

NRCP 16.205 – Proposed
(Keep NV with formatting changes)

**Rule 16.205. Mandatory Prejudgment Discovery
Requirements in Paternity and Custody Matters**

(a) **Applicability.** This rule ~~applies to~~replaces Rules 16.1, and 16.2 in all paternity and custody actions between unmarried parties. Nothing in this rule shall preclude a party from conducting discovery pursuant to ~~the Nevada Rules of Civil Procedure~~these rules.

(b) **Exemptions.**

(1) Either party may file a motion for exemption;~~the~~ from all or a part of this rule.

(2) The court may, sua sponte at the case management conference, exempt all or any portion of a case from application of this rule, in whole or in part, upon a finding of good cause, so long as the exemption is contained in an order of the court.

(c) **Financial Disclosure Forms.**

(1) **General Financial Disclosure Form**~~(GFDF).~~ In all actions governed by this rule, each party must complete, file, and serve the cover sheet, income schedule and expense schedule of the General Financial Disclosure Form (GFDF) within 30 days of service of the ~~Complaint~~summons and complaint, unless a Detailed Financial Disclosure Form (DFDF) is required in accordance with Rule 16.205(c)(2) or the court orders the parties, at the case management conference, to complete the ~~Detailed Financial Disclosure Form~~DFDF.

(2) **Detailed Financial Disclosure Form**~~(DFDF).~~ If the Plaintiff.

(A) ~~The plaintiff,~~ concurrently with the filing of the ~~Complaint~~complaint, or the ~~Defendant~~defendant, concurrently with the filing of the ~~Answer~~answer, but no later than 15 days after the filing of the ~~Answer~~, ~~files the answer,~~ may file a “Request to Opt-in to Detailed Financial Disclosure Form and Complex Litigation Procedure” certifying that:

~~(A) Either~~ (i) either party’s individual gross income, or the combined gross income of the parties, is more than \$250,000 per year; or

~~(B) Either~~ (ii) either party is self-employed or the owner, partner, managing or majority shareholder, or managing or majority member of a business;

~~then each party must file the DFDF within~~

 (B) Within 45 days of service of ~~thea~~ Request to Opt-in, each party must file the DFDF unless otherwise ordered by the court or stipulated by the parties.

 (C) The case shall then be subject to the ~~Complex Divorce Litigation Procedures,~~ which requires that each following complex divorce litigation procedure. Each party shall prepare a ~~Complex Divorce Litigation Plan~~complex divorce litigation plan that ~~shall~~must be filed and served as part of the ~~Early Case Conference Report~~early case conference report. The plan shall include, in addition to the requirements of Rule 16.205(i), any and all proposals concerning the time, manner, and place for needed discovery, proposed conferences and anticipated hearings with the court, and any other special arrangements focused on prompt settlement, trial, or resolution of the case.

(d) **Mandatory Initial Disclosures.**

(1) Initial Disclosure Requirements.

(2) Evidence Supporting Financial Disclosure Form. For each line item on the GFDF or DFDF, if not already evidenced by the other initial disclosures required herein, a party must provide the financial statement(s), document(s), receipt(s), or other information or evidence relied upon to support the figure represented on the form. If no documentary evidence exists, a party must provide an explanation in writing of how the figure was calculated.

(3) Evidence of Income and Earnings as to Both Parties.

(A) **Bank, Investment, and Other Periodic Statements.** ~~Copies~~A party must provide copies of all monthly or periodic bank, checking, savings, brokerage, investment, cryptocurrency, security account, or other statements evidencing income from interest, dividends, royalties, distributions, or any other income for the period commencing 6 months prior to the service of the ~~Summons~~summons and ~~Complaint~~complaint through the date of the disclosure;.

(B) **Insurance Policies.** ~~Copies~~A party must provide copies of all policy statements and evidence of costs of premiums for health and life insurance policies covering either party or any child of the relationship;.

(C) **Tax Returns.** ~~Copies~~A party must provide copies of all personal and business tax returns, balance sheets, profit and loss statements, and all documents that may assist in identifying or valuing any business or business interest for the last 3 completed calendar or fiscal years with respect to any business or entity in which any party has or had an interest within the past 12 months;.

(D) **Proof of Income.** ~~Proof~~A party must provide proof of income of the party from all sources, specifically including W-2, 1099, and K-1 forms, for the past 2 completed calendar years, and year-to-date income

information (paycheck stubs, etc.) for the period commencing 6 months prior to the service of the ~~Summons~~summons and ~~Complaint~~complaint through the date of the disclosure; ~~and.~~

(E) **Exhibits.** A party must provide a copy of every other document or exhibit, including summaries of other evidence, that a party expects to offer as evidence at trial in any manner.

~~(3)~~

(e) Additional Discovery and Disclosures.

(1) Obtaining Discovery. Any party may obtain discovery by one or more methods provided in Rules 26 through 36, commencing 30 days after service of the ~~Complaint~~summons and complaint.

~~(42) Additional Discovery.~~ Nothing in the minimum requirements of this rule shall ~~preclude~~provide a basis for objecting to relevant additional discovery in accordance with ~~the Nevada Rules of Civil Procedure~~these rules.

~~(53) Disclosure of Expert Witness and Testimony.~~ _

(A) A party shall disclose the identity of any person who may be used at trial to present evidence pursuant to NRS 50.275, 50.285, and 50.305. These disclosures must be made within 90 days after the initial financial disclosure form is required to be filed and served under Rule 16.205(c) or, if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party, within 21 days after the disclosure made by the other party. The parties shall supplement these disclosures when required under Rule 26(e)(1).

(AB) Except as otherwise stipulated or directed by the court, a party who retains or specially employs a witness to provide expert testimony in the case, or whose duties as an employee of the party regularly

involve giving expert testimony, shall deliver to the opposing party a written report prepared and signed by the witness within 60 days of the close of discovery. The court, upon good cause shown or by stipulation of the parties, may extend the deadline for exchange of the expert reports or relieve a party of the duty to prepare a written report in an appropriate case. The report shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor, the data or other information considered by the witness in forming the opinions, any exhibits to be used as a summary of or support for the opinions, and the qualifications of the witness.

(64) Nonexpert Witness. TheA party shall disclose the name and, if known, the address and telephone number of each individual who has information or knowledge relevant to the claims or defenses set forth in the pleadings, or who may be called as a witness, at any stage of the proceedings, including for impeachment or rebuttal, identifying the subjects of the information and a brief description of the testimony for which the individual may be called. Absent a court order or written stipulation of the parties, a party shall not be allowed to call a witness at trial who has not been disclosed at least 45 days before trial.

(75) Authorizations for Discovery. If a party believes it necessary to obtain information within the categories under Rule 16.205(d)~~(2)(A) through (d)(2)(E3)~~, from an individual or entity not a party to the action, the party seeking the information may present to the other party a form of authorization, permitting release, disclosure, and production of the information. The party who was requested to sign the authorization must do so within ~~10~~14 days of receipt of the authorization form. If the party who was requested to sign the authorization refuses to sign the authorization without good cause, a motion to compel may be filed. If the court or discovery

commissioner finds that the objecting party is without legitimate factual or legal objection to the signing of the authorization, a motion to compel shall be granted and the objecting party shall be made to pay reasonable attorney fees and costs.

(ef) Continuing Duty to Supplement and Disclose. The duty described in this rule shall be a continuing duty, and each party shall make additional or amended disclosures whenever new or different information is discovered or revealed. Such additional or amended disclosures, including corrections to a party's financial disclosure form, shall be made not more than 14 days after the party acquires additional information or otherwise learns that in some material respect the party's disclosure is incomplete or incorrect. However, if a hearing, deposition, case management conference, or other calendared event is scheduled less than 14 days from the discovery date, then the update must be filed and served within 24 hours of the discovery of new information.

(fg) Failure to File or Serve Financial Disclosure Form or to Produce Required Disclosures. _

 (1) If a party fails to timely file or serve the appropriate financial disclosure form required by this rule, or the required information and disclosures under this rule, the court shall impose an appropriate sanction upon the party, the party's attorney, or both, unless specific affirmative findings of fact are made that the violating party has proven: ~~(1)~~

 (A) either good cause for the failure by a preponderance of the evidence or that the violating party would experience an undue hardship if the penalty is applied; and ~~(2)~~

 (B) that other means fully compensate the nonviolating party for any losses, delays, and expenses suffered as a result of the violation.

~~(1) Sanctions.~~

~~(A)~~ Sanctions may include an order finding the violating party in civil contempt of court, an order requiring the violating party to timely file and serve the disclosures, to pay the opposing party's reasonable expenses, including attorney fees and costs incurred as a result of the failure, and any other sanction the court deems just and proper.

~~(B)(2)~~ Sanctions may additionally include an order refusing to allow the violating party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence, and/or any other sanction the court deems just and proper. These discretionary sanctions are authorized for repeat or egregious violations.

~~(g)~~ **Failure to Accurately Report Income.**

~~(1)~~ If a party intentionally fails to accurately report income, the court shall impose an appropriate sanction upon the party or the party's attorney, or both, if the other party establishes by a preponderance of the evidence that there is not good cause for the failure.

~~(1) Sanctions.~~

~~(A)~~ Sanctions may include an order finding the violating party in civil contempt of court, an award of reasonable attorney fees and costs to the nonviolating party, and any other sanction the court deems just and proper.

~~(B)(2)~~ These discretionary sanctions are encouraged for repeat or egregious violations.

~~(h)~~ **Objections to Authenticity or Genuineness.** Any objection to the authenticity or genuineness of documents is to be made in writing within 21 days of the date the receiving party receives them. Absent such an

objection, the documents shall be presumed authentic and genuine and shall not be excluded from evidence on these grounds.

(i) Case Management Conferences.

(1) **Attendance at Early Case Conference.** Within 45 days after service of the ~~Answer~~answer, the parties and the attorneys for the parties shall confer for the purpose of complying with ~~Section Rule 16.205(d) of this rule.~~ The ~~Plaintiff~~plaintiff shall designate the time and place of each meeting, which must be held in the county where the action was filed, unless the parties agree upon a different location. The parties may submit a ~~Stipulation~~stipulation and ~~Order~~order to continue the time for the case conference for an additional period of not more than 60 days, which the court may, in its discretion and for good cause shown, enter. Absent compelling and extraordinary circumstances, neither the court nor the parties may extend the time to a day more than 90 days after service of the ~~Answer~~answer. The time for holding a case conference with respect to a defendant who has filed a motion pursuant to Rule 12(b)(2)-(4) is tolled until entry of an order denying the motion.

(2) **Early Case Conference Report.** Within ~~15~~14 days after each case conference, but not later than ~~57~~ days prior to the scheduled case management conference, the parties must file a joint early case conference report, or if the parties are unable to agree upon the contents of a joint report, each party must serve and file an early case conference report, which, either as a joint or individual report, must contain:

(A) ~~A~~a statement of jurisdiction;

(B) ~~A~~a brief description of the nature of the action and each claim for relief or defense;

(C) ~~A~~a proposed custodial timeshare and a proposed

holiday, special day, and vacation schedule;

(D) ~~Aa~~ written list of all documents provided at or as a result of the case conference, together with any objection that the document is not authentic or genuine. The failure to state any objection to the authenticity or genuineness of a document constitutes a waiver of such objection at a subsequent hearing or trial. For good cause, the court may permit the withdrawal of a waiver and the assertion of an objection;

(E) ~~Aa~~ written list of all documents not provided under Rule 16.205(d), together with the explanation as to why each document was not provided;

(F) ~~Forfor~~ each issue in the case, a statement of what information and/or documents are needed, along with a proposed plan and schedule of any additional discovery;

(G) ~~The~~the list of witnesses exchanged in accordance with Rule 16.205(d)(5) and (d)(6);

(H) ~~Identification~~identification of each specific issue preventing immediate global resolution of the case along with a description of what action is necessary to resolve each issue identified;

(I) ~~Aa~~ litigation budget; and

(J) ~~Proposed~~proposed trial dates.—

(3) Attendance at Case Management Conference. The district court shall conduct a case management conference with counsel and the parties within 90 days after the filing of the ~~Answer~~answer. The court, in its discretion, and for good cause shown, may continue the time for the case management conference. Absent compelling and extraordinary circumstances, neither the court nor the parties may extend the time to a day more than 120 days after filing of the ~~Answer to the Complaint~~answer.

_____ ~~(A)~~ At the case management conference, the court, counsel, and the parties shall:

~~(A) Confer~~ (i) confer and consider the nature and basis of the claims and defenses, the possibilities for a prompt settlement or resolution of the case, and ~~any other whether~~ orders ~~that~~ should be entered setting the case for settlement conference and/or for trial;

~~(B) Make~~ (ii) make or arrange for the disclosures required under this rule and to develop a discovery plan, which may include limitations on discovery or changes in the timing of discovery requirements required in this rule; and

~~(C) Recite~~ (iii) recite stipulated terms on the record pursuant to local district court rules;

~~(B) The court shall also:~~ ~~(D) Enter~~

_____ (i) enter interim orders sufficient to keep the peace and allow the case to progress;

_____ (ii) for matters that are claimed to be in contest, ~~directions by the court give direction~~ as to which party will have which burden of proof;

~~(E) Discuss~~ (iii) discuss the litigation budget and its funding; and

~~(F) Enter~~ (iv) enter a scheduling order.

_____ ~~(C)~~ In the event a party fails to attend the case management conference and the judge believes that some or any actions cannot be taken in the absence of the missing party, the court shall reschedule the case management conference and ~~make an appropriate award of fees imposed on order~~ the nonappearing party, ~~measured by the cost of the~~

~~attendance of to pay~~ the complying ~~party~~party's attorney fees incurred to appear at the case management conference.

(4) Case Management Order. _

~~(A)~~ Within 30 days after the case management conference, the court shall enter an order that contains:

~~(A)~~ ~~A~~ (i) a brief description of the nature of the action;

~~(B)~~ ~~The~~ (ii) the stipulations of the parties, if any;

~~(C)~~ ~~Any~~ (iii) any interim orders made by the court, including those pertaining to discovery and burdens of proof;

~~(D)~~ ~~Any~~ (iv) any changes to the timelines of this rule as stipulated by the parties and/or ordered by the court;

~~(E)~~ ~~A~~ (v) a deadline on which discovery will close;

~~(F)~~ ~~A~~ (vi) a deadline beyond which the parties shall be precluded from filing motions to amend the pleadings or to add parties unless by court order;

~~(G)~~ ~~A~~ (vii) a deadline by which dispositive motions must be filed; and

~~(H)~~ ~~Any~~ (viii) any other orders the court deems necessary during the pendency of the action, including interim custody and child support orders.

~~(B)~~ If the court orders one of the parties to prepare the foregoing case management order, that party shall submit the order to the other party for signature within ~~10 calendar~~14 days after the case management conference. The order shall be submitted to the court for entry within ~~20 calendar~~21 days after the case management conference.

~~(j)~~k Discovery Disputes.

~~(1)~~

(1) Automatic Referral to Discovery Commissioner. Where available and unless otherwise directed by the court, all discovery disputes made upon written motion must first be heard by the discovery commissioner if available in that district.

(2) Report and Recommendation.

(A) In General. Following each discovery motion before a discovery commissioner, the commissioner must prepare and file a report with the commissioner's recommendations for a resolution of each unresolved dispute. The commissioner may direct counsel to prepare the report. ~~The clerk of commissioner must cause the report to be filed with the court shall forthwith serve and~~ a copy ~~of the report to be served on all parties.~~ each party.

(B) Objections. Within ~~5 judicial~~ 7 days after being served with a copy, any party may serve and file written objections to the recommendations. Written authorities may be filed with an objection, but are not mandatory; however, if written authorities are filed, any other party may serve and file responding authorities within 7 days.

(3) Review. Upon receipt of a discovery commissioner's report ~~and~~ any objections thereto, and any responding authorities, the court may affirm, reverse, or modify the commissioner's ruling, set the matter for a hearing, or remand the matter to the commissioner for further action, if necessary.