

## EXHIBIT B

### AMENDMENTS TO RULE 16.2 OF THE NEVADA RULES OF CIVIL PROCEDURE EFFECTIVE JANUARY 1, 2009

#### **RULE 16.2. MANDATORY PREJUDGMENT DISCOVERY REQUIREMENTS IN DOMESTIC RELATIONS MATTERS** [Effective January 1, 2009]

**(a) Required Disclosures.**

**(1) Financial Disclosure.** In divorce, annulment or separate maintenance actions, a party must complete the court-approved Financial Disclosure Form. In custody matters between unmarried parties where paternity is established, a party must complete the cover sheet, the “personal income schedule” and the “business income/expense schedule” portions of the court-approved Financial Disclosure Form. A party must file and serve the completed Financial Disclosure Form no later than 45 days after service of the summons and complaint.

**(A) Failure to file or serve.** If a party fails to timely file or serve the financial disclosure form required by this rule, the court shall impose an appropriate sanction upon the party or the party’s attorney, or both, unless the party establishes by clear and convincing evidence that there is good cause for the failure. After notice and a hearing, the court shall impose appropriate sanctions in regard to the failure(s) as are just, including the following:

(i) An order treating the party’s failure as a contempt of court;

(ii) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence; or

(iii) An order requiring the party failing to timely file or serve the disclosure to pay the opposing party's reasonable expenses, including attorney's fees and costs, caused by the failure.

**(B) Failure to include an asset or liability.** If a party intentionally fails to include a material asset or liability in the party's financial disclosure form, the court, after notice and hearing, may impose an appropriate sanction, including but not limited to the following:

(i) 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;

(ii) An order treating the party's failure as a contempt of court; or

(iii) An order requiring the party failing to make the disclosure to pay the other party's or opposing party's reasonable expenses, including attorney's fees and costs, related to the omitted items.

**(C) Duty to supplement.** A party must supplement or correct the party's financial disclosure form within 10 judicial days after the party acquires additional

information or otherwise learns that in some material respect the party's disclosure is incomplete or incorrect. If the supplemental disclosure includes an asset, liability, income, or expense omitted from the party's prior disclosure(s), the supplemental disclosure shall include an explanation as to why the item was omitted.

**(D) Obtaining discovery.** Any party may obtain discovery by one or more of the methods provided in Rules 26-36 within 30 days after service of the summons and complaint.

**(2) Other Initial Disclosures.** Except in proceedings exempted or to the extent otherwise stipulated in writing or directed by order, a party must, without awaiting a discovery request, provide to other parties:

(A) The name and, if known, the address and telephone number of each individual likely to have information discoverable under Rule 26(b), including for impeachment or rebuttal, identifying the subjects of the information; and

(B) A copy of, or a description by category and location of, all documents, data compilations, and tangible things that are in the possession, custody, or control of the party and which are discoverable under Rule 26(b).

These disclosures must be made within 45 days after service of the summons and complaint. 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 or because the party challenges the sufficiency of another party's disclosures or because another party has not made the required disclosures.

**(3) Disclosure of Expert Testimony.**

(A) In addition to the disclosures required by paragraphs (1) and (2), a party shall disclose to other parties the identity of any person who may be used at trial to present evidence under NRS 50.275, 50.285, and 50.305. These disclosures must be made within 90 days after the financial disclosures are required to be filed and served under Rule 16.2(a)(1) or, if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under paragraph (3)(B), within 60 days after the disclosure made by the other party. The parties shall supplement these disclosures when required under Rule 26(e)(1).

(B) 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 before trial. The court, upon good cause shown or by stipulation of the parties, may extend the deadline for exchange of the experts' 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; the qualifications of the witness, including a list of all publications authored by the witness within the preceding 10 years; the compensation to be paid for the study and testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding 4 years.

**(4) Pretrial Disclosures.** In addition to the disclosures required by Rule 16.2(a)(1), (2) and (3), a party must provide to other parties the following information regarding the evidence that the party may present at trial, including impeachment and rebuttal evidence:

(A) The name and, if not previously provided, the address and telephone number of each witness, separately identifying those whom the party expects to present, those witnesses who have been subpoenaed for trial, and those whom the party may call if the need arises;

(B) The designation of those witnesses whose testimony is expected to be presented by means of a deposition and, if not taken stenographically, a transcript of the pertinent portions of the deposition testimony; and

(C) An appropriate identification of each document or other exhibit, including summaries of other evidence,

separately identifying those which the party expects to offer and those which the party may offer if the need arises. Unless otherwise directed by the court, these disclosures must be made at least 30 days before trial. Within 14 days thereafter, unless a different time is specified by the court, a party may serve a list disclosing: (i) any objections to the use under Rule 32(a) of a deposition designated by another party under subparagraph (B), and (ii) any objection, together with the grounds therefor, that may be made to the admissibility of materials identified under subparagraph (C). Objections not so disclosed, other than objections under NRS 48.025 and 48.035, shall be deemed waived unless excused by the court for good cause shown.

**(5) Form of Disclosures.** Unless the court orders otherwise, all disclosures under Rules 16.2(a)(1) through (4) must be made in writing, signed, and served.

**(b) Case Management Conference.**

**(1) Attendance at Case Management Conference.**

~~[(A) In judicial districts that do not include a county whose population is 100,000 or more, the]~~ *The* district court shall conduct a case management conference with counsel and the parties~~]. The district court shall conduct the case management conference]~~ within 60 days after service of the summons and complaint.

~~[(B) In judicial districts that include a county whose population is 100,000 or more, the]~~

~~district court shall conduct a case management conference with counsel and the parties if the estimated gross value of the marital estate exceeds \$500,000. In these cases, the case management conference shall be conducted within 60 days after service of the summons and complaint. The district court may change by local rule the threshold value requirement that triggers a mandatory case management conference in a judicial district that is subject to this paragraph. In all other matters commenced in the larger districts, the district court shall have the discretion to conduct case management conferences.]~~

At the case management conference, the court, counsel, and the parties shall meet in person to confer and consider the nature and basis of the claims and defenses and the possibilities for a prompt settlement or resolution of the case, to make or arrange for the disclosures required by subdivision (a) of this rule and to develop a discovery plan pursuant to subdivision (b)(2). At least 5 days before the case management conference, counsel for the parties shall confer to resolve as many of the matters as possible which are to be addressed at the case management conference. The court, in its discretion and for good cause shown, may continue the time for the conference. 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 summons and complaint.

**(2) Planning for Discovery.** At the case management conference, the court and parties shall develop a discovery plan which shall address:

(A) What changes should be made in the timing, form, or requirement for disclosures under Rule 16.2(a), including a statement as to when disclosures under Rule 16.2(a)(1) were made or will be made;

(B) The subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused upon particular issues;

(C) What changes should be made in the limitations on discovery imposed under these rules and what other limitations should be imposed;

(D) Any other orders that should be entered by the court under Rule 26(c) or under Rule 16(b) and (c); and

(E) Any orders that should be entered setting the case for settlement conference and/or for trial.

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

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

(2) A proposed plan and schedule of any additional discovery pursuant to subdivision (b)(2) of this rule;

(3) A written list of names exchanged pursuant to subdivision (a)(2)(A) of this rule;

(4) A written list of all documents provided at or as a result of the case conference pursuant to subdivision (a)(2)(B) of this rule;

(5) A deadline on which discovery will close;

(6) A deadline, not later than 90 days before the close of discovery, beyond which the parties shall be precluded from filing motions to amend the pleadings or to add parties unless by court order;

(7) A deadline by which the parties will make expert disclosures pursuant to subdivision (a)(3), with initial disclosures to be made not later than is specified in subdivision (a)(3) of this rule and rebuttal disclosures to be made not later than 60 days after the initial disclosure of experts;

(8) A deadline, not later than 30 days after the discovery cut-off date, by which dispositive motions must be filed.

**~~[(d) Meet and Confer Requirements; Scheduling Order.~~**

~~—— (1) Meeting. Except in cases governed by subdivision (b)(1) of this rule, within 60 days after service of the summons and complaint, the parties and their attorneys shall meet in person to confer and consider the nature and basis of their claims and defenses and the possibilities for a prompt settlement or resolution of the case, to make or arrange for the disclosures required by subdivision (a) of this rule and to develop a discovery plan pursuant to subdivision (b)(2) of this rule. The attorney~~

~~for the plaintiff shall designate the time and place of the meeting, which must be held in the county where the action was filed, unless the parties agree upon a different location. The attorneys may agree to continue the time for the case conference for an additional period of not more than 30 days. The court, in its discretion and for good cause shown, may also continue the time for the conference. 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 summons and complaint.~~

~~—— (2) Case Conference Report. Within 30 days after the meeting under subdivision (d)(1) of this rule, the parties must file a joint case conference report or, if the parties are unable to agree upon the contents of a joint report, each party must serve and file a case conference report which, either as a joint or individual report, must contain:~~

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

~~—— (B) A proposed plan and schedule of any additional discovery pursuant to subdivision (b)(2) of this rule;~~

~~—— (C) A written list of names exchanged pursuant to subdivision (a)(2)(A) of this rule;~~

~~—— (D) A written list of all documents provided at or as a result of the case conference pursuant to subdivision (a)(2)(B) of this rule;~~

~~——(E) A deadline on which discovery will close;~~

~~——(F) A deadline, not later than 90 days before the close of discovery, 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 the parties will make expert disclosures pursuant to subdivision (a)(3), with initial disclosures to be made not later than is specified in subdivision (a)(3) of this rule and rebuttal disclosures to be made not later than 60 days after the initial disclosure of experts;~~

~~——(H) A deadline, not later than 30 days after the discovery cut-off date, by which dispositive motions must be filed.~~

~~——(3) Scheduling Order. Within 30 days after the filing of the case conference report under subdivision (d)(2), the court shall comply with Rule 16(b).]~~

~~[(e)](d) Discovery Disputes.~~

(1) Where available or unless otherwise ordered by the court, all discovery disputes (except those presented at the pretrial conference, early case management conference or trial) must first be heard by the discovery commissioner.

(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 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.

**~~(f)~~(e) Failure or Refusal to Participate in Pretrial Discovery; Sanctions.** If an attorney fails to reasonably comply with any provision of this rule, or if an attorney or a party fails to comply with an order entered pursuant to subsection **~~(e)~~(d)** of this rule, the court, upon motion or upon its own initiative, shall impose upon a party or a party's attorney, or both, appropriate sanctions in regard to the failure(s) as are just, including the following:

(1) Any of the sanctions available pursuant to Rule 37(b)(2) and Rule 37(f);

(2) An order prohibiting the use of any witness, document or tangible thing which should have been disclosed, produced, exhibited, or exchanged pursuant to Rule 16.2(a).

**~~(g)~~(f) Proper Person Litigants.** When a party is not represented by an attorney, the party must comply with this rule.

**~~(h)~~(g) Exemptions.** Upon finding compelling circumstances, a court may exempt all or any portion of a case from application of this rule, in whole or in part.