

ADKT 595

EXHIBIT B

AMENDMENT TO NEVADA SHORT TRIAL RULES

I. SCOPE OF RULES

Rule 1. The Short Trial Program.

(a) **Purpose.** The purpose of the Short Trial Program is to expedite civil trials through procedures designed to control the length of the trial, including, without limitation, restrictions on discovery, the use of smaller juries, and time limits for presentation of evidence.

(b) **Availability of program.** The Short Trial Program is mandatory in judicial districts subject to the mandatory Court Annexed Arbitration Program. In all other judicial districts, establishment of a short trial program is voluntary, and the judicial district may adopt local rules implementing all or part of the Short Trial Program.

(c) **Applicability of rules.** The Nevada Rules of Evidence and Civil Procedure apply in short trials except as otherwise specified by these rules.

Rule 2. Short trial commissioner. Each judicial district may appoint a short trial commissioner to administer the Short Trial Program. Any commissioner so appointed has the responsibilities and powers conferred by these rules and by any local rules. The short trial commissioner may be an arbitration commissioner, alternative dispute resolution commissioner, discovery commissioner, special master, or other qualified and licensed Nevada attorney appointed by the court. The appointment shall be made in accordance with local rules. In districts where there is no commissioner, the district court

shall, by local rule, designate a person to perform the duties of the commissioner set forth in these rules, or may designate a district judge by administrative order to perform the duties of the commissioner. A district judge so designated would be the district judge assigned to the case and also retain the powers of a district judge assigned to the case as noted in these rules.

Rule 3. Short trial judge.

(a) **Assignment of judge.** Within 21 days after a case enters the Short Trial Program, the commissioner shall assign a short trial judge to preside over the case. The short trial judge shall be selected by one of the following methods:

(1) **By stipulation.** The parties, within 14 days from the date a case enters the Short Trial Program, may stipulate to have a particular short trial judge to preside over the case. The short trial judge must be selected from the panel of short trial judges and the judge must consent to the assignment. Alternatively, the parties may stipulate to have a particular district judge serve as short trial judge, if the district judge also consents to serve as such.

(2) **Random selection.** Absent a timely stipulation under subsection (a)(1) of this rule, the commissioner shall randomly select the names of three judicial panelists and send the same to the parties. Each party may strike one name within 14 days, and the commissioner shall select the short trial judge from the remaining name(s). For purposes of this rule, if several parties are represented by one attorney, they shall be considered as one party.

(3) **Appointment of senior judge to serve as short trial judge.** In any case where one of the parties is an indigent person who was exempted under NRS 12.015 from paying a filing fee, any party to the action may, within 14 days from the date a case enters the Short Trial Program, notify

the commissioner and request the appointment of a senior judge to preside over the case.

(b) Panel of short trial judges. The commissioner shall maintain a list of judges available to hear short jury trials. The list shall include all qualified short trial judges for the judicial district.

(c) Short trial judges. Short trial judges shall be selected and trained by a committee composed of the chief judge of the judicial district or the chief judge's designee, the commissioner, and a representative of the Alternative Dispute Resolution (ADR) Committee of the State Bar of Nevada. The selection committee shall seek to create a diverse group of qualified short trial judges. A short trial judge may be added to or removed from the panel of short trial judges pursuant to procedures adopted by each of the district courts. A short trial judge shall, however, meet the following minimum qualifications:

- (1) be an active member of the State Bar of Nevada;
- (2) have the equivalent of 10 years of civil trial experience or, in the alternative, be a senior judge or presently acting short trial judge with a civil background;
- (3) fulfill at least 3 credits of accredited continuing legal education annually as deemed appropriate by the commissioner. Failure to do so may constitute grounds for temporary suspension or removal from the panel of short trial judges.

(d) Authority. While presiding over a case that is in the Short Trial Program, the short trial judge shall have all the powers and authority of a district court judge except with respect to the final judgment. A final judgment is one that finally resolves all claims against all parties to the action and leaves nothing for the short trial judge's future consideration except for post-judgment issues such as attorney fees and costs.

(1) Not later than 14 days after the rendering of a jury verdict in a jury trial or upon a decision by the short trial judge in a trial to the bench, the short trial judge shall submit to the district court judge to whom the case is assigned a proposed judgment.

(2) The short trial judge shall provide written notice of the proposed judgment to the parties. Any objections to the proposed judgment shall be filed within 14 days after the written notice of the proposed judgment is served on the parties, and any responses to such objections shall be filed within 7 days after such objections are served.

(3) After reviewing the proposed judgment and any objection to the proposed judgment, the district court shall:

(A) approve the proposed judgment, in whole or in part; or
(B) reject the proposed judgment, in whole or in part, and order such relief as may be appropriate.

(4) A proposed judgment from a short trial judge is not effective until expressly approved by the district court as evidenced by the signature of the district court judge.

II. PARTICIPATION IN AND REMOVAL FROM THE SHORT TRIAL PROGRAM

Rule 4. Matters subject to the Short Trial Program.

(a) Mandatory participation in the Short Trial Program.

(1) **Trial de novo after arbitration.** All cases that are subject to the mandatory Court Annexed Arbitration Program in which a party has filed a request for trial de novo shall enter the Short Trial Program. The party filing the request for trial de novo must comply with Nevada Arbitration Rule

(NAR) 18 and must also pay to the district court clerk all applicable juror fees and costs at the time of filing of the request for trial de novo.

(2) Cases entering the Short Trial Program after unsuccessful mediation in lieu of arbitration. Cases that enter the Mediation Program in lieu of arbitration under the Nevada Mediation Rules (NMR) but are not resolved in the Mediation Program shall enter the Short Trial Program. The applicable juror fees and costs shall initially be borne equally by the parties. The parties must pay all applicable juror fees and costs as directed by the commissioner.

(b) Voluntary participation in the Short Trial Program. Parties may stipulate to participation in the Short Trial Program as follows:

(1) Short trial in lieu of arbitration. In all cases that would otherwise qualify for the Court Annexed Arbitration Program, the parties may stipulate to enter the Short Trial Program in lieu of the Court Annexed Arbitration Program. A written stipulation, together with all applicable juror fees and costs, must be filed with the district court clerk and served on the commissioner before the conference required under NAR 11. An untimely written stipulation may be filed provided that the parties certify that all arbitrator fees and costs have been paid.

(2) Cases exempt from arbitration. Cases exempt from the Court Annexed Arbitration Program may, by stipulation of all parties, be placed in the Short Trial Program. A written stipulation, together with all applicable juror fees and costs, must be filed with the district court clerk and served on the commissioner. The parties must also provide written notice to the department of the district court to which the case is assigned.

(c) Juror fees and costs. For purposes of this rule, costs and juror fees shall be calculated using a four-member jury.

(d) **Demand for jury trial.** Any party who desires a trial by jury of any issue triable of right by a jury must file and serve upon the other parties a demand therefore in writing, and deposit with the district court clerk all applicable juror fees, no later than the following deadlines:

(1) **Trial de novo cases.** The demand for jury trial and deposit of juror fees by the party who did not request the trial de novo and additional fees for a jury panel larger than four persons must be made not later than 14 days after service of the request for trial de novo.

(2) **Mediation cases.** The demand for jury trial and deposit of juror fees must be made not later than 14 days after service of the mediator's report under NMR 8.

(3) **Voluntary participation cases.** The demand for jury trial and deposit of juror fees must be made when the written stipulation is filed with the district court.

(e) **Relief from waiver.** Notwithstanding the failure of a party to demand a jury in accordance with this rule, the short trial judge, upon motion, may order a trial by a jury of any or all issues.

Rule 5. Removal of cases subject to mandatory participation in the Short Trial Program.

(a) **Demand for removal; time for filing.** Any party may file with the district court clerk and serve on the other parties and the court clerk a written demand to remove the case from the Short Trial Program. Unless the district in which the action is pending has adopted a local rule pursuant to Nevada Rule of Civil Procedure (NRCP) 83 declaring otherwise, at the time a demand is filed as required by this rule, the party demanding removal of the case from the Short Trial Program shall deposit with the clerk an amount equal to the

fees to be paid the trial jurors for their services for the estimated length of the trial and court costs. If more than one party demands removal of the case from the Short Trial Program, those parties shall be equally responsible for the jury fees and court costs upon filing the demand.

(1) **Trial de novo cases.** A demand to remove a trial de novo case from the Short Trial Program must be filed and served no later than 14 days after service of the request for trial de novo. For good cause shown, an appropriate case may be removed from the Short Trial Program upon the filing of an untimely request for exemption; however, such filing may subject the requesting party to sanctions.

(2) **Mediation cases.** A demand to remove an unsuccessful mediation case from the Short Trial Program must be filed and served no later than 14 days after service of the mediator's report under NMR 8. For good cause shown, an appropriate case may be removed from the Short Trial Program upon the filing of an untimely request for exemption; however, such filing may subject the requesting party to sanctions.

(b) **Juror fees and costs.** For purposes of this rule, costs and juror fees shall be calculated using an eight-member jury and costs shall be estimated at \$1,000 unless the parties stipulate to another amount.

(c) **Waiver of removal.** A party's opportunity to remove a case from the Short Trial Program is waived if that party fails to timely file and serve a demand to remove the case or fails to deposit the fees and costs required by this rule.

(d) **Procedure after removal.** After removal from the Short Trial Program, the case shall proceed under the provisions of the NAR governing trials de novo and the NRCP.

III. PLEADINGS AND MOTIONS; DISCOVERY AND PRETRIAL PROCEDURE

Rule 6. Filing and service of documents. Unless otherwise specified in these rules, all documents must be filed and served in accordance with the provisions of the NRCP. Following trial, the short trial judge shall file all documents, jury instructions, and evidence with the district court clerk.

Rule 7. Motions; rulings to be written and filed. The short trial judge shall hear and decide all motions. All rulings issued by the short trial judge shall be in writing and filed with the district court clerk.

Rule 8. Mandatory discovery and settlement conference. Within 30 days after the appointment of the short trial judge, the parties must meet with the short trial judge to confer, exchange documents, identify witnesses known to the parties who would otherwise be required pursuant to NRCP 16.1 to formulate a discovery plan, if necessary, and to discuss the possibility of settlement or the use of other alternative dispute resolution mechanisms. The extent to which discovery is allowed is in the discretion of the short trial judge. The short trial judge shall resolve all disputes relating to discovery.

Rule 9. Pretrial memorandum. No later than 14 days before the pretrial conference under Nevada Short Trial Rule (NSTR) 10, the parties shall prepare and serve on the short trial judge a joint pretrial memorandum. The joint pretrial memorandum shall contain:

- (a) a brief statement of the nature of the claim(s) and defense(s);

- (b) a complete list of witnesses, including rebuttal and impeachment witnesses, and a description of the substance of the testimony of each witness;
- (c) a list of exhibits; and
- (d) all other matters to be discussed at pretrial conference.

Rule 10. Pretrial conference. No later than 14 days before the scheduled short trial date, the short trial judge shall hold a conference with the parties, in person or by audio/visual means, to discuss all matters needing attention prior to the trial date. During the pretrial conference, the short trial judge may rule on any motions or disputes, including motions to exclude evidence, witnesses, jury instructions, or other pretrial evidentiary matters.

Rule 11. Settlement before trial. In the event a case settles before the scheduled short trial date, the parties must, no more than 7 working days after a settlement is reached but no later than 2 days before the first day of trial, submit to the commissioner either a written stipulation and order of dismissal executed by the parties and/or their attorneys or a written statement signed by counsel confirming that the parties have reached a settlement. Violation of this rule shall subject the parties, their attorneys, or both, to sanctions by the commissioner.

IV. TRIALS

Rule 12. Scheduling. Unless otherwise stipulated to by the parties and approved by the short trial judge, or for good cause shown, a short trial shall be scheduled, depending on courtroom availability, to commence not later than 120 days from the date that the short trial judge is assigned and 240 days

after the filing of a written stipulation for cases that are directly entered in the Short Trial Program by stipulation of the parties under NSTR 4(b).

Rule 13. Continuances. No request for the continuance of a trial scheduled in the Short Trial Program may be granted except by leave for good cause shown, including by stipulation. A motion or stipulation for a continuance must be in writing and served on the short trial judge, must state the good cause justifying a continuance, and must otherwise comply with local rules. The short trial judge may issue an amended trial order granting a continuance and scheduling trial for a date approved by the commissioner.

Rule 14. Location of trial. The local district court, through the chief judge, senior presiding judge, or court-designated administrator, shall provide courtroom space for said trials and the time and place for the same in coordination with the parties and the short trial judge.

Rule 15. Use of discovery at trial. Each party is permitted to quote directly from relevant depositions and video depositions, interrogatories, requests for admissions, or any other evidence as stipulated to by the parties.

Rule 16. Documentary evidence. Subject to a timely objection pursuant to NSTR 17, or as otherwise stipulated to by the parties, any and all reports, documents, or other items that would be admitted upon testimony by a custodian of records or other originator such as wage loss records, auto repair estimate records, photographs, or any other such items as stipulated to, may be admitted into evidence without necessity of authentication or foundation by a live witness.

Rule 17. Evidentiary booklets. The parties shall create a joint evidentiary booklet that may include, but is not limited to, photographs, facts, diagrams, and other evidence to be presented. The booklet shall be submitted with the pretrial memorandum.

Rule 18. Evidentiary objections. No later than 14 days before the NSTR 10 pretrial conference, the parties shall submit to the short trial judge all evidentiary objections to reports, documents, or other items proposed to be utilized as evidence and presented to the jury or short trial judge at the time of trial. Unless an objection is based upon a reasonable belief about its authenticity, the short trial judge shall admit the report, document, or other item into evidence without requiring authentication or foundation by a live witness. Any evidentiary objections relating to the booklet shall be raised at the pretrial conference or shall be deemed waived.

Rule 19. Expert witnesses.

(a) **Form of expert evidence.** The parties are not required to present oral testimony from experts and are encouraged to use written reports in lieu of oral testimony in court.

(b) **Use of oral testimony; disclosure.** If a party elects to use oral testimony, that party must include the expert's name on the witness list submitted with the pretrial memorandum under NSTR 9.

(c) **Use of written report; disclosure.** If a party elects to use a written report, that party shall provide a copy of the written report to the other parties pursuant to the short trial judge's deadline to disclose expert reports and rebuttal reports, with enough time for either party to depose the expert no later

than 30 days before the pretrial conference. Any written report intended solely to contradict or rebut another written report must be provided to the other parties no later than 14 days before the pretrial conference.

(d) **Qualification of expert witness.** At the time of the pretrial conference, the parties shall file with the short trial judge and serve on each other any documents establishing an expert's qualifications to testify as an expert on a given subject. There shall be no voir dire of an expert regarding that expert's qualifications. The short trial judge may rule on any disputes regarding the qualifications of an expert during the pretrial conference under NSTR 10.

(e) **Cap on recovery for expert witness fees.** The short trial judge may grant an award of expert witness fees consistent with NRS 18.005.

(f) **Scope of rule.** For purposes of this rule, a treating physician is an expert witness.

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Rule 21. Time limits for conduct of trial. Plaintiff(s) and defendant(s) shall each be allowed 3.5 hours to present their respective cases unless a different time frame is stipulated to and approved by the short trial judge. Presentation includes voir dire, opening statements, closing statements, presentation of evidence, examination and cross-examination of witnesses, and any other information to be presented to the jury or short trial judge, including rebuttal. Cross-examination of witnesses shall be attributed to the party cross-examining for calculation of time allowed. For the purposes of this rule, all plaintiffs collectively shall be treated as one plaintiff, and all defendants collectively shall be treated as one defendant.

Rule 22. Size of jury. The parties may stipulate to a jury of four or six members. For good cause shown to the short trial judge, a party may request a jury of eight members. Should the parties fail to stipulate to a specific jury size, the jury shall be composed of four members.

Rule 23. Juror selection and voir dire. Twelve potential jurors shall be selected from the county jury pool for a jury of four members; fourteen potential jurors will be selected for a jury of six members; and sixteen potential jurors will be selected for a jury of eight members. Each side shall be allowed as much of their 3.5 hours of presentation time, provided under NSTR 21, as they deem necessary. Each side shall be entitled to strike two jurors by peremptory challenge. Challenges for cause shall remain the same as provided by statute. In the event the resulting jury panel is greater than four members for a four-member jury, the first four members called will constitute the jury panel. In the event the resulting jury panel is greater than six members for a six-member jury, the first six members called will constitute the jury panel. In the event the resulting jury panel is greater than eight members for an eight-member jury, the first eight members called will constitute the jury panel.

Rule 24. Opening charge to jury. The short trial judge shall advise the impaneled jury in the opening charge as follows:

A trial is a search for the truth using the rules of law. Therefore, the court will allow members of the jury to ask written questions of any witness called to testify in this case. You are not encouraged to ask questions because that is the responsibility of the attorneys.

Nevertheless, if you believe that an important question has not been asked, or that an answer needs clarification, you may submit a question. Keep in mind that a witness scheduled to testify later in the trial may be the best person to answer that question.

A question may be asked in the following manner. Please write it down and pass the paper to the short trial judge. Copies will then immediately be made for counsel and the short trial judge. The short trial judge will privately confer with the attorneys at a convenient time and then decide if the question is appropriate under Nevada law.

If the question seeks factual information from the witness and is designed to clarify information about issues in this trial, the short trial judge or the attorneys may question the witness regarding the points raised in the juror question. No emphasis should be placed on the answer to the question merely because the question came from a juror.

If a question submitted by a juror is not asked, no adverse inference can be drawn. The question was simply not allowed under the Nevada Rules of Evidence and must be disregarded.

Rule 25. Jury instructions. Standard jury instructions should be taken from the Nevada Pattern Civil Jury Instruction Booklet unless a particular instruction has been disapproved by the Nevada Supreme Court. Any proposed or agreed to additions to the jury instructions shall be included in the pretrial memorandum and ruled on by the short trial judge at the pretrial conference. All stipulated and proposed instructions must be presented to the short trial judge prior to trial under NSTR 10. The short trial judge shall encourage limited jury instructions.

V. JUDGMENT

Rule 26. Entry of judgment. Judgment shall be entered upon the short trial jury verdict form in a jury trial or upon a decision by the short trial judge in a trial to the bench, and the judgment, including any costs or attorney fees, shall be filed with the clerk. A decision of at least three of the four jurors is necessary to render a verdict for a four-member jury, at least five of the six jurors for a six-member jury, and at least six of the eight jurors for an eight-member jury. A judgment arising out of the Short Trial Program may not exceed \$50,000 per plaintiff exclusive of attorney fees, costs, and prejudgment interest, unless otherwise stipulated to by the parties. Jurors shall not be notified of this limitation. Where cases not subject to mandatory arbitration were brought into the Short Trial Program, the parties may establish a different ceiling of recovery by stipulation.

Rule 27. Attorney fees, short trial judge's fees, and costs.

(a) Attorney fees, costs, and interest for cases removed from the Short Trial Program. In cases removed from the Short Trial Program pursuant to NSTR 5, attorney fees, costs, and interest shall be allowed as follows:

(1) The prevailing party at the trial following removal from the Short Trial Program is entitled to all recoverable fees, costs, and interest pursuant to statute or NRCP 68.

(2) Exclusive of any award of fees and costs under subsection (a)(1), a party is entitled to a separate award of reasonable attorney fees and costs as set forth in subparagraphs (A) and (B) below. If both parties demanded

removal from the Short Trial Program, the provisions of NAR 20(b)(2) apply in lieu of subparagraphs (A) and (B) below.

(A) Where the party who demanded removal from the Short Trial Program fails to obtain a judgment that exceeds the arbitration award by at least 20 percent of the award, the nondemanding party is entitled to its reasonable attorney fees and costs associated with the proceedings following removal from the Short Trial Program.

(B) Where the party who demanded removal from the Short Trial Program fails to obtain a judgment that reduces by at least 20 percent the amount for which that party is liable under the arbitration award, the nondemanding party is entitled to its attorney fees and costs associated with the proceedings following removal from the Short Trial Program.

(b) Attorney fees, short trial judge's fees, costs, and interest following short trial. Attorney fees, short trial judge's fees, and costs shall be allowed following a short trial as follows:

(1) The prevailing party at the short trial is entitled to all recoverable fees, costs, and interest pursuant to statute or NRCP 68.

(2) Exclusive of any award of fees and costs under subsection (b)(1), a party is entitled to a separate award of fees and costs as set forth in NAR 20(b)(2) in cases that enter the Short Trial Program upon a request for trial de novo.

(3) The prevailing party at the short trial is also entitled to recover any fees and costs the party paid to the short trial judge.

(4) An award of fees under subsections (1) or (2) of this rule may not exceed a total of \$15,000, unless the parties otherwise stipulate or the attorney compensation is governed by a written agreement between the parties allowing a greater award.

(5) Recovery of expert witness fees is allowed as provided in NRS 18.010.

Rule 28. Fees for short trial judge.

(a) **Allowable fees.** Short trial judges shall be entitled to remuneration of \$200 per hour, with a maximum per case of \$2,400, unless otherwise stipulated.

(b) **Itemized bill required.** To recover fees, the short trial judge must submit to the parties an itemized bill within 14 days of ruling on the post-trial motions, if any, or within 14 days of notice of removal of the case from the program by resolution or otherwise, whichever is earlier. The short trial judge shall indicate the advance deposits paid by the parties and adjust the amount requested accordingly.

(c) **Payment.** The fees shall be paid equally by the parties unless otherwise stipulated. Any dispute regarding the requested fees must be filed within 7 days of the date that the short trial judge serves the itemized bill. The commissioner shall settle all disputes concerning the reasonableness or appropriateness of the fees. If a timely dispute to the itemized bill is not filed, the fees shall be paid within 14 days of the date that the short trial judge serves the itemized bill. If fees are disputed, the parties shall pay the costs as determined by the commissioner within 7 days from the commissioner's decision.

(d) **Exception for indigent party.** If one of the parties to the short trial is an indigent person who was exempted under NRS 12.015 from paying a filing fee, no fees for a short trial judge may be collected from any party to the short trial. Time spent by the short trial judge, where fees may not be collected pursuant to this provision, may be reported as pro bono publico legal

service hours to the State Bar of Nevada under Nevada Rule of Professional Conduct (NRPC) 6.1.

Rule 29. Costs for short trial judge.

(a) **Allowable costs.** Short trial judges are entitled to recover the costs, not to exceed \$250, that the short trial judge reasonably incurs in presiding over an action within the Short Trial Program. Costs recoverable by the short trial judge are limited to:

- (1) reasonable costs for facsimiles;
- (2) reasonable costs for photocopies;
- (3) reasonable costs for long distance telephone calls;
- (4) reasonable costs for postage;
- (5) reasonable costs for travel and lodging;
- (6) reasonable costs for secretarial services;
- (7) reasonable runner's fees; and
- (8) reasonable e-filing fees.

(b) **Itemized bill required.** To recover such costs, the short trial judge must submit to the parties an itemized bill of costs within 14 days of the verdict or judgment in a bench trial, or within 14 days of notice of removal of the case from the program by resolution or otherwise, whichever is earlier. The short trial judge shall indicate the advance deposits paid by the parties and adjust the amount requested accordingly.

(c) **Disputes.** All disputes regarding the propriety of an item of costs must be filed with the commissioner within 7 days of the date that the short trial judge serves the bill reflecting the short trial judge's costs. The commissioner shall settle all disputes concerning the reasonableness or appropriateness of the short trial judge's costs. The parties shall pay the costs

as determined by the commissioner within 7 days from the commissioner's decision.

(d) **Exception for indigent party.** If one of the parties to the short trial is an indigent person who was exempted under NRS 12.015 from paying a filing fee, the short trial judge may not collect costs from any party to the short trial.

Rule 30. Deposits; failure to pay. Each party to a case within the Short Trial Program shall deposit with the short trial judge, no later than 14 days after the mandatory discovery and settlement conference, \$1,000 as an advance toward the short trial judge's fees and costs, unless the short trial judge is a district judge, in which case no payment of judge's costs or fees is required. If a party fails to pay the required advance, the district court shall, after giving appropriate notice and opportunity to be heard, hold the delinquent party in contempt and impose an appropriate sanction.

Rule 31. Allocation of fees and costs.

(a) **Cases entered in Short Trial Program by stipulation or following mediation.** For cases that are entered in the Short Trial Program by stipulation of the parties or after unsuccessful participation in the Mediation Program, jurors fees, short trial judge's fees, and costs shall be borne equally by the parties subject to retaxation pursuant to NSTR 27.

(b) **Trial de novo cases.** For cases that enter the Short Trial Program following the filing of a request for a trial de novo:

(1) Juror fees shall initially be borne by the party filing the request for trial de novo as provided in NSTR 4(a)(1), subject to retaxation pursuant to NSTR 27.

(2) Should the plaintiff requesting the trial de novo fail to obtain a judgment in the Short Trial Program that exceeds the arbitration award, or should the defendant requesting the trial de novo fail to obtain a judgment that reduces the amount for which that party is liable under the arbitration award, all short trial judge's fees and costs incurred while the case is in the Short Trial Program shall become a taxable cost against and be paid by the party requesting the trial de novo. In comparing the arbitration award and the judgment, the short trial judge shall not include costs, short trial judge's fees, attorney fees, and interest with respect to the amount of the award or judgment. If multiple parties are involved in the action, the short trial judge shall consider each party's respective award and judgment in making the comparison between the arbitration award and the judgment.

Rule 32. Procedures at trial de novo.

(a) **Evidence.** If a trial de novo is requested, the arbitration award shall be admitted as evidence in the trial de novo, and all discovery obtained during the course of the arbitration proceedings shall be admissible in the trial de novo, subject to all applicable rules of civil procedure and evidence.

(b) **Attorney fees; costs; interest.**

(1) The prevailing party at the trial de novo is entitled to all recoverable fees, costs, and interest pursuant to statute or NRCP 68.

(2) Exclusive of any award of fees and costs under subsection (b)(1), a party is entitled to a separate award of attorney fees and costs, not otherwise awarded, as set forth in subparagraphs (A) and (B) below.

(A) **Awards of \$20,000 or less.** Where the arbitration award is \$20,000 or less, and the party requesting the trial de novo fails to obtain a judgment that exceeds the arbitration award by at least 20 percent of

the award, the nonrequesting party is entitled to its attorney fees and costs associated with the proceedings following the request for trial de novo. Conversely, if the requesting party fails to obtain a judgment that reduces by at least 20 percent the amount for which that party is liable under the arbitration award, the nonrequesting party is entitled to its attorney fees and costs associated with the proceedings following the request for trial de novo.

(B) Awards over \$20,000. Where the arbitration award is more than \$20,000, and the party requesting the trial de novo fails to obtain a judgment that exceeds the arbitration award by at least 10 percent of the award, the nonrequesting party is entitled to its attorney fees and costs associated with the proceedings following the request for trial de novo. Conversely, if the requesting party fails to obtain a judgment that reduces by at least 10 percent the amount for which that party is liable under the arbitration award, the nonrequesting party is entitled to its attorney fees and costs associated with the proceedings following the request for trial de novo.

(3) In comparing the arbitration award and the judgment, the court shall not include costs, attorney fees, and interest with respect to the amount of the award or judgment. If multiple parties are involved in the action, the court shall consider each party's respective award and judgment in making its comparison between the award and judgment.

Rule 33. Binding short trial. Parties to cases in the Short Trial Program may agree at any time that the results of the short trial are binding. If the parties agree to be bound by the results of the short trial, the procedures set forth in these rules governing direct appeals to the supreme court will not apply to the case.

VI. APPEALS

Rule 34. Direct appeal of final judgment. Any party to a case within the Short Trial Program shall have a right to file a direct appeal of the final judgment to the supreme court under the provisions of the NRCP and the Nevada Rules of Appellate Procedure (NRAP). Any party who has failed to pay the short trial judge's fees and/or costs in accordance with NSTR 28 and 29 shall be deemed to have waived the right to appeal.

VII. GENERAL PROVISIONS

Rule 35. Support personnel. Short trials shall not require a bailiff or court clerk, but, on the day of the trial, the court administrator or designated representative shall be responsible for providing the panel of jurors for a short jury trial.

Rule 36. Citations to rules. These Nevada Short Trial Rules may be cited as NSTR.