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February 14, 2018

Eighth Judicial District Court
Family Division

Re: Memo Regarding Authority to Close Hearings

Dear Family Court Judge:

Multiple litigants have expressed that they have run into questions from the bench as to the authority to demand closed hearings; usually the question is precipitated by the appearance of third parties to litigation demanding to remain present when one or both litigants request a closed hearing, and some doubt has been expressed as to the current state of court rules.

The prior rule set included “Rule 5.02. Hearings may be private.” Under that rule, “upon demand of either party,” the court was to “direct that the trial or hearing(s) on any issue(s) of fact joined therein be private and upon such direction, all persons shall be excluded from the court or chambers wherein the action is heard”

I was the Official Reporter for the EDCR 5 Committee, and have checked the Committee records as to modifications made. The Committee did *not* recommend removing, limiting, or altering *any* ability of a party to close a hearing of any case.

As stated in the published “**CONCISE SUMMARY OF EDCR 5 COMPLETE RE-WRITE**”:

Several themes were developed at the outset, including elimination of cross-referenced incorporation of part 2 rules and eliminating redundancy (i.e., no setting forth requirements already set out by some other rule, case, or statute).

The Committee notes indicate that the prior EDCR 5.02 was eliminated during this early phase of the rule re-write, based on the existence of “NRS 125.080 Trial of divorce action may be private”

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which provides, in part, that “In any action for divorce, the court shall, upon demand of either party, direct that the trial and issue or issues of fact joined therein be private.”

It was the opinion of the judicial members of the Committee that “trial and issue or issues of fact joined therein” as stated in the statute necessarily *encompassed* every hearing leading up to the final decision of the case, and the prior EDCR 5.02 was therefore removed as redundant.

In summary, there was no intent to eliminate any ability to demand the closure of any hearing in family court, and the current rule set (and statute) should be construed accordingly, to preserve that important right of all family court litigants.

Respectfully Submitted,

Dated this 14th day of February, 2018

/s/ Marshal S. Willick
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