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NRCP 38 – Proposed
(Blend NV and Federal rules with edits)

VI. TRIALS

Rule 38. Right to a Jury Trial; Demand~~Jury Trial of Right~~

(a) **Right Preserved**^[RT1]. The right of trial by jury as declared by the Constitution of the State or as given by a statute of the State shall be preserved to the parties inviolate.

(b) **Demand; Deposit of Jurors' Fees.** ~~On any issue triable of right by a jury, a party may demand a jury trial by:~~^[RT2] ~~Any party may demand a trial by jury of any issue triable of right by a jury by~~

~~(1) serving as required by Rule 5(b) upon the other parties with a written demand—which may be included in a pleading—~~^[RT3] ~~therefor in writing~~ at any time after the commencement of the action and not later than the time of the entry of the order first setting the case for trial;~~—and~~^[RT4]

~~(2) filing the demand in accordance with Rule 5(d); and~~^[RT5]

~~(3) unles~~^[RT6]~~SS~~^[RT7] the local district court rules in which the action is pending has adopted a local rule pursuant to Rule 83^[RT8] declaring provide otherwise, ~~at the time a demand is filed as required by Rule 5(d), when a party files a demand,~~ the party ~~demanding the trial by jury~~ shall deposit with the court clerk an amount of money equal to the fees to be paid the trial jurors for their services for the first day of trial.

(c) **Same: Specifyingiation of Issues**^[RT9]. In its demand, a party may specify the issues that it wishes to have tried by a jury; otherwise, it is considered to have demanded a jury trial on all the issues so triable. If the party has demanded a

1 jury trial on only some issues, any other party may—within 14 days after being
2 served with the demand or within a shorter time ordered by the court—serve a
3 demand for a jury trial on any other or all factual issues triable by jury.

4 (d) **Waiver; ~~Deposit of Jurors' Fees; Withdrawal.~~**

5 ~~(1) A party's failure to properly file and serve a demand~~
6 ~~as required by this rule and to file it as required by Rule 5(d) constitutes the party's~~
7 ~~a waiver by the party of a jury trial by jury.~~ [RT10]

8 ~~(32) A proper demand for a jury trial by jury made as herein provided~~
9 ~~may be withdrawn only with if the parties the consent of the parties,~~ [RT11] ~~or by court~~
10 ~~order for good cause shown upon such terms and conditions as the court may fix.~~ [RT12]

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12 **Advisory Committee Note—2004-2017 Amendment**

13 NRCP 38 largely conforms to the federal rule except in subsections (b)(1) and
14 (3), and (d)(2), the provisions specifying jury demand timing, deposit of jury fees, and
15 withdraw of the demand by court order. The listed differences are retained from the
16 prior NRCP 38. Subdivision (b) is amended to include language that requires
17 compliance with Rule 5(b). The amendments to subdivisions (c) and (d) are technical.