

## **NRCP RULE 16.2**

(a) **Applicability.** This rule applies to all divorce annulment separate maintenance, and dissolution of domestic partnership actions. Nothing in this rule shall preclude a party from conducting discovery pursuant to the Nevada Rules of Civil Procedure.

(b) **Exemptions.** Either party may file a motion for exemption; the court may, sua sponte at the case management conference exempt all or any portion of a case from application of this rule in whole or in part, upon a finding of good cause, so long as the exemption is contained in an order of the court. Without limiting the foregoing, good cause may include any case where the parties have negligible assets and debts together with no minor children of the parties.

(c) **Financial Disclosure Forms.**

(1) **General Financial Disclosure Form (GFDF).** In all actions governed by this rule, each party must complete, file, and serve a General Financial Disclosure Form (GFDF) within 30 days of service of the Complaint unless a Detailed Financial Disclosure Form is required in accordance with Rule 16.2(c)(2) or the court orders the parties, at the case management conference, to complete the Detailed Financial Disclosure Form.

(2) **Detailed Financial Disclosure Form (DFDF).** If the Plaintiff concurrently with the filing of the Complaint or the Defendant, concurrently with the filing of the Answer, but no later than 15 days after the filing of the Answer files the "Request to Opt-in to Detailed Financial Disclosure Form and Complex Litigation Procedure" certifying that:

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

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

(C) The combined gross value of the assets owned by either party individually or in combination is more than \$1,000,000:

then each party must file the DFDF within 45 days of service of the Request to Opt-in, unless otherwise ordered by the court or stipulated by the parties. The case

shall then be subject to the Complex Divorce Litigation Procedures, which requires that each party prepare a Complex Divorce Litigation Plan that shall be filed and served as part of the Earlt Case Conference Report. The plan shall include, in addition to the requirements of Rule 16.2(i)any and all proposals concerning the time manner and place for needed discovery proposed conferences and anticipated hearings with the court, and any other special arrangements focused on prompt settlement, trial, or resolution of the case.

(d) Mandatory Initial Disclosures. Concurrently with the filming of the Financial Disclosure Forms, each party must, without awaiting a discovery request, serve upon the other party written and signed disclosures containing the following information:

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

(2) Evidence of Property, Income, and Earnings as to Both Parties. A party must make these initial disclosures based on the information then reasonably available to that party and is not excused from making the disclosures because the party has not fully completed an investigation of the case, because the party challenges the sufficiency of another party's disclosures, or because another party has not made the required disclosures. For each requirement set forth in Rule 16.2 (d)(2)(A) through (P), if the disclosing party is not in possession of the documents the disclosing party must identify each such asset or debt that exists and disclose where information pertaining to each asset or debt may be found. If no such asset or debt exists the disclosing party must specifically so state.

(A) Bank and Investment Statements. Copies of all monthly or periodic bank, checking, savings, brokerage, investment, and security account statements in which any party has or had an interest for the period commencing 6 months prior to the service of the Summons and Complaint through the date of the disclosure.

(B) Credit Card and Debt Statements. Copies of credit card statements and debt statements for all parties for all months for the period commencing 6 months prior to the service of the Summons and Complaint through the date of disclosure;

(C) Real Property. Copies of all deeds, deeds of trust, purchase agreements, escrow documents, settlement sheets, and all other documents that disclose the ownership, legal description purchase price and encumbrances of all real property owned by any party;

(D) Property Debts. Copies of all monthly or periodic statements and documents showing the balances owing on all mortgages, notes, liens, and encumbrances outstanding against all real property and personal property in which the party has or had an interest for the period commencing 6 months prior to the service of the Summons and Complaint through the date of the disclosure: or if no monthly or quarterly statements are available during this time period the most recent statements or documents that disclose the information;

(E) Loan Applications. Copies of all loan applications that a party has signed within 12 months prior to the service of the Summons and Complaint through the date of the disclosure;

(F) Promissory Notes. Copies of all promissory notes under which a party either owes money or is entitled to receive money;

(G) Deposits. Copies of all documents evidencing money held in escrow or by individuals or entities for the benefit of either party;

(H) Receivables. Copies of all documents evidencing loans or monies due to either party from individuals or entities;

(I) Retirement and Other Assets. Copies of all monthly or periodic statements and documents showing the value of all pension, retirement, stock option, and annuity balances, including individual retirement accounts 401(k) accounts and all other retirement and employee benefits and accounts in which any party has or had an interest for the period commencing 6 months prior to the service of the Summons and Complaint through the date of the disclosure; or if no monthly or quarterly statements are available during this time period the most recent statements or documents that disclose the information;

(J) Insurance. Copies of all monthly or periodic statements and documents showing the cash surrender value, face value, and premiums charged for all life insurance policies in which any party has or had an interest for the period commencing 6 months prior to the service of the Summons and Complaint through

the date of the disclosure; or if no monthly or quarterly statements are available during this time period the most recent statements or documents that disclose the information;

(K) Insurance Policies. Copies of all policy statements and evidence of costs of premiums for health and life insurance policies covering either party or any child of the relationship;

(L) Values. Copies of all documents that may assist in identifying or valuing any item of real or personal property in which any party has or had an interest for the period commencing 6 months prior to the service of the Summons and Complaint through the date of the disclosure including any documents that the party may rely upon in placing a value on any item of real or personal property (i e, appraisals, estimates, or official value guides);

(M) Tax Returns. Copies of all personal and business tax returns, balance sheets, profit and loss statements, and all documents that may assist in identifying or valuing any business or business interest for the last 5 completed calendar or fiscal years with respect to any business or entity in which any party has or had an interest within the past 12 months;

(N) Proof of Income. Proof of income of the party from all sources, specifically including W-2, 1099, and K-1 forms for the past 2 completed calendar years and year-to-date income information (paycheck stubs, etc.) for the period commencing 6 months prior to the service of the Summons and Complaint through the date of the disclosure; and

(O) Personalty. A list of all items of personal property with an individual value exceeding \$200 including but not limited to household furniture, furnishings, antiques, artwork, vehicles, jewelry, coins, stamp collections, and similar items in which any party has an interest together with the party's estimate of current fair market value (not replacement value) for each item.

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

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

(4) Additional Discovery. Nothing in the minimum requirements of this rule shall preclude relevant additional discovery in accordance with the Nevada Rules of Civil Procedure.

(5) Disclosure of Expert Witness and Testimony. A party shall disclose the identity of any person who may be used at trial to present evidence pursuant to NRS 50.275 50.285 and 50.305 These disclosures must be made within 90 days after the initial financial disclosure form is required to be filed and served under Rule 16.2(c) or, if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party, within 21 days after the disclosure made by the other party. The parties shall supplement these disclosures when required under Rule 26(e)(1).

(A) Except as otherwise stipulated or directed by the court, a party who retains or specially employs a witness to provide expert testimony in the case, or whose duties as an employee of the party regularly involve giving expert testimony, shall deliver to the opposing party a written report prepared and signed by the witness within 60 days of the close of discovery. The court, upon good cause shown or by stipulation of the parties, may extend the deadline for exchange of the expert reports or relieve a party of the duty to prepare a written report in an appropriate case. The report shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor, the data or other information considered by the witness in forming the opinions, any exhibits to be used as a summary of or support for the opinions, and the Qualifications of the witness.

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

(7) Authorizations for Discovery. If a party believes it necessary to obtain information within the categories under Rule 16.2(d)(2)(A) through (d)(2)(P), from an individual or entity not a party to the action, seeking the party seeking the information may present to the other party a form of authorization, permitting release, disclosure, and production of the information. The party who was

requested to sign the authorization must do so within 10 days of receipt of the authorization form. If the party who was requested to sign the authorization refuses to sign the authorization without good cause, a motion to compel may be filed. If the court or discovery commissioner finds that the objecting party is without legitimate factual or legal objection to the signing of the authorization a motion to compel shall be granted and the objecting party shall be made to pay reasonable attorney fees and costs.

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

(f) Failure to File or Serve Financial Disclosure Form or to Produce Required Disclosures. If a party fails to timely file or serve the appropriate financial disclosure form required by this rule, or the required information and disclosures under this rule, the court shall impose an appropriate sanction upon the party, the party's attorney, or both unless specific affirmative findings of fact are made that the violating party has proven: (1) either good cause for the failure by a preponderance of the evidence or that the violating party would experience an undue hardship if the penalty is applied; and (2) that other means fully compensate the nonviolating party for any losses delays, and expenses suffered as a result of the violation.

(1) Sanctions.

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

(B) Sanctions may additionally include an order refusing to allow the violating

party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence, and/or any other sanction the court deems just and proper. These discretionary sanctions are authorized for repeat or egregious violations.

(g) Failure to Include an Asset or Liability or Accurately Report Income. If a party intentionally fails to disclose a material asset or liability or to accurately report income, the court shall impose an appropriate sanction upon the party or the party's attorney or both, if the other party establishes by a preponderance of the evidence that there is not good cause for the failure.

(1) Sanctions.

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

(B) Sanctions may include an order awarding the omitted asset to the opposing party as his or her separate property or making another form of unequal division of community property, and/or any other sanction the court deems just and proper. These discretionary sanctions are encouraged for repeat or egregious violations.

(h) Objections to Authenticity or Genuineness. Any objection to the authenticity or genuineness of documents is to be made in writing within 21 days of the date the receiving party receives them. Absent such an objection the documents shall be presumed authentic and genuine and shall not be excluded from evidence on these grounds.

(i) Case Management Conferences.

(1) Attendance at Early Case Conference. Within 45 days after service of the Answer the parties and the attorneys for the parties shall confer for the purpose of complying with Rule 16.2(d). The Plaintiff shall designate the time and place of each meeting which must be held in the county where the action was filed unless the parties agree upon a different location. The parties may submit a Stipulation and Order to continue the time for the case conference for an additional period of not more than 60 days which the court may in its discretion and for good cause shown enter. Absent compelling and extraordinary circumstances neither the court nor the parties may extend the time to a day more than 90 days after service of the

Answer. The time for holding a case conference with respect to a defendant who has filed a motion pursuant to Rule 12(b)(2)-(4) is tolled until entry of an order denying the motion.

(2) Early Case Conference Report. Within 15 days after each case conference but not later than 5 days prior to the scheduled case management conference, the parties must file a joint early case conference report, or if the parties are unable to agree upon the contents of a joint report, each party must serve and file an early case conference report, which, either as a joint or individual report, must contain:

(A) A statement of jurisdiction;

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

(C) If custody is at issue in the case, a proposed custodial timeshare and a proposed holiday, special day, and vacation schedule;

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

(E) A written list of all documents not provided under Rule 16.2(d) together with the explanation as to why each document was not provided;

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

(G) A list of the property (including pets, vehicles, real estate, retirement accounts, pensions, etc.) that each litigant seeks to be awarded in this action;

(H) The list of witnesses exchanged in accordance with Rule 16.2(d)(5) and (d)(6);

(I) 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;



(J) A litigation budget; and

(K) Proposed trial dates.

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

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

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

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

(D) Enter interim orders sufficient to keep the peace and allow the case to progress; for matters that are claimed to be in contest, directions by the court as to which party will have which burden of proof;

(E) Discuss the litigation budget and its funding; and

(F) Enter a scheduling order.

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

(4) Case Management Order. Within 30 days after the case management conference, the court shall enter an order that contains:

- (A) A brief description of the nature of the action;
- (B) The stipulations of the parties, if any;
- (C) Any interim orders made by the court, including those pertaining to discovery and burdens of proof;
- (D) Any changes to the timelines of this rule as stipulated by the parties and/or ordered by the court;
- (E) A deadline on which discovery will close;
- (F) A deadline beyond which the parties shall be precluded from filing motions to amend the pleadings or to add parties unless by court order;
- (G) A deadline by which dispositive motions must be filed; and
- (H) Any other orders the court deems necessary during the pendency of the action, including interim custody, child support, maintenance, and NRS 125.040 orders.

If the court orders one of the parties to prepare the foregoing case management order that party shall submit the order to the other party for signature within 10 calendar days after the case management conference.

The order shall be submitted to the court for entry within 20 calendar days after the case management conference.

(i) Discovery Disputes.

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

(2) Following each discovery motion before a discovery commissioner, the commissioner must prepare and file a report with the commissioner's recommendations for a resolution of each unresolved dispute. The commissioner may direct counsel to prepare the report. The clerk of the court shall forthwith serve a copy of the report on all parties. Within 5 judicial days after being served with a copy, any party may serve and file written objections to the

recommendations. Written authorities may be filed with an objection, but are not mandatory.

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