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EDCR 5, ver. May 4, 2015

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5.100 Organization of the Family Court and these Rules [5.1]

[5.01, 5.05, 5.42,]

Rule 5.101 Scope of rules [5.01]

(a) The family division, with the approval of the Supreme Court, has the inherent power to prescribe rules and policies for the conduct of proceedings in the family division.

(b) Unless otherwise ordered, the rules in Part V govern the practice and procedure in all matters heard in the family division, including claims normally heard in another division of the district court.

(c) Juvenile cases, reciprocal support act cases, support cases prosecuted by a public agency, and other cases may be governed by procedures required by the Nevada Revised Statutes, federal law, or other rules or statutes. Any objection to a report and recommendation of a hearing master shall be heard under these rules and in accordance with the departmental assignment procedure.

Rule 5.102 General terms and definitions

(a) **Affidavit.** Unless the context indicates otherwise, “affidavit” includes an affidavit, a sworn declaration, and an unsworn declaration under penalty of perjury.

(b) **Calendar day.** A “calendar day” is a 24 hour period from 12:00 a.m. to 11:59 p.m. regardless of the day of the week it falls or whether the courts are open on that day.

(c) **Child custody proceeding.** A “child custody proceeding” is any proceeding in which legal custody, physical custody, or visitation with respect to a minor child is an issue.

(d) **Close of discovery.** Unless otherwise ordered by the court, or otherwise required by another rule or statute, the expression “close of discovery” or references to a date by which discovery is due refers to the date by which discovery is to be completed, not the date on which it is to be requested.

(e) **Domestic violence orders.** A “domestic violence order” is a temporary protective order (“TPO”) or extended order of protection (“EOP”) issued by either a hearing master subject to the approval of a district court judge, or directly by a district court judge.

(f) **Family division matters.** A “family division matter” is any matter heard in the family division.

(g) **Judge or court.** Unless the context indicates otherwise, the term “judge” or “court” means the presiding judicial officer, whether a district court judge, hearing master, commissioner, or similar presiding officer.

(h) **Judicial Day.** A “judicial day” is defined in NRCP 6 and as used in these rules is the period from 12:00 a.m. to 11:59 p.m. on one day that is not a Saturday, a Sunday, or a non-judicial day. A rule requiring some act to follow the passage of a judicial day requires the passage of one such judicial day after the filing or other action from which time is computed, not the passage of 24 hours from that filing or other action.

(i) **Order.** Unless the context indicates otherwise, “order” includes any disposition, decree, judgment, injunction, etc., issued by a court and filed by the clerk.

(j) **Party.** Unless the context indicates otherwise, “a party” means a party personally if unrepresented, or that party’s counsel of record, if represented.

(k) **Pleadings, papers, and filings.** “Pleadings” are the documents listed in NRCP 7(a). “Papers” are the documents listed in NRCP 7(b). Unless the context indicates otherwise, “filings” are papers filed in an action.

(l) **Sanctions.** Unless the context indicates otherwise, “sanctions” includes:

- (1) sums payable as the court directs;
- (2) an award of attorney’s fees and costs to the opposing party; and
- (3) procedural or substantive orders such as dismissal, default, or other order.

(m) **Service.** Unless the context indicates otherwise, “service” means the providing of documents to a party in accordance with the statutes, rules, and court orders relevant to them. “Personal service” has the meaning described in NRCP 5. Nothing in these rules permits service of a document by any means not provided for service of that document by other statute, rule, or court order. Unless the context indicates otherwise, “service” means the initiation of service by depositing papers into the mail, transmitting electronically, etc., not the receipt of the service.

Rule 5.103 Departmental assignment procedure [5.42]

(a) “Same Parties” shall be found when: (1) the same two persons are parties in any other pending case or were the parties in any other previously decided case assigned to a department of the family division, regardless of their respective party designation (e.g., plaintiff or defendant;

applicant or respondent; joint petitioner, etc.); or (2) a child involved in the case is also involved in any other pending case or was involved in any other previously decided case in the family division.

(b) Upon the filing of any action, the Clerk's Office shall utilize the information provided on the Mandatory Family Court Cover Sheet to search the parties' and child(ren)'s names to determine whether prior cases involving the same parties exist and assign cases pursuant to this rule.

(c) Pursuant to the mandates of NRS 3.025(3), any and all new cases involving the same parties shall be assigned to the same judicial department in the following manner:

(1) If no prior case involving the same parties exists, then the case will be randomly assigned.

(2) If one or more prior cases involving the same parties has previously been filed, the new case shall be assigned to the judicial department assigned to the earlier-filed case.

(3) The following exceptions shall apply:

(A) Cases filed pursuant to Chapter 62 of the Nevada Revised Statutes shall be directly assigned to the juvenile delinquency judicial department.

(B) Cases filed pursuant to Chapter 432B of the Nevada Revised Statutes shall continue to be directly assigned to the juvenile dependency judicial department since these cases do not involve the "same parties" (the state having filed a complaint against one or both of the parties on behalf of the children).

(C) Cases filed pursuant to Chapter 159 of the Nevada Revised Statutes relating to adult guardianship actions shall be initially assigned to the judicial department(s) handling guardianship cases and thereafter assigned in accordance with the portion of these rules governing guardianship case management.

(d) Cases filed pursuant to Chapter 130 and/or Chapter 425 of the Nevada Revised Statutes shall be randomly assigned unless a case involving the same parties has already been assigned to a specific judicial department pursuant to this rule. The hearings shall continue to be scheduled before the family support masters. Any objections to report and recommendations or other hearings required to be held before a district court will be heard by the assigned judicial department.

(e) Applications for temporary protective orders will be randomly assigned unless a case involving the same parties has already been assigned to a specific judicial department pursuant to this rule. Hearings shall be scheduled before the domestic violence hearing masters unless otherwise

ordered. Any objections or hearings required to be held before a district court judge will be heard by the assigned judicial department.

(f) Notwithstanding the provisions of this rule, if any judicial department takes an action on a case, including, but not limited to, signing an order or holding a hearing (except uncontested family division matters), then that case (and any existing cases involving the same parties) shall be assigned to the judicial department that took such action.

(g) A timely peremptory challenge filed in any department not regularly presided over by a single judicial officer shall be construed as a disqualification of the department and cause for reassignment to another department of the family division.

(h) Conflicts regarding judicial department assignments pursuant to this rule shall be resolved by way of minute order by the presiding judge or the chief judge consistent with the mandates of NRS 3.025(3).

Rule 5.104 Simultaneous proceedings [new]

(a) If a new case is filed by a defendant or respondent in a case prior to that party filing a responsive pleading in the earlier-filed case, the complaint or petition in the new case will be treated as a responsive pleading in the earlier-filed case for certain purposes:

(1) The new case filing will be treated as the filing of a responsive pleading preventing the entry of default.

(2) Any requests for relief in the new case will be treated as a counterclaim in the earlier-filed case.

(3) An answer or other responsive pleading should nevertheless be filed in the earlier-filed case, along with any additional papers filed in the new case, but no additional filing fee will be required for such an answer or other filing.

(b) The court hearing the earlier-filed case shall dismiss the new case. Any papers filed in the new case may be re-filed by either party in the earlier-filed case.

Rule 5.105 Domestic violence hearing masters [5.22(g)]

(a) The family division may appoint one or more full-time or part-time masters and alternates to serve as domestic violence hearing masters.

(b) Interim orders signed by the domestic violence hearing master are deemed orders that are effective upon issuance subject to approval by the assigned district court judge.

(c) A domestic violence hearing master has the authority to:

(1) Review applications for temporary and extended protection orders against domestic violence.

(2) Recommend the issuance, extension, modification, or dissolving of protection orders against domestic violence under NRS 33.017 to NRS 33.100.

(3) Schedule and hold contempt hearings for alleged violations of temporary and extended protection orders; recommend a finding of contempt; and recommend the appropriate sanction or penalty.

(4) Recommend a sanction or penalty upon a finding of contempt in the presence of the court.

(5) Perform other duties as directed by the assigned district court judge.

Rule 5.106 Family mediation center (FMC) mediators [5.70(o)-(q)]

(a) FMC mediators shall have the following minimum qualifications:

(1) Law Degree or Masters Degree in psychology, social work, marriage and family therapy, counseling or related behavioral science;

(2) Sixty hours child custody and divorce mediation training including a minimum of 4 hours of domestic violence training, sponsored by the Association of Family and Conciliation Courts or approved by the Academy of Family Mediators; and

(3) Three years experience in the domestic relations arena conducting child custody mediation.

(b) FMC mediators must complete 15 hours continuing education each calendar year. The areas of training may include, but are not limited to the following: mediation models, theory, and techniques; the nature of conflict and its resolution; family law; the legal process, and case law relevant to the performance of mediation; substance abuse; recent research applicable to the profession; family life cycles: divorce, family reorganization, and remarriage; child development; crisis intervention; interviewing skills; domestic violence, including child abuse, spousal abuse, and child neglect, and the possibility of danger in the mediation session; parent education; sensitivity to individual, gender, racial, and cultural diversity and socioeconomic status; family systems theory;

the development of parenting plans, parental alienation, and the role of parenting plans in the family's transition.

(c) FMC mediators shall adhere to the Model Standards of Conduct for Mediators as jointly developed by the American Arbitration Association, American Bar Association and Society of Professionals in Dispute Resolution.

(d) FMC mediators shall attend such other courses, obtain such other qualifications, or complete such other training as the Presiding Judge may require.

Rule 5.107 Court appointed Special Advocate (CASA) services and protocols [5.13(b), (e)]

(a) The court in a juvenile matter may appoint a court appointed special advocate (CASA) for any minor child, may specify the services to be provided, and may continue or reschedule proceedings as necessary to accommodate CASA services. When an advocate is appointed, the CASA Office shall supervise the advocate's activities.

(b) A referral for CASA services of any case involving allegations of domestic violence must include an order that the Office implement its domestic violence protocol.

(c) Subject to available resources, the CASA Office shall address juvenile services and family services.

(1) Juvenile services shall focus on the permanency planning needs of minor children who have been declared to be wards of the State of Nevada and adults involved with those children, ascertaining the children's concerns, desires and needs with regard to issues before the court.

(2) Family services shall focus on the best interest of minor children who are the subject of a custody dispute and adults involved with those children and on ascertaining the children's concerns, desires and needs with regard to the issues before the court.

(d) The CASA Office may formulate guidelines, procedures and policies relevant to the scope of services offered by CASA, subject to approval by the family division.

5.200 Court practice and procedure generally; attorneys and proper person litigants
[5.2] [5.4]

5.02, 5.09, 5.10, 5.11, 5.20, 5.21, 5.22, 5.25, 5.26, 5.27, 5.29, 5.31, 5.32, 5.33, 5.34, 5.35, 5.39, 5.40, [5.43,] [5.44,] [5.45,] [5.46,] 5.80, 5.85, 5.87, [5.88,] 5.90, [5.04, 5.28,]

Rule 5.201 Filing of case required before application for judicial order [5.05]

A complaint or other initial pleading must first be filed with the clerk and assigned to a department before application is made to the judge for the entry of an order therein. This rule does not apply to family division matters seeking issuance of a temporary protective order, an order to seal record, an order allowing an indigent to file a complaint or another initial pleading without payment of fees, or as otherwise provided herein or by other rule, statute, or court order.

Rule 5.202 Access to sealed files

An attorney, or an agent of an attorney, shall be entitled to access, review, and order copies of portions of sealed files by court order or upon presentation of a notarized statement of permission for such access by a party. The permission of access shall be maintained as part of the confidential case file.

Rule 5.203 Pick-up of reports, tests, etc.

(a) An agent of an attorney shall be entitled to pick up lab tests, evaluations, and other documents that the attorney is entitled to pick up, upon presentation of a signed authorization to pick up papers on the attorney's behalf. Such an authorization shall provide in substantially the following form:

Please allow my agent, _____, to pick up documents, records, or other papers being held for me by the court. I understand that I have the same responsibility for the items picked up as if I did so personally.

/ss/, _____
[Name of authorizing counsel, and Bar number]

(b) Unless otherwise ordered, no party may personally pick up lab tests, evaluations, or other documents that are not to be copied or disseminated. Parties in proper person are entitled to read such documents in the courtroom or chambers or at such other place designated by the court.

Rule 5.204 Resolution of parent-child issues before trial of other issues [5.81]

Unless otherwise directed by the court, all contested child custody proceedings must be submitted to the court for resolution prior to trial of, or entry of an order resolving, the remaining issues in an action.

Rule 5.205 Exhibits to motions and other filings

(a) Unless otherwise required by another rule, statute, or court order, this rule applies to exhibits filed in support of a motion or other paper.

(b) All papers filed as exhibits shall be produced in discovery and Bate-stamped or otherwise identified by page number at the bottom right corner.

(c) Exhibits must be preceded by a sheet with the identification “Exhibit ____”.

(d) Collective exhibits to a filing must be filed as a separate appendix including a table of contents identifying each exhibit.

(e) Oversized exhibits that cannot be reduced to 8.5 inches by 11 inches without destroying legibility, and any other exhibits that cannot be e-filed and are filed and served conventionally, must be identified in the exhibit list or table of contents, noting that they have been separately filed and served.

(f) Unless otherwise required by another rule or statute, the following should not be made exhibits:

- (1) documents of record in a Clark County family division matter;
- (2) cases;
- (3) statutes;
- (4) other legal authority; or
- (5) confidential court documents or other documents as to which there is any prohibition or restriction on copying or dissemination.

(g) Exhibits may be deemed offers of proof but shall not be considered substantive evidence until admitted.

Rule 5.206 Filing and Service of papers [5.23]

(a) E-filed papers shall be accepted upon transmission subject to subsequent rejection by the Clerk. The Presiding Judge must approve in advance any basis or grounds used by the Clerk for

rejection of filings. Upon receipt during the court's regular business hours of an e-filed paper calling for the assignment of hearing dates or other administrative actions, those actions shall be performed forthwith or provided by the Clerk, subject to cancellation if the document is subsequently rejected for filing. If the paper is received at times outside the court's regular business hours, those actions shall be performed or provided as soon as the court is next open during regular business hours.

(b) A copy of any papers filed must be served on all other parties to an action, in accordance with the Nevada Rules of Civil Procedure, the Nevada Electronic Filing and Conversion Rules, the Eighth Judicial District Electronic Filing and Service Rules, and these rules, within 3 calendar days of submission for filing.

(c) If, after serving copies as provided in section (b), the filing party receives a hearing time not contained in the original service, the filing party must serve a notice of hearing on all other parties to the action, in accordance with the Nevada Rules of Civil Procedure and these rules, within 3 calendar days of receiving the hearing time.

(d) If another rule, statute, or court order directs a pleading, paper, or filing to be served by some other method or on some other schedule, or permits a filing ex parte, then section (b) of this rule does not apply.

Rule 5.207 Summary disposition and uncontested matters [5.09; 5.10]

(a) Unless a hearing is required by statute or by the court, any uncontested, stipulated, or resolved matter may be submitted to the court for consideration without a hearing.

(b) Any child custody proceeding not referencing a written custody and visitation agreement shall require an affidavit by the moving party reciting:

- (1) The date the parties separated.
- (2) With whom the child has lived during the preceding 6 months.
- (3) The contact the child has had with both parents in the past 6 months.
- (4) The proposed custody and visitation schedule for the other party and the child, including specific reasons, if any, why visitation should be denied, restricted, or supervised, with all necessary specifics of whatever contact is requested.

(c) An affidavit to corroborate residency shall state the address of the affiant and how long the affiant has been a resident of this state, how the affiant is acquainted with the party whose residency is being corroborated, the total length of time the affiant knows that the party has resided

in this state, that the affiant can verify of the affiant's personal knowledge that the party is a resident of this state, and the basis of the affiant's personal knowledge.

(d) An uncontested family division matter may be heard on any day and time that the assigned judge is hearing uncontested matters. Unless otherwise ordered, a request that the court hear an uncontested case must be made to the clerk not later than 3 judicial days before the day on which the case is to be heard, and all relevant papers must be filed with the clerk at or before the time the request for the uncontested setting is made. If the judge who was to hear an uncontested case is absent at the time set for that hearing, the case may be heard by any other judge.

Rule 5.208 Amended pleadings [5.35]

(a) An amended pleading must be re-filed, complete in itself, including exhibits, without cross-reference to a superseded pleading. No pleading will be deemed to be amended until there has been compliance with this rule.

(b) A motion to amend a pleading must specify the changes between the original and proposed amended pleading and include a copy of the proposed amended pleading.

(c) If the referenced exhibits to a pleading have been separately filed as provided by these rules, the amended pleading may refer to the same separately-filed collective exhibits.

(d) The title of any amended pleading shall denote whether it is the first, second, third, etc., amended pleading.

Rule 5.209 Withdrawal of attorney in limited services ("unbundled services") contract [5.28]

(a) An attorney who contracts with a client to limit the scope of representation shall:

(1) State that limitation in the first paragraph of the first paper or pleading filed on behalf of that client;

(2) Notify the court of that limitation at the beginning of each hearing in which the attorney appears for that client; and

(b) Unless otherwise ordered by the court, to withdraw from representation of a client in limited services, an attorney shall:

(1) File a Notice of Withdrawal of Attorney specifying the limited services that were to be completed, reciting that those services were completed, and identifying either

the name of successor counsel or the address and telephone number of the client in proper person. The attorney must serve a copy of the Notice upon the client and all other parties to the action.

(2) Complete all services required by the court before filing a Notice of Withdrawal.

(3) Specify, in the withdrawal, at what point in time or proceeding the opposing party may directly contact the party represented by the withdrawing attorney.

(c) Except by specific order of court, no counsel shall be permitted to withdraw within 21 days prior to a scheduled trial or evidentiary hearing.

(d) Any notice of withdrawal that is filed without compliance with this rule shall be ineffective for any purpose.

5.300 Children, parents, and experts [5.5]

[5.03, 5.06, 5.07, 5.12, 5.13, 5.69, 5.70, 5.81,]

Rule 5.301 Minor children; exposure to court proceedings [5.03; 5.06]

All lawyers and litigants possessing knowledge of matters being heard by the family division are prohibited from:

(a) discussing issues, proceedings, pleadings, or papers on file with the court with any minor child;

(b) allowing any minor child to review any such proceedings, pleadings, or papers or the record of the proceedings before the court, whether in the form of transcripts, audio or video recordings, or otherwise;

(c) leaving such materials in a place where it is likely or foreseeable that any minor child will access those materials; or

(d) knowingly permitting any other person to do any of the things enumerated in this rule,

without the written consent of the parties or the permission of the court.

Rule 5.302 Seminar for separating parents [5.07]

(a) All parties to a child custody proceeding shall complete the seminar for separating parents approved by the family division of the court.

(b) The seminar shall be completed and a certificate of completion shall be filed within 45 days of service of the initial complaint or petition.

(c) No action shall proceed to final hearing or order until there has been compliance with this rule; provided, however, that non-compliance by a parent who enters no appearance shall not delay the final hearing or order. The court may take appropriate action to compel compliance with this rule.

(d) If the parties have resolved child custody issues or for other good cause shown, the court may waive the requirement of compliance with this rule in individual cases.

(e) The court reserves jurisdiction to order the parties to complete the seminar during any post-judgment child custody proceedings, even if it was waived during the initial case.

Rule 5.303 Mandatory Mediation Program [5.70]

(a) Generally, pursuant to NRS 3.475, except as otherwise ordered, all parties to a contested child custody proceeding must attend mediation through the Family Mediation Center (FMC) or through a private mediator before the disposition of the custody matter.

(b) Provisions applicable to all mediations.

(1) The court may refer the parties to mediation at any time, at the request of one or both parties or on its own motion.

(2) If a child custody proceeding is pending, the party moving for or requesting custody shall initiate mediation or seek exemption from mediation.

(3) The court may waive mediation in individual cases if there are issues of child abuse or domestic violence involved, if a party lives out of state, or for other good cause shown.

(4) A party may seek exemption from mediation at the Case Management Conference or by motion as early in the case as practicable, asserting a basis for why the case is inappropriate for referral to mediation.

(5) Mediation shall be held in private, and except as otherwise required by other rule, statute, or court order shall be confidential. Every mediator shall report in writing

that the parties successfully mediated a full or partial parenting agreement (providing that agreement to the court), that they reached an impasse, or identify any party who failed to appear or refused to participate.

(6) Counsel of record may attend mediation sessions with their clients unless otherwise ordered.

(7) At the request of a mediating party or that party's counsel of record, any agreement produced by the mediator shall be provided to that counsel.

(8) No mediator shall conduct an evaluation of the parties after mediation or as part of the mediation process. No mediator shall provide recommendations as part of the mediation process.

(c) Provisions applicable to mediations at FMC.

(1) Any outstanding fees to FMC must be paid in full before further FMC services are initiated. Parties meeting minimum income requirements shall receive a fee waiver for mediation services upon verification of benefits. Fees for FMC mediation may be assessed to parties based upon a sliding fee scale.

(2) FMC shall establish procedures to assure that cases which are inappropriate for mediation or which may require special protocols for the protection of parties are screened prior to any contact between the parties in the mediation process.

(3) Except as otherwise ordered in an Order for Mediation, mediation at FMC shall not address or include in any agreement terms for child support, spousal support, fees and allowances, exclusive possession of a residence, or any matter involving money to be paid by a party.

Rule 5.304 Child interview, outsource evaluation, and court appointed special advocate (CASA) reports [5.13, 5.69 (g)-(m)]

(a) A written child interview report or outsource evaluation report (including exhibits), prepared by the Family Mediation Center, an outsource evaluator, or a CASA shall be delivered to the judge in chambers. Only the parties, their attorneys, and such staff and experts as those attorneys deem necessary are entitled to read or have copies of the written reports, which are confidential except as provided by rule, statute, or court order. Statements of a child to a CASA may not be viewed without an order of the court.

(b) No copy of a written report, or any part thereof, may be made an exhibit to, or a part of, the open court file except by court order. A written report may be received as evidence of the facts contained therein that are within the personal knowledge of the person who prepared the report.

(c) Every such report shall include on its first page, a prominent notice in substantially the following form:

DO NOT COPY OR RELEASE THIS REPORT TO ANYONE, INCLUDING ALL PARTIES TO THE ACTION. NEVER DISCLOSE TO OR DISCUSS THE CONTENTS OF THIS REPORT WITH ANY MINOR CHILD.

Rule 5.305 Expert testimony and reports [5.12]

(a) No party to an action pending before the court may cause a child who is subject to the jurisdiction of the court to be examined by a therapist, counselor, psychologist or similar professional for the purpose of obtaining an expert opinion for trial or hearing except upon court order, upon written stipulation of the parties, or pursuant to the procedure prescribed by NRCP 35.

(b) When it appears that an expert medical, psychiatric or psychological evaluation is necessary for any party or minor child, the parties shall attempt to agree to retention of one expert. Upon request of either party, or on its own initiative, the court may appoint a neutral expert if the parties cannot agree on one expert, and make provisions for payment of that expert.

5.400 Case Management Conferences (CMC) and Early Case Evaluations (ECE)

Rule 5.401 Pre-CMC/ECE Filings and Procedure

Each party may file and serve a brief at least 5 calendar days prior to the scheduled proceeding. The brief shall include, if relevant:

- (a) a statement of jurisdiction.
- (b) if custody is at issue in the case, a proposed custodial timeshare and a proposed holiday, special day, and vacation schedule.
- (c) for each issue in the case, a statement of what information, documents, witnesses, and experts are needed.
- (d) a list of the property (including pets, vehicles, real estate, retirement accounts, pensions, etc.) the litigant seeks to be awarded in the action.
- (e) 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.
- (f) a litigation budget.
- (g) proposed trial dates.

Rule 5.402 CMC/ECE Proceedings

- (a) The parties and the court shall address, and if possible resolve, the following, if relevant:
 - (1) Whether there are any issues as to grounds or jurisdiction.
 - (2) Custody and visitation relating to any minor child, including any anticipated testimony of a minor child.
 - (3) Support of any minor child.
 - (4) Temporary possession and control of property, including residences and vehicles.
 - (5) Allocation of responsibility for payment of debts.

- (6) Payment of temporary spousal support or maintenance.
- (7) Any procedural issues present in the action.
- (8) A plan for discovery in the action, including any requests to expand or restrict production as called for by the NRCP or these rules.
- (9) Whether any or all issues in the case can be immediately settled, resolved, and removed from the field of litigation.
- (10) If issues remain in contest, a proposed litigation budget for discovery and litigation of the case.

(b) If that discussion yields partial or full stipulation on issues or terms, they should be recited in the minutes in the form of an order.

(c) For unresolved issues, the court may issue such interim orders as are necessary to keep the peace and allow the case to progress, and may issue directions as to which party will have burdens of going forward, filing motions, and of proof.

(d) The court may set dates for future proceedings, including a proposed trial date.

5.500 Motions, timing, procedure, hearings, and orders

Rule 5.501 Requirement to attempt resolution [5.11]

(a) Except as otherwise provided herein or by other rule, statute, or court order, before any family division matter motion is filed, the movant must attempt to resolve the issues in dispute with the other party.

(b) A party filing a motion in which no attempt was made to resolve the issues in dispute with the other party shall include a statement within the motion of what provision, futility, or impracticability prevented an attempt at resolution in advance of filing.

(c) Failure to comply with this rule may result in imposition of sanctions if the court concludes that the issues would have been resolved if an attempt at resolution had been made before filing.

Rule 5.502 Motion, opposition, countermotion, and reply submission and setting [5.25]

(a) All motions must contain the following notice on the first page directly below the case caption:

NOTICE: YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDERSIGNED WITH A COPY OF YOUR RESPONSE WITHIN 10 DAYS OF YOUR RECEIPT OF THIS MOTION. FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN 10 DAYS OF YOUR RECEIPT OF THIS MOTION MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED BY THE COURT WITHOUT A HEARING PRIOR TO THE SCHEDULED HEARING DATE.

(b) All motions must contain a notice of motion setting the same for hearing on a day when the judge to whom the case is assigned is hearing civil domestic motions and not less than 28 days from the date the motion is filed.

(c) A party filing a motion must also serve and file with it a memorandum of points and authorities in support of each ground thereof. The absence of such memorandum may be construed as an admission that the motion is not meritorious, as cause for its denial or as a waiver of all grounds not so supported.

(d) Within 10 days after service of the motion, the opposing party must serve and file a written opposition thereto, together with a memorandum of points and authorities and supporting affidavits, if any, stating facts showing why the motion should be denied. Failure of the opposing party to serve and file a written opposition may be construed as an admission that the motion is meritorious and a consent to granting the same.

(e) An opposition to a motion which contains a motion related to the same subject matter will be considered as a counter-motion. A counter-motion will be heard and decided at the same time set for the hearing of the original motion and no separate notice of motion is required.

(f) A moving party may file a reply memorandum of points and authorities not later than 5 days before the matter is set for hearing. A reply memorandum must not be filed within 5 days of the hearing or in open court unless court approval is first obtained.

(g) A memorandum of points and authorities which consists of bare citations to statutes, rules, or case authority does not comply with this rule and the court may decline to consider it. Supplemental submissions will only be permitted by order of the court.

(h) If all the civil domestic judges in this district are disqualified from hearing a case, a notice of motion must state: "Please take notice that the undersigned will bring the above motion for

hearing before a visiting or senior judge at such time as shall be prescribed by the court administrator.”

(i) The first page of each motion, opposition (whether the opposition includes a countermotion), or reply shall include an option for the submitting party to request an oral argument hearing. If the motion, opposition and/or reply did not request an oral argument hearing, the clerk shall set the matter on the court’s chamber calendar; if one or more of those submissions has requested an oral argument hearing, the clerk shall set the matter on the court’s hearing calendar.

Rule 5.503 Motion, opposition, countermotion, and reply content [5.25]

(a) Every motion, opposition, countermotion, and reply shall include points and authorities supporting each position asserted. Points and authorities lacking citation to relevant authority, or consisting of bare citations to statutes, rules, or case authority do not comply with this rule. The absence or deficiency of points and authorities may be construed as an admission that the filing is not meritorious, as cause for its denial, or as a disclaimer of all positions not supported.

(b) Paper Size, Line Spacing, Margins, and Page Numbers. Filings shall comply with EDCR 7.20.

(c) Typeface. Either a proportionally spaced or a monospaced typeface may be used.

(1) A proportionally spaced typeface (e.g., Century Schoolbook, CG Times, Times New Roman, and New Century) must be 14-point or larger. Footnotes must be 12-point or larger.

(2) A monospaced typeface (e.g., Courier and Pica) may not contain more than 10 ½ characters per inch (e.g., Courier 12-point). Footnotes must be 12-point or larger.

(3) Unrepresented litigants may use elite type, 12 characters per inch, if they lack access to a typewriter with larger characters. Footnotes must be 12-point or larger.

(d) Type Styles. A brief must be set in a plain, roman style, although underlining, italics or boldface may be used for emphasis. Case names must be italicized or underlined.

(e) Length.

(1) Page Limitation. Unless permission of the court is obtained, a motion, opposition, or reply shall not exceed 30 pages.

(2) Type-Volume Limitation. A motion, opposition, or reply is acceptable if it contains no more than 14,000 words, or if it uses a monospaced typeface, and contains no more than 1,300 lines of text.

(3) Computing Page- and Type-Volume Limitation. Any table of contents, table of authorities, notice of motion, certificate of service, affidavit, and any exhibits do not count toward a filing's page or type-volume limitation. The page or type-volume limitation applies to all other portions of a filing beginning with the statement of facts, including headings, footnotes, and quotations. Pages in a filing preceding the statement of facts should be numbered in lowercase Roman numerals, and pages in the brief beginning with the statement of facts should be numbered in Arabic numerals.

(4) A request to exceed page limit or type-volume limitation is disfavored, but may be requested within a filing or in a separate filing for that purpose on or before the filing's due date and shall state the reasons for the request and the number of additional pages, words, or lines of text requested. It is the responsibility of the submitting party to conform to the formatting rules.

Rule 5.504 Proposed orders

Parties may supply proposed orders to the court and opposing party at least three days prior to the hearing. Proposed orders may include such findings, conclusions, and orders as the submitting believes relevant to each point in dispute in the proceedings. Unless otherwise directed by the court, a party may supply an editable electronic copy of a proposed order to the court's law clerk concurrently with the submission of the proposed order. The Presiding Judge shall direct what format is acceptable for such editable submissions, or make other administrative directions relating to proposed orders.

Rule 5.505 Affidavits relating to motions [5.26]

Unless otherwise required by another rule, statute, or court order, affidavits relating to motions, oppositions, countermotions, replies, or other papers may incorporate all factual averments by reference in substantially the following form:

I have read the foregoing _____, and the factual averments it contains are true and correct to the best of my knowledge, except as to those matters based on information and belief, and as to those matters, I believe them to be true. Those factual averments contained in the referenced filing are incorporated here as if set forth in full.

Rule 5.506 Financial disclosure required for motions involving money [5.32]

Unless otherwise ordered by the court, or otherwise required by another rule or statute:

(a) A General Financial Disclosure Form (“GFDF”) must be filed in support of any motion or countermotion that includes a request to establish or modify child support, spousal support, fees and allowances, exclusive possession of a residence, or any matter involving money to be paid by a party.

(b) A GFDF must be filed in support of any opposition to a motion or countermotion described in section (a).

(c) All financial disclosures must be filed on the form(s) specified by the Nevada Rules of Civil Procedure.

(d) A financial disclosure must be filed within 2 judicial days of the filing of the motion, countermotion, or opposition it supports, and may only be filed in open court with leave of the judge upon a showing of excusable delay.

(e) Every FDF filing shall include copies of the filing party’s 3 most recent paycheck stubs (or equivalent).

(f) An assertion within a motion, opposition, or countermotion that there has been no change in a financial disclosure filed within the preceding 6 months satisfies this rule.

(g) The Court may construe any motion, opposition, or countermotion not supported by a timely, complete, and accurate financial disclosure as admitting that the positions asserted are not meritorious and cause for entry of orders adverse to those positions, and as a basis for imposing sanctions.

(h) In paternity matters, or postjudgment family division matters, only the case information, household, and income and expense sections of the GFDF need be completed. For good cause shown, the court may require a party to complete the remaining portions of the GFDF.

(i) For good cause shown, the court may require a party to file a Detailed Financial Disclosure Form (“DFDF”).

Rule 5.507 Schedule of arrearages required for motions seeking arrearages in periodic payments [5.33]

A motion alleging the existence of arrears in payment of periodic child support, spousal support, or other periodic payment shall be accompanied by a separately-filed schedule showing the date and

amount of each payment due, and the date and amount of any payments received. The schedule may include a calculation of interest, any applicable penalties, and an explanation of how those sums were calculated, following a declaration in substantially the following form:

Under penalty of perjury, pursuant to the best information known and available to me, the following schedule accurately sets out the dates and amounts of periodic payments due pursuant to a lawful court order, the dates and amounts of all payments received, and the principal, interest, and penalties due.

I declare under penalty of perjury, under the laws of the State of Nevada and the United States (NRS 53.045 and 28 U.S.C. § 1746), that the foregoing is true and correct.

EXECUTED this ___ day of _____, 20__.

[Name of party or attorney filing the schedule]

Rule 5.508 Supplements relating to motions

(a) Supplements to motions, oppositions, countermotions, or replies must be filed at least 1 judicial day prior to the hearing.

(b) A supplement must pertain to the subject matter of an existing filing, and reference the subject matter and filing to which it relates.

(c) Upon the request of any party or for good cause shown, the filing of a supplement may be found by the court as grounds for any or all of:

- (1) continuance of a hearing, with or without issuance of temporary orders;
- (2) an award of fees in favor of a party not filing the supplement; or
- (3) an order striking the supplement; and direction that the subject matter of the filing be addressed in a separate motion.

Rule 5.509 Motions and procedure for orders to show cause

(a) A motion seeking an Order to Show Cause (OSC) for Contempt must be accompanied by a detailed affidavit complying with NRS 22.030(2) that identifies the specific provisions, pages and lines of the existing order(s) alleged to have been violated, the acts or omissions constituting the alleged violation, any harm suffered or anticipated, and the need for a contempt ruling, which should be filed and served as any other motion.

(b) The party seeking the OSC shall submit an ex parte application for issuance of the OSC to the court, accompanied by a copy of the filed motion for OSC and a copy of the proposed OSC.

(c) Upon review of the motion and application, the court may:

(1) deny the motion and vacate the hearing;

(2) issue the requested OSC, to be heard at the motion hearing;

(3) reset the motion hearing to an earlier or later time; or

(4) leave the hearing on calendar without issuing the OSC so as to address issues raised in the motion at that time, either resolving them or issuing the OSC at the hearing.

(d) If an OSC is issued in advance of the first hearing, the moving party shall serve it and the application for OSC on the accused contemnor.

(e) At the first hearing after issuance of an OSC, the accused contemnor may be held in contempt, or not, or the court may continue the hearing with directions on the issue. At the first or any subsequent hearing after issuance of an OSC, if the accused contemnor does not appear, a bench warrant may be issued to secure attendance at a future hearing, or other relief may be ordered.

Rule 5.510 Motions in Limine [5.40]

(a) Except as otherwise provided herein or by other rule, statute, or court order, a motion in limine to exclude or admit evidence must ordinarily be in writing and must be heard not less than 5 calendar days prior to trial.

(b) Where the facts that would support a motion in limine arise or become known after it is practicable to file a motion in the ordinary course as set forth above, the filing party may seek an order shortening time to hear the motion as provided by these rules, or bring an oral motion in limine at a hearing. The court may refuse to sign any such order shortening time or to consider any such oral motion.

(c) A written motion in limine must be supported by affidavit and, if not filed in the ordinary course, must detail how and when the facts arose or became known. The motion shall also set forth that after a conference or a good faith effort to confer, counsel were unable to resolve the matter satisfactorily, detailing what attempts to resolve the dispute were made, what was resolved and what was not resolved, and why. A conference requires either a personal or telephone conference between or among the parties. If a personal or telephone conference was not possible, the motion shall set forth the reasons.

Rule 5.511 Extensions of time relating to motions [5.27]

(a) Immediately below the title of any motion or stipulation for extension of time to file any opposition or reply there shall also be included a statement indicating whether it is the first, second, third, etc., requested extension.

(b) The parties may by agreement extend the time within which an opposition or reply must be filed, so long as any scheduled hearing is unaffected, or is continued if it would be affected, and so long as all filings relating to the hearing are filed at least 5 judicial days before the scheduled hearing.

(c) A party may file a motion for an extension of time to file an opposition or reply. Such a motion must explain why it could not be obtained by stipulation and be supported by affidavit.

(d) Except as otherwise provided by other rule, statute, or court order, an ex parte motion to extend the time for filing an opposition or reply will not ordinarily be granted. An order granting such a motion may extend the time for filing the subject opposition or reply, or may suspend the due date of that opposition or reply for such period as is required to enable the moving party to apply for a further extension by stipulation or by noticed motion, and may shorten the time until the hearing of such a noticed motion.

Rule 5.512 Reconsideration and/or Rehearing of motions [5.29]

(a) A party seeking reconsideration and/or rehearing of a ruling (other than an order which may be addressed by motion pursuant to NRCp 50(b), 52(b), 59, or 60), must file a motion for such relief within 14 calendar days after service of notice of entry of the order unless the time is shortened or enlarged by order. A motion for reconsideration does not toll the period for filing a notice of appeal.

(b) If a motion for reconsideration and/or rehearing is granted, the court may make a final disposition without hearing, may set it for hearing or resubmission, or may make such other orders as are deemed appropriate under the circumstances.

Rule 5.513 Orders shortening time for a hearing [5.31]

(a) Unless prohibited by other rule, statute, or court order, a party may seek an order shortening time for a hearing.

(b) An ex parte motion to shorten time must explain the need to shorten the time. Such a motion must be supported by affidavit.

(c) Absent exigent circumstances, an order shortening time will not be granted until after service of the underlying motion on the non-moving parties. Any motion for order shortening time filed before service of the underlying motion must provide a satisfactory explanation why it is necessary to do so.

(d) An order shortening time must be served on all parties promptly. An order which shortens the notice of a hearing to less than 10 calendar days may not be served by mail. In no event may a motion be heard less than 1 judicial day after the order shortening time is filed and served.

(e) Should the court shorten the time for the hearing of a motion, the court may direct that the subject matter of any countermotion be addressed at the accelerated time, at the original hearing time, or at some other time.

Rule 5.514 Stipulations and motions to continue or vacate a hearing [5.27]

(a) Generally.

(1) Hearings may not be removed from the calendar by calling the clerk's office or the judge's chambers.

(2) An unfiled written stipulation and order to continue a hearing signed by both parties may be submitted to chambers prior to the time of hearing by hand delivery, facsimile, or e-mail. The court may remove the hearing from the calendar or require the parties to appear and put the stipulation on the record. If the hearing is removed from the calendar, the court will set a new hearing upon receipt of the original stipulation and order.

(3) Immediately below the title of any motion or stipulation to continue a hearing there shall also be included a statement indicating whether it is the first, second, third, etc., requested continuance of a hearing.

(b) The parties may file a stipulation to vacate the hearing of a motion, which the clerk will remove from the calendar. The parties may not stipulate to remove a trial or evidentiary hearing without also obtaining court approval by order.

(c) A party may file an ex parte motion to continue a hearing, explaining why it could not be obtained by stipulation. Such a motion must be supported by affidavit. The court may:

(1) grant or deny the motion; or

(2) require that notice be given to all other parties if it had not already been given, and entertain a summary written response to the request or conduct a telephonic conference within a time to be specified by the court of not less than 1 judicial day.

Rule 5.515 Courtesy copies

Unless otherwise directed by the court:

(a) Any papers filed within 3 calendar days of a hearing shall be courtesy copied to the court.

(b) Courtesy copies may be delivered either by physical delivery of paper copies to the departmental drop-box, or by e-mail to the law clerk for the department. If the papers total more than 40 pages, the courtesy copy shall be by physical delivery of paper copies unless the court otherwise directs.

(c) Any photographs contained in exhibits that are e-filed should be courtesy copied to the court in advance of the hearing.

Rule 5.516 Attendance at hearings [5.27]

(a) As provided by rule, statute, or court order, an unrepresented party and counsel for a represented party must appear at the time set for the hearing of any family division matter, personally, or by telephonic or audiovisual equipment.

(b) Even if represented by counsel, a party must attend a hearing if required by rule, statute, or court order, and at: case management conferences; contempt hearings directed against that party; returns from mediation; and hearings on preliminary motions relating to custody, child or spousal support; temporary possession of a residence, and protective orders, unless otherwise directed by the court.

Rule 5.517 Joint preliminary injunction (JPI) [5.85]

(a) Upon the request of any party at any time prior to the entry of a decree of divorce or final judgment, a preliminary injunction will be issued by the clerk against the parties to the action enjoining them and their officers, agents, servants, employees or a person in active concert or participation with them from:

(1) Transferring, encumbering, concealing, selling or otherwise disposing of any of the joint, common or community property of the parties or any property which is the subject of a claim of community interest, except in the usual course of conduct or for

the necessities of life or for retention of counsel for the case in which the JPI is obtained; or cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of:

(a) any retirement benefits or pension plan held for the benefit (or election for benefit) of the parties or any minor child; or

(b) any insurance coverage, including life, health, automobile, and disability coverage;

without the written consent of the parties or the permission of the court.

(2) Molesting, harassing, stalking, disturbing the peace of or committing an assault or battery on the person of the other party, or any child, step-child, other relative, or family pet of the parties.

(3) Relocating any child of the parties under the jurisdiction of the State of Nevada from the State without the prior written consent of all parties with custodial rights or the permission of the court.

(b) Unless otherwise ordered, the clerk will affix the electronic signature of the Presiding Judge upon issuance of a JPI on the court's form JPI, and enter it as an order of the court; any alternative language must be approved by the assigned judge.

(c) The JPI is automatically effective against the party requesting it at the time it is issued and effective upon all other parties upon service. Service of the JPI will be construed as satisfying all requirements for Notice of Entry of the JPI. The JPI shall be treated as a court order and is enforceable by all remedies provided by law, including contempt.

(d) Once issued, the JPI will remain in effect until a decree of divorce or final judgment is entered or until modified or dissolved by the court.

Rule 5.518 Domestic violence protection orders (TPO and EOP) [5.22]

(a) Generally.

(1) The statutory evidentiary standard of "to the satisfaction of the court" shall be construed as equivalent to a reasonable cause or probable cause standard by a court considering an application for issuance of a temporary protection order (TPO) or extended order of protection (EOP).

(2) An application requesting a protection order must be based upon an affidavit setting forth specific facts within the affiant's personal knowledge establishing good cause for the order.

(3) The court may direct representatives of Child Protective Services or other agencies to attend a protection order hearing by subpoena or court order.

(4) The court may permit any person deemed appropriate to be present during a protective order proceeding in the interests of justice notwithstanding the demand by a party that the proceeding be private.

(5) The applicant may be ordered to pay all costs and fees incurred by the adverse party if by clear and convincing evidence it is proven that the applicant knowingly filed a false or intentionally misleading affidavit.

(b) Temporary orders.

Any TPO issued pursuant to NRS 33.020(5) must be set for hearing within one week of issuance.

(c) Extended orders.

(1) An adverse party must be served with the TPO and application for the extension of a TPO at least 1 judicial day prior to the scheduled hearing.

(2) If the application for an EOP contains a request for financial relief, the applicant must submit financial information on such a form as the court deems necessary.

(3) No EOP may be renewed beyond the statutory maximum period nor may a new EOP be granted based upon the filing of a new application which does not contain a new and distinct factual basis for the issuance of a protective order.

(4) Orders on related matters made in conjunction with extension of a TPO remain in effect for the life of the EOP unless modified by the hearing master or a district court judge hearing the TPO case or another family division case relating to the same parties.

(d) Proceedings in relation with other family division matters.

(1) If both a TPO case and another family division case relating to the same parties have been filed, the hearing master must bring all TPO cases to the attention of the district court judge before taking any action. Unless the district court judge orders otherwise:

(A) If a motion is filed in the other family division case **before** the TPO was granted and an extension hearing is set in the TPO court, the extension hearing will be set before the district court judge.

(B) If a motion is filed in the other family division case **after** the TPO was granted and an extension or dissolution hearing is set in the TPO court, the extension hearing will proceed and the hearing master may make such interim orders on extension of the TPO and any related issues at the extension hearing, and will remain in effect until the motion hearing before the district court judge.

(2) Unless otherwise ordered by the district court judge, once a motion in another family division case relating to the same parties has been filed, all subsequent protection order filings and related issues will be heard by the district court judge both before and after final determination of the other family division case so long as that other case remains open, and will be heard in the TPO court once the other case is closed.

(e) Objections to recommendations of hearing master.

(1) Interim orders, modifications or dissolutions, and recommendations pursuant to decision by a hearing master remain in full force and effect unless altered by order of the assigned district court judge irrespective of the filing of any post-decision motion or objection.

(2) A party may object to a hearing master's recommendation, in whole or in part, by filing a written objection within 14 calendar days after the decision in the matter; if the objecting party was not present at the hearing, the objection period begins upon service of the order on that party.

(3) A copy of the objection must be served on the other party. If the other party's address is confidential, service may be made on the protection order office for service on the other party.

(f) A district court judge may accept, reject, or modify any recommendation of a hearing master.

Rule 5.520 Other temporary restraining orders and preliminary injunctions [5.20]

(a) Generally.

(1) This rule governs all requests for temporary restraining orders and preliminary injunctions except for those relating to temporary exclusive possession of a residence, domestic violence, or joint preliminary injunctions.

(2) A party may file an ex parte motion for a temporary restraining order, a noticed motion for a preliminary injunction, or both.

(3) A motion for a temporary restraining order or preliminary injunction must be supported by affidavit.

(4) Every temporary restraining order and preliminary injunction shall state with specificity the reasons for its issuance and the act or acts sought to be restrained, without reference to other documents.

(5) Every temporary restraining order and preliminary injunction is binding on the parties to the action, their officers, agents, servants, employees, and attorneys, and on those persons in active concert or participation with them who receive actual notice of the order or injunction.

(6) Every temporary restraining order and preliminary injunction shall specify when it and all filings in support of its issuance must be served on the adverse party, and specify the time for filing of the adverse party's opposition and supporting filings.

(b) Proceedings relating to ex parte temporary restraining orders.

(1) An ex parte motion for a restraining order granting temporary relief in a family division matter not more specifically governed by another rule will be considered only in cases of emergency and must detail the efforts, if any, made to give notice to the adverse party or the reasons, if any, that such notice should not be required.

(2) Every ex parte temporary restraining order shall note when it was approved by the court, and shall be filed by the clerk's office forthwith.

(3) Every ex parte temporary restraining order shall state the date and time it will expire, not to exceed 30 days after its issuance, unless extended by either further court order or by a filed, written consent by the party against whom the order is directed. The reasons for any extension shall be recited in such order or consent.

(4) Every ex parte temporary restraining order shall contain an order setting the hearing on a preliminary injunction on the same subject matter as soon as is practicable.

(c) Proceedings relating to preliminary injunctions.

(1) If, at the preliminary injunction hearing set by a temporary restraining order, the party who obtained the temporary restraining order does not proceed with the application for the injunction, the court shall dissolve the temporary restraining order.

(2) A party affected by a temporary restraining order may file a motion to dissolve or modify it on 14 calendar days' notice to the party who obtained the restraining order.

(d) Any evidence received upon an application for a preliminary injunction which would be admissible at any family division hearing becomes part of the record and need not be repeated at a later hearing.

Rule 5.521 Issuance of decisions [5.90]

(a) Once a trial, motion, or other proceeding is completed, the court may request additional information or documentation, draft a dispositional order, or render a decision and designate a party to prepare the necessary documents for the court's review and signature. In the absence of any specific direction, the moving party (or plaintiff, for final dispositions) should draft the documents.

(b) Counsel for the parties must provide such orders, provisions, and documents as are necessary to achieve distribution or finalization of all interests at issue in the proceedings, or specify on the record when, how, and by whom that distribution or finalization is to be achieved.

(c) The court may issue an order to show cause for failure of a party to prepare and submit the necessary documents as directed within the time allotted by the court. Upon submission, the court may sign the proposed documents, return them to the preparer with instructions for revision, or take such other actions as are necessary to obtain a complete written disposition of the matter.

(d) Parties may waive notice of entry. The court may elect to provide written notice of entry.

Rule 5.522 Countersignatures and direct submission of orders

(a) Unless otherwise ordered, when the court directs that the order from a hearing be prepared by counsel, drafting counsel shall have 10 calendar days to draft the proposed order and request the countersignature of opposing counsel as to its form and content.

(b) Unless otherwise ordered, if unable to obtain the countersignature of opposing counsel within 10 calendar days, drafting counsel may directly submit the proposed order to the court, accompanied by an explanation of the attempts made to obtain countersignature in substantially the following form:

(1) Enclosed please find our proposed Order from the _____, hearing. Despite attempts to prepare a countersigned *Order*, we were unable to obtain a countersignature.

On [date], we sent our proposed order to opposing counsel for review; we received no response. Despite a reminder letter on [date], opposing counsel has not responded. We have attached the relevant correspondence.

Having reviewed the court minutes and the hearing recording, we believe the attached proposed *Order* complies with this Court's orders, and so submit it without the signature of opposing counsel.

Or

(2) Enclosed please find our proposed Order from the _____, hearing. Despite attempts to prepare a countersigned *Order*, we were unable to reach agreement with opposing counsel. We have attached the relevant correspondence.

Having reviewed the court minutes and the hearing recording, we believe the attached proposed *Order* complies with this Court's orders, and so submit it without the signature of opposing counsel.

(c) If counsel are unable to agree on the form and content of a proposed order, and drafting counsel directly submits a proposed order, opposing counsel may submit a proposed alternative form of order, accompanied by a brief explanation of the reason for the disagreement and the distinction between the proposed orders in substantially the following form:

Opposing counsel has submitted a proposed *Order* from the _____, hearing. Having reviewed the court minutes and the hearing recording, we believe our attached proposed *Order* is more accurate than that of opposing counsel, and have included the time indexes for the Court's convenience.

(d) Unless otherwise ordered, the 10-day period specified in Rule 7.21 shall be considered to begin the day after the end of the 10-day period drafting counsel has to prepare the proposed order and request the countersignature of opposing counsel under this rule.

Rule 5.524 Construction of orders requiring payment of money

Unless otherwise specified, any order calling for the payment of a sum from a party to any other person or entity shall be construed as having been reduced to judgment and made collectible by all lawful means.

Rule 5.526 Settlement conferences

(a) At the request of any party or on its own motion, the court may order the parties to participate in a settlement conference.

(b) Unless otherwise ordered by the settlement judge, at least 24 hours before any scheduled settlement conference, each party must submit to the settlement judge a confidential settlement conference brief that is no more than 5 pages in length and addresses each of the following issues:

- (1) a brief factual statement regarding the matter;
- (2) the procedural posture of the case including any scheduled trial dates;
- (3) the strengths and weaknesses of each parties' claims;
- (4) the settlement negotiations that have transpired and whether the parties have engaged in any prior mediations or settlement conferences and the identity of the mediator or prior settlement judge;
- (5) the dates and amounts of any demands and offers and their expiration date(s);
- (6) any requirements of a settlement agreement other than a release of all claims for the matter and a dismissal of all claims;
- (7) any unusual legal issues in the matter;
- (8) the identity of the individual with full settlement authority who will be attending the settlement conference on behalf of the party; and
- (9) any insurance coverage issues that might affect the resolution of the matter.

(c) The confidential settlement briefs are not to be made part of the regular or confidential court file or otherwise provided to the court hearing the matter, directly, or indirectly.

(d) If settlement is reached, the memorialization of settled terms shall be promptly reduced to writing and signed, or placed on the record pursuant to EDCR 7.50.

(e) To the degree practicable, these provisions are to be utilized by senior settlement judges, settlement masters, or other persons performing the function of facilitating mediation and settlement.

Rule 5.525 Meetings of counsel before calendar call or final pre-trial conference; pre-trial memorandum [5.87]

(a) Prior to or at any calendar call, or at least 5 calendar days before trial or any evidentiary hearing if there is no calendar call, the designated trial attorneys for all parties shall meet to arrive at stipulations and agreements, for the purpose of simplifying the issues to be tried, and exchange final lists of exhibits and the names and addresses of all witnesses (including experts), to be actually called or used at trial. No new exhibits or witnesses are to be added, although previously-disclosed witnesses or exhibits may be eliminated, unless otherwise ordered.

(b) Except as otherwise ordered, each party must prepare a pre-trial memorandum which must be filed and served on all other parties not less than 10 calendar days before the calendar call, or 10 days before the hearing if there is no calendar call. Unless otherwise ordered, the pre-trial memorandum must concisely state:

- (1) A brief statement of the facts of the case, including:
 - (A) The names and ages of the parties.
 - (B) The date of the marriage.
 - (C) Whether any issues have been resolved and the details of the resolution.
 - (D) The names, birth dates and ages of any children.
- (2) If child custody is unresolved, proposed provisions for custody and visitation.
- (3) If child support is unresolved, the amount of support requested and the factors that the court should consider in awarding support.
- (4) If spousal support is unresolved, the form, amount, and duration requested and the factors that the court should consider in awarding support.
- (5) A brief statement of contested legal and factual issues regarding the distribution of property and debts.
- (6) If a request is being made for attorney's fees and costs, the amount of the fees and costs incurred to date.

- (7) Any proposed amendments to the pleadings.
- (8) A list of all exhibits, including exhibits which may be used for impeachment, and a specification of any objections each party may have to the admissibility of the exhibits of an opposing party.
- (9) A list of the names and addresses of all witnesses (including experts), other than a resident witness, that each party intends to call. Failure to list a witness, including impeachment witnesses, may result in the court precluding the party from calling that witness.
- (10) If any requests involving money are at issue, a financial disclosure in accordance with these rules.
- (11) A list of substantial property, all secured and unsecured indebtedness, and the proposed disposition of assets and liabilities, in a format substantially complying with court rules or any asset and debt schedule forms provided by the court.
- (12) Any other matter which counsel desires to bring to the attention of the court at calendar call.

Rule 5.527 Dismissal and closing of cases; reactivation procedure [5.90]

(a) A family case which has been pending for more than 6 months and in which no action has been taken for more than 3 months may be dismissed on the court's own initiative without prejudice.

(b) A case shall be designated closed by the clerk of the court if:

- (1) There has been no substantial activity in the case within 31 days of the notice of entry of decree or judgment;
- (2) There has been no substantial activity in a post-dispositional case within 31 days of notice of entry of a final order;
- (3) There has been an involuntary dismissal without prejudice as set forth in these rules or the Nevada Rules of Civil Procedure; or
- (4) Upon order of the court.

(c) Written notice of entry of a dismissal or order of the court pursuant to this rule must be given to each party who has appeared in the action. Placing a copy of a notice in the attorney's folder maintained in the Office of the Clerk of the Court constitutes notice to that attorney.

(d) A family division case which has been dismissed pursuant to this rule will be reactivated at the written request of a party if the request is filed within 30 days of service of written notice of entry of the dismissal.

Rule 5.528 Filing fee to reopen cases [5.80]

A completed Fee Information sheet shall be filed and the current statutory fee payable to the county clerk shall be paid upon the filing of any motion or other paper that seeks to: reopen a case; modify or adjust a final order that was issued pursuant to NRS chapters 125, 125B, or 125C; file an answer or response to such a motion or other paper. No such fee or Information Sheet are required for motions for reconsideration or for a new trial or motions filed solely to adjust the amount of child support in a final order.

5.600 Discovery [5.3]

5.36, 5.37, [5.38,] 5.47,

Rule 5.601 Discovery documents; Bate stamps

(a) Every document produced in discovery should be identified with a unique identifier, signifying the party that produced it and its sequential order of production (e.g., “Plaintiff 0123,” or for party John Smith, “JS0123”). Every party using that document in that case should continue to use the identifier given to it upon production.

(b) Unique identifying numbers should normally be printed at the lower right corner of the document, unless that is not practicable, in which case it can be printed elsewhere on the document.

Rule 5.602 Discovery disputes, conferences, motions, stays [5.37]

(a) Unless otherwise ordered, all discovery disputes (except disputes presented at a pretrial conference or at trial) must first be heard by the discovery hearing master.

(b) Upon reasonable notice, the discovery hearing master may direct the parties to appear for a conference with the hearing master concerning any discovery dispute. Unless otherwise directed, points and authorities need not be filed prior to a conference noticed by the hearing master. Counsel may not stipulate to vacate or continue a conference without the hearing master’s consent.

(c) The hearing master may shorten or extend any of the times for any discovery motion.

(d) A discovery motion must set forth that after a discovery dispute conference or a good faith effort to confer, counsel were unable to resolve the matter satisfactorily, detailing what attempts to resolve the dispute were made, what was resolved and what was not resolved, and why. A conference requires either a personal or telephone conference between or among the parties; if a personal or telephone conference was not possible, the motion shall set forth the reasons. Such a motion must be supported by affidavit.

(e) If the responding party failed to answer discovery, the motion shall set forth what good faith attempts were made to obtain compliance. If, after request, the responding party fails to participate in good faith in the conference or to answer the discovery, the court may require such party to pay to any other party the reasonable expenses, including attorney's fees, caused by the failure.

(f) The hearing master may stay any disputed discovery proceeding pending resolution by the judge.

(g) Following the hearing of any discovery motion, the hearing master must prepare and file a report with a recommendation for the court's order. The hearing master may direct counsel to prepare the hearing master's report, including findings and recommendations. The clerk of the court or the discovery hearing master designee shall forthwith serve a copy of the report on all parties. The report is deemed received 5 calendar days after the clerk of the court or discovery hearing master designee places a copy in the attorney's folder in the clerk's office or 5 calendar days after mailing to a party or the party's attorney. Within 7 calendar days after being served with a copy, any party may serve and file specific written objections to the recommendations with a courtesy copy delivered to the office of the discovery hearing master. Failure to file a timely objection may result in an automatic affirmance of the recommendation. All time periods set forth in this rule are inclusive of the 3 days provided by EDCR 8.06(a) and NRCP 6(e) (i.e., 2 or 4 days plus 3 days after service).

(h) Papers or other materials submitted for the discovery hearing master's *in camera* inspection must be accompanied by a captioned cover sheet complying with Rule 7.20 which indicates that it is being submitted *in camera*. All *in camera* submissions must also contain an index of the specific items submitted. A copy of the index must be furnished to all other parties. If the *in camera* materials consist of documents, counsel must provide to the hearing master an envelope of sufficient size into which the *in camera* papers can be sealed without being folded.

5.700 Guardianship

[5.91 - 5.995]

Rule 5.701 Scope of rules [5.01]

Unless otherwise ordered, the rules in this section govern practice and procedure in all guardianship proceedings under Title 13 of the Nevada Revised Statutes.

Rule 5.702 Assignment of guardianship matters [5.91, renumbered from 5.93]

(a) All guardianship proceedings under Title 13 of Nevada Revised Statutes are automatically referred to the guardianship hearing master. The guardianship hearing master shall be deemed as a special master as governed and defined under NRCP 53 and these rules and guardianship cases shall be set for hearing in front of the guardianship hearing master.

(b) In contested cases, litigants have a right to request a hearing in front of the judge to whom the guardianship is assigned. The litigant must file a motion requesting a hearing in front of the guardianship judge. Motions requesting a hearing in front of the guardianship judge shall be set on the judge's calendar within 10-20 days of the date the motion is filed. It is at the guardianship judge's sole discretion to hear guardianship cases and to determine whether they will hear oral arguments or whether a ruling will be made based on the filed pleadings.

(c) A district judge may refer any other matter to the guardianship hearing master for recommendation unless prohibited by law. Such referral may be by application of a party to the action or on the judge's own initiative.

Rule 5.703 Guardianship case management [5.911, renumbered from 5.99]

(a) The presiding judge for the Eighth Judicial District Court of Nevada, Family Division, shall be designated as the guardianship judge. The presiding judge may, however, at the presiding judge's sole discretion, appoint one district court judge to serve as the guardianship judge in the presiding judge's stead. The presiding judge shall also have the discretion to designate one or more additional district court judges as alternate guardianship judge(s) to hear guardianship matters in the event that the guardianship judge is disqualified from hearing a matter or if the guardianship judge is unable to accommodate a matter for any good cause at the sole discretion of the guardianship judge.

(b) The presiding judge shall reassign guardianship cases and related domestic cases in an effort to provide consistency as follows.

(1) If a guardianship case involves a minor:

(A) the case shall be reassigned, upon coming on calendar, to the department to which any prior dissolution of marriage or child custody case has been assigned;

(B) if the proposed ward has not been the subject of a prior dissolution of marriage or child custody case, the case shall be randomly assigned to a district court judge who regularly hears dissolution of marriage or child custody cases.

(2) If a guardianship case involves an adult:

(A) the case shall be assigned to the guardianship judge unless there is a pre-existing actively litigated domestic case involving the proposed ward or ward. If there is a pre-existing actively litigated domestic case, the guardianship shall be reassigned to the department to which the actively litigated domestic case has been assigned;

(B) the case shall remain assigned to the guardianship judge if the guardianship pre-existed the filing of the domestic case. The domestic case that is filed subsequent to the guardianship, unless good cause is shown, will be assigned or reassigned to the guardianship judge.

(3) This rule does not affect the filing of peremptory challenges.

Rule 5.704 Authority of the guardianship hearing master [5.912]

(a) The guardianship hearing master shall have the following authority on those matters heard before the guardianship hearing master:

(1) To receive oral, documentary and tangible evidence and to establish a record;

(2) To make findings of fact, recommended conclusions of law and recommendations for the provisions and enforcement of any order; and

(3) To exercise any other power or duty contained in an order issued by the guardianship judge.

(b) The guardianship hearing master may recommend the guardianship judge enter a temporary guardianship order, extend a temporary guardianship order, or order an emergency suspension of guardianship letters pending full and final resolution.

(c) The guardianship hearing master may recommend or request a district judge to make an immediate determination of appropriate sanctions for contemptuous behavior, issue a bench warrant, quash a warrant, or release persons arrested thereon.

(d) The guardianship hearing master may perform the duties of any other duly appointed master as the administration of justice may require and as authorized under Rule 53(c) of the Nevada Rules of Civil Procedure.

(e) The guardianship hearing master may make appropriate sanctions for a party's failure to comply with the applicable statutes or rules of the court.

Rule 5.705 Guardianship calendars [5.92, renumbered from 5.91]

Subject to change by order of the presiding judge, the adult guardianship calendar will be heard every Wednesday at 9:00 a.m. If a legal holiday falls on a Wednesday the guardianship calendar for that week will be heard at such time as set by the guardianship judge or hearing master.

Rule 5.706 List of guardianship matters to be heard [5.921, renumbered from 5.92]

(a) Under the supervision of the presiding judge, the guardianship hearing master must prepare a list of guardianship matters that are scheduled for hearing. Such list shall be finalized and posted on the guardianship court's official website by 4:00 p.m. on the day prior to hearing.

(b) The list shall designate each matter as being "approved" or requiring a hearing which is designated as "court's discretion." The list shall also indicate whether the hearing has been continued and the new hearing date or if the matter has been taken off calendar.

(c) At the discretion of the guardianship hearing master, the list may also identify those cases scheduled for hearing that are deficient for the hearing or a determination and the basis for such deficiency to allow parties to correct such deficiencies prior to 12:00 p.m. on the day prior to hearing. The guardianship hearing master may then designate such matters as "approved" or as requiring a hearing.

Rule 5.707 Approved matters [5.922]

(a) Under the supervision of the guardianship judge, the guardianship hearing master must prepare an approved list each week of matters which can be heard without further testimony or appearance.

(b) In order to be on the approved list, the following must be strictly observed:

(c) Any matter designated as "approved" on the list may be heard without an appearance by the parties and/or their counsel. In order to be approved, the following shall be strictly observed:

(1) All petitions must be verified.

(2) The petitions filed must be without objection.

(d) Proof of service through an affidavit of mailing or certificate of mailing must be filed contemporaneously or immediately after the actual mailing has taken place. All proof of service and proof of publication must be filed no later than close of business on the Friday of the week preceding when the matter is to be heard.

(e) The original order to be signed by the judge must be delivered to the guardianship hearing master no later than 4:00 p.m. on Friday of the week preceding when the matter is to be heard. Without a showing to the court of good cause, proposed orders not submitted within the time provided for in this rule may, at the noticed hearing time, be continued for 1 week, or longer at the request of counsel, to enable compliance.

(f) At the time of the hearing, the guardianship hearing master shall read the docket of all cases and matters scheduled for hearing that have been designated as “approved,” and inquire as to whether there are any persons present wishing to object to such approved matters. If no objections are so made, the guardianship hearing master will recommend approval to the guardianship judge without further hearing on such matters. If, however, any person appears and indicates a desire to contest or object to the relief requested, the guardianship hearing master may take the following actions:

(1) If the petitioning party and such party’s counsel are not present, the guardianship hearing master will ordinarily continue the matter to the next appropriate guardianship calendar date to allow all interested parties to be noticed of the objection. The guardianship hearing master may also direct the objecting or contesting party to file a written objection to the petition prior to the continued hearing date and may thereupon grant or otherwise act upon the petition if such written objection is not timely filed.

(2) If the petitioning party or his/her counsel is present, the guardianship hearing master may elect to hear the matter at the noticed hearing date to determine whether the matter is the proper subject of objection, whether the matter may in fact be ruled on at such time, or whether a continuance of the matter is appropriate. The guardianship hearing master may, as appropriate, thereupon hear the matter, continue the matter, impose a briefing schedule, set a discovery schedule or direct the parties to a settlement conference and/or otherwise process the matter.

Rule 5.708 Continuances [5.923, renumbered from 5.94]

(a) When a petition for guardianship is called for hearing, and any person appears and orally declares a desire to file a written objection, the court will continue the hearing with the understanding that if an objection is not actually on file at the new hearing date, the hearing will proceed.

(b) At the call of the calendar, if objection is taken to any matter on the approved list, and petitioner or petitioner's counsel is not present, the court may continue the matter to allow the filing of written objections and the giving of notice thereof to petitioner. Such continuance must be made, and petitioner or petitioner's counsel notified, in any case in which the court proposes to effect a substantial change in the relief prayed for.

Rule 5.709 Guardianship hearing master's report and recommendations [5.93]

(a) Within a reasonable time after the evidence is presented in a contested matter that is heard by the guardianship hearing master, the guardianship hearing master shall file a written report setting forth findings of fact, conclusions of law and recommendations.

(b) The guardianship hearing master may direct counsel for a party to prepare the report, which shall be delivered to the guardianship hearing master no later than 14 calendar days after the guardianship hearing master so directs, unless the guardianship hearing master shall designate some other time period. In contested proceedings, such attorney shall serve a copy of the proposed report upon counsel for all parties who have appeared at the hearing and are affected by the report, unless otherwise directed by the guardianship hearing master, and submit proof of such service to the guardianship hearing master with the proposed report. Except when the guardianship hearing master believes it is appropriate to immediately enter the report, the guardianship hearing master will wait 7 calendar days, inclusive of the 3 days provided by EDCR 8.06(a) and NRCP 6(e), before entering the report to enable the submission of a competing report by counsel for another party.

(c) Promptly upon the guardianship hearing master's execution of the proposed report, the attorney charged with drafting the report shall file and serve a copy of the report upon all parties. If the guardianship hearing master drafts the report, the guardianship hearing master may file and effect service or direct one of the parties to file and perfect service of the same. The report is deemed received 3 judicial days after mailing to a party or a party's attorney or a copy of the report is hand delivered to a party or a party's attorney as demonstrated by an executed receipt.

(d) After the objection period has run, and if no timely objections have been filed, at the guardianship judge's discretion an order approving hearing master's report and recommendations shall be entered. The order shall be the responsibility of the hearing master or the attorney, whichever was charged with filing and perfecting service of the report and recommendations.

(e) The parties may stipulate to immediate entry of an order on the guardianship hearing master's recommendations.

Rule 5.710 Objections to guardianship hearing master's report and recommendations [5.931]

(a) Within 14 calendar days after being served with a copy of the report, any party may file with the clerk of court and serve on the other parties a written request for judicial review of the matter by the guardianship judge, together with specific written objections to the recommendations set forth in the guardianship hearing master's report and recommendations and any additional points and authorities. Such judicial review will be subject to review by the guardianship judge.

(b) It is the responsibility of the objecting party to notice the hearing date before the guardianship judge. Upon filing of the notice of hearing, the matter will be transferred to the guardianship judge and be placed by the clerk of court for hearing before the guardianship judge. Unless otherwise ordered by the guardianship judge, the hearing shall be set no less than 20 days, but no more than 30 days, from the date of the filing of the request.

(c) Within 14 calendar days after the service of the written objections, the opposing party may file an opposition thereto together with a memorandum of points and authorities, if any, stating reasons showing why the relief requested should be denied. A moving party may file a reply memorandum of points and authorities no later than 7 calendar days prior to the hearing date, inclusive of the 3 days provided by EDCR 8.06(a) and NRCP 6(e).

(d) Failure to file and serve such request and written objections within the specified period at the guardianship judge's discretion will result in the adoption of the guardianship hearing master's report and recommendations by the guardianship judge and preclude such judicial review by the district court.

Rule 5.711 Limited judicial review of guardianship hearing master's report and recommendations by guardianship judge [5.932]

(a) Judicial review of a final recommendation of the guardianship hearing master will be confined to the record, together with the specific written objections.

(b) Except as to matters of law, the findings of fact, conclusions of law and recommendations of the guardianship hearing master shall be adopted, unless overruled by the guardianship judge.

(c) The recommendations of the guardianship hearing master shall be deemed reasonable and lawful unless and until reversed or set aside in whole or in part by the guardianship judge. The burden of proof or persuasion is on the party contesting or resisting the recommendations to show that the same should be modified or set aside in whole or in part.

(d) Unless otherwise ordered by the guardianship judge, pending the guardianship judge's review of any objections to the guardianship hearing master's report and recommendations, parties who have been served with the same shall refrain from taking any action inconsistent with the guardianship hearing master's report and recommendations. For good cause, the guardianship judge

may affirmatively enforce the guardianship hearing master's recommendations pending the guardianship judge's review.

Rule 5.712 Settlement conferences [5.94]

At the request of any party or on the court's own motion, the guardianship judge or the guardianship hearing master may direct the parties to participate in a settlement conference in the manner set forth under Rule 2.51.

Rule 5.713 Consolidations with the lowest number [5.95]

(a) Whenever it appears that two or more guardianship petitions with different numbers have been filed with reference to the same proposed ward or wards, the court may on its own motion consolidate all of the matters with the matter bearing the lowest number, unless the court specifically determines a higher case number shall be the surviving case.

(b) Where a complete consolidation of proceedings is ordered, the clerk, unless otherwise ordered by the court, must file such consolidated proceeding and all subsequent papers relating thereto under the number assigned to the case which the judge designates as the surviving case.

Rule 5.714 Guardianship bond or blocked account [5.96]

(a) In accordance with Nevada Revised Statutes 159.065(6), a guardian may request the ward's assets be placed in a blocked account. The court has a preference for placing assets in blocked accounts so the ward is not charged the cost of the bond. At the court's discretion, the court shall order the use of blocked accounts when the cost of a bond is more than de minimus.

(b) Should a guardianship representative and/or counsel become aware of facts causing the need therefor, it is their to petition the court for an ex parte order increasing the bond to the total appraised value of personal property on hand plus 1 year's estimated annual income from real and personal property. In any accounting where a bond has been posted, there must be included therein a separate paragraph setting forth the total bond(s) posted, the appraised value of personal property on hand plus the estimated annual income from real and personal property and a statement of any additional bond thereby required.

Rule 5.715 Contents of guardianship orders [5.97]

All orders or decrees in guardianship matters shall set forth completely all matters actually passed on by the court and shall not merely refer to corresponding provisions of the petition. Guardianship

orders should be so drawn that their general effect may be determined without reference to the petition on which they are based. Orders must not be drawn so that only the signature of the court, or the date and signature, appear on a page, nor may any matter appear after the signature of the court. The name, address and signature of the submitting attorney or litigant appearing in proper person must appear on all orders.

Rule 5.716 Content of guardianship accounting [5.98]

(a) All accounts filed in guardianship proceedings, including trust accounts, must contain a summary or recapitulation showing:

- (1) Amount of appraisement, if first account. If subsequent account, amount chargeable from prior account.
- (2) Amount of receipts excluding capital items.
- (3) Gains on sales or other disposition of assets, if any.
- (4) Amount of disbursements.
- (5) Losses on sales or other disposition of assets, if any.
- (6) Amount of property on hand.

(b) An accounting may be rejected by the court if a recapitulation is not submitted with the accounting. If an accounting is rejected, it must be amended and the appropriate notice of hearing submitted to the court.

Per Committee Discussion re: Suggested Forms

CMC Order

Sample Litigation Budget Form as circulated at prior Bench/Bar

Marital Balance Sheet, amended to include proposed distributions.