resolved by the court through email with a short explanation and a proposed order or orders. The chief judge and the court reserve the right to request a formal presentation of the emergency motion by the COA clerk or central legal staff when appropriate.

Rule 13. Motions.

(a) *Priority of Motions.* All non-pro se motions will be assigned a priority status of 1 through 4 when they are received. Priority status is as follows:

(1) Priority 1: All emergency motions. These motions should be resolved immediately.

(2) Priority 2: All motions for stays (other than emergencies) and motions relating to briefing, e.g., regarding supplemental briefing, filing of supplemental amicus briefs, etc. These motions should be resolved within two weeks.

(3) Priority 3: All motions regarding the contents of the record, preparation of transcripts, extensions of time for responding to a prior order of this court, or other motions in cases where briefing has not been completed. These motions should be resolved within 30 days.

(4) Priority 4: All other motions, e.g., motions to dismiss appeals, motions for bail (other than emergencies), motions to strike parts of the appendix or the briefs, and any other motion requiring a significant investment of time to resolve. These motions should be resolved within 60 days.

(b) *Disposition of Motions.* Under the chief judge's direction, the clerk's office legal staff will prepare orders for all procedural motions. The chief judge will determine which types of orders may be filed with a chief judge's signature stamp and which orders must be presented to the chief judge (or designated judge) for approval.

(5) *Orders of Dismissal.* The COA clerk, or such assistant or deputy clerks as may be designated, is authorized to enter orders of dismissal in civil cases where the appellant has filed a motion for the voluntary dismissal of an appeal or where the 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, or where the filing fees have not been paid.

(c) *Motions for Reconsideration.* A motion for reconsideration of an action taken by the clerk's office is decided by the chief judge or, if the chief judge is unavailable, the judge designated by the chief judge or, if necessary, any available judge. Opposition to a motion received after action has been taken by

the clerk's office on the motion does not itself constitute a motion for reconsideration; such a motion must be separately filed.

(d) *Limitations on Clerk's Office's Authority.* Regardless of the delegation of authority herein, the clerk's office or the central legal staff will present to the court any motion or order involving complex facts, novel or unique situations, public policy matters, high-profile cases, or establishing a new policy or approach, whether via a procedural order or in a proposed substantive disposition.

Rule 14. Confidentiality. All events and actions taken in administrative matters or in the preparation and circulation of draft opinions or orders, bench memoranda, and memoranda and correspondence between chambers or staff concerning pending cases will be confidential, as will the events, action, and votes that are taken at any draft or post-argument conference. The contents of orders or opinions will remain confidential until filed by the COA clerk and released to the public. Any material violation of Rule 14 may result in disciplinary action, including a referral to the Nevada Commission on Judicial Discipline, or other appropriate action.

Rule 15. Application and Effective Date of Rules. These rules take effect immediately upon their adoption and govern all proceedings in actions commenced in this court after the effective date. These rules also govern all further proceedings in actions pending in this court on the effective date, unless in the opinion of the court their application in a particular pending action would not be feasible or would work an injustice.

Rule 16. Interpretation and Amendment of These Rules. These rules are based upon similar rules that have been adopted by the supreme court. If a dispute arises as to the interpretation of any rule, or if there is an omission, the chief judge will resolve the dispute and provide direction, unless a majority of the court votes otherwise. Reference to any comparable supreme court rules, and that court's interpretation thereof, will be used as guidance to resolve disputes regarding application of these rules. Finally, these rules may be amended by a vote of the majority of the court after consideration of proposed amendments at a court conference.

Rule 17. Definition of Days and Extension of Timelines. Any reference to "days" in these rules should be understood to refer to calendar days unless specified otherwise. Further, the chief judge may extend any deadline provided by these rules for good cause, and may, at their discretion, request a vote of the court for approval of any such extension.

APPENDIX 1

DRAFT DISTRIBUTION DEADLINES

First Draft:

From Deemed Submitted or Oral Argument Date: 60 days

Concur/Dissent:

From Majority's First Draft Distribution Date: 30 days

New Majority:

From Date Votes Change: 30 days

Majority on Rehearing:

From Deemed Submitted Date: 60 days

APPENDIX 2

The court will follow *Bluebook* conventions in its memos, orders, and opinions except that parallel citations need only be used for cases reported in the *Nevada Reports* and, in lieu of “Nev. Rev. Stat.,” the official “NRS” form will be used in citing to the *Nevada Revised Statutes*. Further, the court may adopt any other exceptions recommended by the clerk’s office editing team.