

EDCR 5

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EDCR 5 Rules – Changed

**** POLLOCK ****

Rule 5.01. Scope of rules.

(a) The rules in Part V govern the practice and procedure in all family division matters, except ~~[paternity,]~~ juvenile, and reciprocal support act cases which may be governed by different rules or statutes. Whether or not the court prescribes any rules for these divisions of family court, the court, with the approval of the Supreme Court, has the inherent power to prescribe rules and policies for the conduct of proceedings in those cases. ~~[Part V also governs matters of child custody, visitation and child support in paternity cases once paternity has been established.]~~

(b) Support cases prosecuted by a public agency shall be governed by the procedures set forth in the Nevada Revised Statutes and any federal law. Objections to a decision of a hearing master's report shall be heard by the judge assigned to that case in accordance with Rule 5.42.

(c) Rules 5.91 through 5.995 govern practice and procedure in all guardianship proceedings under Title 13 of the Nevada Revised Statutes.

~~[Amended; effective August 21, 2000.]~~

**** POMRENZE ****

Rule 5.04. Standards of conduct.

All lawyers and pro se litigants involved in matters before the family division should aspire to [~~compliance with the~~] **comply with the most current edition of the** American Academy of Matrimonial Lawyer's standards of conduct, the Bounds of Advocacy [~~(1991 Edition)~~].

**** DUCKWORTH ****

Rule 5.09. [~~Procedure in divorce cases.~~] **Summary Disposition.**

~~—(1) An application or joint petition for divorce filed pursuant to NRS 125.123 or NRS 125.181 to 125.184, inclusive, shall be submitted to the court for consideration without hearing.~~

~~—(2) In addition to those matters described above, all contested divorces which are settled by the parties with all issues resolved, uncontested divorces and all annulments, may be submitted without hearing by agreement of the parties and with the approval of the court.~~ **(1) Unless a hearing is required by statute or by the Court, all uncontested or settled family division cases may be submitted to the Court for consideration without hearing.**

~~[(3)]~~ **(2)** Affidavits in [~~divorce~~] **family division** cases shall comply with the requirements of [~~N.R.C.P. 56(e)~~] **Rule 5.26.**

~~[(4)]~~ **(3)** Affidavits of [~~residence~~] **resident** witnesses shall state the affiant's [~~residence~~] **residential** address and the length of time affiant has resided in this state. The affiant shall state:

(a) That the affiant is personally acquainted with the party to the action whose residence is being corroborated;

(b) The party's residence address;

(c) The date from which the affiant knows that the party has resided at that address and the total length of time affiant knows that the party has resided in the State of Nevada. If the jurisdiction of the court is based upon the minimum legal residency, the affiant shall specify the days that the party has been physically present in Nevada.

[~~Added; effective January 1, 2003.~~]

**** DUCKWORTH ****

Rule 5.10. [~~Uncontested family division matters.~~] **Hearing of uncontested case.**

[~~Unless permitted by statute or ordered by the court, uncontested matters including, but not limited to, divorces, annulments, separate maintenance, and termination of parental rights actions, except termination rights actions heard by the juvenile judge, will~~] **An uncontested family division case governed by the rules in Part V may** be heard on any day and time that the assigned judge is hearing uncontested matters. A request that the court hear one of these cases must be made to the clerk not later than 2 judicial days before the day on which the case is to be heard. All relevant papers must be filed with the clerk at or before the time the request for the uncontested setting is made. If a department to which a case has been assigned is unexpectedly absent on the date for which an uncontested hearing is set, uncontested family matters may be heard by any other department.

[~~Amended; effective August 21, 2000.~~]

**** POMRENZE ****

Rule 5.25. Motions; contents; responses and replies.

~~[(a) Rule 2.20 applies to motions and responses filed in the family division.]~~

~~[(b)]~~ **(a)** Factual contentions involved in any family matter must be presented to the judge or master as provided in Rule ~~[2.21]~~ **5.26**.

(b) Unless otherwise ordered by the court, papers submitted in support of pretrial and post-trial briefs shall be limited to 30 pages, excluding exhibits. Where the court enters an order permitting a longer brief or points and authorities, the papers shall include a table of contents and table of authorities.

(c) All motions must contain a notice of motion setting the same for hearing on a day when the district judge to whom the case is assigned is hearing civil motions and not less than 21 days from the date the motion is served and filed. The notice of motion must include the time, department, and location where the hearing will occur. All motions filed in domestic cases must contain the following notice on the first page of the motion 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 TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION. FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN TEN (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.

(d) 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.

(e) Within 5 days after service of the motion, a nonmoving party may file written joinder thereto, together with a memorandum of points and authorities and any supporting affidavits. If the motion becomes moot or is withdrawn by the movant, the joinder becomes its own stand-alone motion and the court shall consider its points and authorities in conjunction with those in the motion.

(f) Within 10 days after the service of the motion, and 5 days after service of any joinder to the motion, the opposing party must serve and file written notice of nonopposition or opposition thereto, together with a memorandum of points and authorities and supporting affidavits, if any, stating facts showing why the motion and/or joinder should be denied. Failure of the opposing party to serve and file

written opposition may be construed as an admission that the motion and/or joinder is meritorious and a consent to granting the same.

(g) 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.

(h) A moving party may file a reply memorandum of points and authorities not later than 5 days before the matter is set for hearing. No pleading or other papers may be filed within 5 days of the hearing or in open court unless court approval is first obtained.

~~[(e)]~~ **(i)** Visitation issues raised in a paternity case may be considered at the paternity hearing immediately following a recommendation of paternity. Any custody dispute~~[5]~~ or visitation dispute arising after the hearing when paternity is established, must be brought by written motion and randomly assigned for hearing by a trial judge designated to hear such matters. Paternity cases brought by private parties with the assistance of private counsel or in proper person will be randomly assigned to a trial judge upon being filed and thereafter all issues in the proceedings, including the establishment of paternity, will be the responsibility of the assigned trial judge.

~~[(d)]~~ **(j)** A courtesy copy of all pleadings and papers shall be delivered to the court by **electronic transmission or** dropping the copies into the departmental drop box provided by the court on the same date the document is filed.

(k) 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 briefs will only be permitted if filed within the original time limitations of paragraphs (a), (b), or (d), or by order of the court.

~~[(e) Subject to the provisions of Rule 5.11, family motions may be set for hearing before a judge Monday through Thursday at 10:00 a.m. or 11:00 a.m. subject to time availability. Family motions may also be set for hearing at other times at the discretion of the judge.~~

~~—(f) If all the trial 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 on for hearing before a visiting or senior judge at such time as shall be prescribed by the court administrator.”]~~

[Amended; effective August 21, 2000.]

**** POMRENZE ****

Rule 5.26. Affidavits on motions.

~~[Affidavits in family division motions must comply with Rule 2.21.]~~

~~[Amended; effective August 21, 2000.]~~

(a) Factual contentions involved in any family matter must be initially presented and heard upon affidavits, unsworn declarations under penalty of perjury, depositions, answers to interrogatories, and admissions on file. Oral testimony will not be received at the hearing, except upon the stipulation of parties and with the approval of the court, but the court may set the matter for a hearing at a time in the future and require or allow oral examination of the affiants/declarants to resolve factual issues shown by the affidavits/declarations to be in dispute. This provision does not apply to an application for a preliminary injunction pursuant to [N.R.C.P. 65\(a\)](#).

(b) Each affidavit/declaration shall identify the affiant/declarant, the party on whose behalf it is submitted, and the motion or application to which it pertains and must be served and filed with the motion, opposition, or reply to which it relates.

(c) Affidavits/declarations must contain only factual, evidentiary matter, conform with the requirements of [N.R.C.P. 56\(e\)](#), and avoid mere general conclusions or argument. Affidavits/declarations substantially defective in these respects may be stricken, wholly or in part.

**** HENDERSON ****

Rule 5.27. [~~Motions; appearance of counsel and stipulations for extension of time.~~]
Vacating Motions and Voluntary Dismissal of Actions; appearance of counsel and stipulations for extension of time.

[~~Rule 2.22 applies to vacating hearings, continuing hearings, removing motions from the court calendar, and stipulations to vacate or continue hearings in the family division.~~]

[~~Amended; effective August 21, 2000.~~]

(a) **Unless the date for the hearing of a motion is vacated or continued as provided in these rules, parties in proper person and counsel for all parties to the motion must appear on the date and at the time set for hearing.**

(b) **Neither counsel, nor parties in proper person, may remove motions from the calendar by calling the clerk's office or the judge's chambers. If the date for the hearing of the motion has been noticed by counsel, all interested parties to the motion may file a stipulation and order to vacate or continue the hearing of the motion. If the date for the hearing of motion has been served, the parties must file a stipulation and order if they wish to stipulate to continue the hearing date. Written and signed stipulations may be filed 1 judicial day prior to the hearing. Alternatively, unfiled written stipulations and orders may be submitted to chambers prior to the time of hearing by hand delivery, facsimile, or email. The department may remove hearings from calendar upon receipt of unfiled, written stipulations and orders to chambers. The unfiled stipulation and order must be signed by both parties or counsel for each party. Upon receipt of the original stipulation and order, the department will set a new hearing date. The court has discretion to grant the stipulation and order, or to require the parties to appear and put the stipulation on the record.**

(c) **All interested parties to a motion may stipulate to continue the day fixed for the filing of an opposition or reply thereto. Such stipulation is ineffective unless it:**

(1) **Is in writing,**

(2) **Is filed with the clerk before the day fixed for filing the opposition or reply, and**

(3) **Contains an agreement and order extending the date for the hearing of the motion not less than the number of days granted as a continuance for the filing of the response or reply.**

(d) **When it appears to the court that a written notice of motion has been given, the court may not, unless the other business of the court requires such action, continue the matter specified in the notice except as provided in this rule or upon a showing by motion supported by affidavit or oral testimony that such continuance is in good faith, reasonably necessary and is not sought merely for delay.**

(e) **Parties may stipulate to the voluntary dismissal of an action. Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when**

filed by a plaintiff who has once dismissed in any court of the United States or of any state an action based on or including the same claim. Subject to the provisions of NRCP Rule 23(e), of NRCP Rule 66, and of any statute, an action may be dismissed by the plaintiff upon repayment of defendant's filing fees, without order of the court

- 1. By filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever occurs first, or**
- 2. By filing a stipulation for dismissal signed by all parties who have appeared in the action.**

- 1. No order, made on ex parte application and in the absence of the opposing party, provided he has appeared, granting or extending the time to file any paper or do any act shall be valid for any purpose in case of objection, unless written notice thereof is given to such opposing party not later than the end of the next judicial day.*
- 2. Such notice shall be given as other notices are given, or may be given by registered mail sent to the last-known address of the attorney for such party, or, if he has no attorney, to such party himself. If the address of such attorney or party is not known, then the notice may be addressed to such attorney or party in care of the clerk.*

**** HENDERSON/POLLOCK ****

Rule 5.28. Withdrawal of attorney in limited services (“unbundled services”) contract.

(a) An attorney who contracts with a client to limit the scope of representation shall state that limitation in the first paragraph of the first paper or pleading filed on behalf of that client. Additionally, if the attorney appears at a hearing on behalf of a client pursuant to a limited scope contract, the attorney shall notify the court of that limitation at the beginning of that hearing.

(b) An attorney who contracts with a client to limit the scope of representation shall be permitted to withdraw from representation before the court by filing a Notice of Withdrawal of Attorney with the clerk’s office. The Notice of Withdrawal of Attorney shall state that the attorney is withdrawing from the case because the attorney was hired to perform a limited service, **a statement as to the scope of service to be performed, and** that service has been completed [~~and shall include a copy of the limited services retainer agreement between the attorney and the client.~~] The Notice of Withdrawal of Attorney shall also state that the client will be representing himself or herself in proper person unless another attorney agrees to represent the client and shall contain the client’s address, or last known address, and telephone number at which the client may be served with notice of further proceedings taken in the case. The attorney must serve a copy of the Notice of Withdrawal of Attorney upon the client and all other parties to the action or their attorneys. No attorney shall be permitted to withdraw from representation pursuant to this Rule if such attorney has failed to complete any service required of the attorney by the court during any hearing the attorney attended in the subject legal proceeding.

(c) No attorney may withdraw from a matter within twenty-one (21) days of a scheduled trial or evidentiary hearing except with Leave of the Court.

[~~Added; effective August 21, 2000; amended; effective December 17, 2008.~~]

**** POLLOCK ****

Rule 5.29. Rehearing of motions.

[Rule 2.24 applies to rehearing of motions in the family division.]

[Amended; effective August 21, 2000.]

- (a) No motions once heard and disposed of may be renewed in the same cause, nor may the same matters therein embraced be reheard, unless by leave of the court granted upon motion therefore, after notice of such motion to the adverse parties.**
- (b) A party seeking reconsideration of a ruling of the court, other than any order which may be addressed by motion pursuant to N.R.C.P. 50(b), 52(b), 59 or 60, must file a motion for such relief within 10 days after service of written notice of the order or judgment unless the time is shortened or enlarged by order. A motion for rehearing or reconsideration must be served, noticed, filed and heard as is any other motion. A motion for reconsideration does not toll the 30-day period for filing a notice of appeal from a final order or judgment.**
- (c) If a motion for rehearing is granted, the court may make a final disposition of the cause without reargument or may reset it for reargument or resubmission or may make such other orders as are deemed appropriate under the circumstances of the particular case.**

**** DUCKWORTH**

Rule 5.30. Extending time.

[Rule 2.25 applies to motions for extension of time in the family division.]

[Amended; effective August 21, 2000.]

(a) Every motion or stipulation to extend time shall inform the court of any previous extensions granted and state the reasons for the extension requested. A request for extension made after the expiration of the specified period shall not be granted unless the moving party, attorney or other person demonstrates that the failure to act was the result of excusable neglect. Immediately below the title of such motion or stipulation there shall also be included a statement indicating whether it is the first second, third, etc., requested extension.

(b) Except as authorized by NRCP 4(i), ex parte motions for extension of time will not ordinarily be granted. When, however, an affidavit or unsworn declaration under penalty of perjury shows good cause for the extension and a satisfactory explanation why the extension could not be obtained by stipulation or on notice, the court may grant, ex parte, an emergency extension for only such a limited period as may be necessary to enable the moving party to apply for a further extension by stipulation or upon notice, with the time for hearing shortened by the court.

**** POMRENZE ****

Rule 5.32. Motions for support; fees and allowances; ~~[affidavit of financial condition required.]~~ **financial disclosure form required.**

(a) Any motion for fees and allowances, temporary spousal support, child support, exclusive possession of a community residence, or any other matter involving the issue of money to be paid by a party must be accompanied by ~~[an affidavit of financial condition]~~ **a General Financial Disclosure Form (GFDF)** describing the financial condition and needs of the movant. The ~~[affidavit of financial condition]~~ **GFDF** must be prepared on a form approved by the court. An incomplete affidavit or the absence of the ~~[affidavit of financial condition]~~ **GFDF** may be construed as an admission that the motion is not meritorious and as cause for its denial. Attorney's fees and other sanctions may be awarded for an untimely, fraudulent, or incomplete filing.

(b) Any party opposing a motion for fees and allowances, temporary spousal support, child support, exclusive possession of the community residence, or any other matter involving the issue of money to be paid by a party must also submit ~~[an affidavit of financial condition]~~ **a GFDF** describing the financial condition of that party at the time of the filing of the opposition or no later than 2 days before the date of hearing, whichever is earlier. The ~~[affidavit of financial condition]~~ **GFDF** must be prepared on a form approved by the court. The failure of a party opposing such motion to file ~~[an affidavit of financial condition]~~ **GFDF** may be construed as an admission that the opposing party has the resources to pay the amount requested by the moving party or has the resources to permit the other party to have exclusive possession of the marital residence. Attorney's fees and other sanctions may be awarded for an untimely, fraudulent or incomplete filing.

(c) Upon a showing of good cause, the court may require that either or both of the parties file a Detailed Financial Disclosure Form (DFDF).

~~[(e)]~~ **(d)** Income of a ~~[successor]~~ spouse of a party must be listed in that party's ~~[affidavit of financial condition in the "other income" section of the affidavit.]~~ **GFDF in the "I receive income from other sources in the amount of" section of the GFDF. If a DFDF has been ordered, income of a spouse of a party must be listed in that party's DFDF in section 25 of the Personal Income Worksheet.** If any party resides with an adult person other than a spouse, that party's ~~[affidavit of financial condition]~~ **GFDF or DFDF** must reflect the extent to which the cohabitant contributes to that party's expenses.

~~[(d)]~~ **(e)** ~~[An affidavit of financial condition]~~ **A GFDF or DFDF** may only be filed in open court with leave of the judge upon a showing of excusable delay.

**** POMRENZE ****

Rule 5.34. Notice of and compliance with order.

[Rule 2.28 applies to notice of and compliance with orders in the family division.]

[Amended; effective August 21, 2000.]

An order of the court shall fix the time within which the order is to be complied. The party who obtains the order shall serve notice on the party whose compliance is required. Unless otherwise required, the time for complying with an order begins when service is made in the manner required by N.R.C.P. 5.

**** DUCKWORTH ****

Rule 5.39. Contested child custody cases: [~~NRS 125A declaration~~] **Special Requirements.**

~~[In any case where custody of a minor child of the parties is at issue and the minor child has resided outside the State of Nevada within the last 5 years, each party is required to file a declaration pursuant to NRS 125A.120, on a form approved by the court, setting forth the names and present addresses of the persons with whom the child has lived during that period. The declaration must be filed with the moving papers of each party before the contested issue of child custody is heard by the judge.]~~

~~[Amended; effective August 21, 2000.]~~

- (a) A “child custody proceeding” is any proceeding in which legal custody, physical custody, or visitation with respect to a minor child is at issue in a family division case governed by Part V of these rules. This includes, but is not limited to, the following cases where the issue of child custody or visitation appears: divorce; separate maintenance; annulment; dissolution of domestic partnership; guardianship; paternity; custody; termination of parental rights; and protection from domestic violence.
- (b) Except as otherwise provided in NRS 125A.385(5), each party to a child custody proceeding shall file an affidavit, or a sworn declaration, or an unsworn declaration under penalty of perjury, providing the information required by NRS 125A.385 at the following times:
- i. Concurrently with an initial filing;
 - ii. Concurrently with a request to modify a child custody determination;
 - iii. Concurrently with a request to enforce a child custody determination; and
 - iv. Concurrently with a request to attend mediation pursuant to EDCR 5.70.

**** HENDERSON ****

Rule 5.40. Motions in limine.

[~~Rule 2.47 applies to motions in limine in the family division.~~]

[~~Amended; effective August 21, 2000.~~]

Unless otherwise provided for in an order of the court, all motions in limine to exclude or admit evidence must be in writing and filed not less than 45 days prior to the date set for trial and must be heard not less than 14 days prior to trial.

(a) The court may refuse to sign orders shortening time and to consider any oral motion in limine and any motion in limine which is not timely filed or noticed.

(b) Motions in limine may not be filed unless an unsworn declaration under penalty of perjury or affidavit of moving counsel is attached to the motion setting forth that after a conference or a good-faith effort to confer, counsel have been unable to resolve the matter satisfactorily. A “conference” requires a personal or telephone conference between or among counsel. Moving counsel must set forth in the declaration/affidavit what attempts to resolve the matter were made, what was resolved, what was not resolved and the reasons therefore. If a personal or telephone conference was not possible, the declaration/affidavit shall set forth the reasons.

**** STEEL ****

Rule 5.41. [~~Reserved.~~] Exhibits

(a) Exhibits that are submitted to the court must be numbered consecutively in the lower right-hand corner of the document. Exhibits shall be separated by sheets with the identification "Exhibit ____" centered in the separator page in 24-point font or larger.

(b) Where the exhibits to be submitted are collectively in excess of 100 pages, the exhibits must be filed as a separate appendix and must include a table of contents identifying each exhibit and the numbering sequence of the exhibits.

(c) Unless otherwise ordered by the court, exhibits that are in a format other than documents that can be scanned may not be filed in support of pretrial and post-trial briefs. Where the court enters an order permitting the filing of non-documentary exhibits in support of pretrial and post-trial briefs which contain audio or video information, the filing must be filed with a captioned cover sheet identifying the exhibit(s) and the document(s) to which it relates and be accompanied by a transcript of the contents of the exhibit.

(d) Oversized exhibits shall be reduced to eight and one-half inches by eleven inches (8.5" × 11") unless otherwise permitted by the court or unless such reduction would destroy legibility. An oversized exhibit that cannot be reduced shall be filed manually and separately with a captioned cover sheet identifying the exhibit and the document(s) to which it relates.

(e) Copies of pleadings or other documents filed in the pending matter, cases, statutes, or other legal authority shall not be attached as exhibits or made part of an appendix.

**** STEEL ****

Rule 5.71 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.**

EDCR 5 Rules – Repealed

Rule 5.38. Responding to discovery requests.

Rule 2.40 applies to responses to discovery requests in the family division.
[Amended; effective August 21, 2000.]

Rule 5.43. Scheduling orders; exemptions.

Rule 2.55 applies to exemptions from scheduling orders in the family division.
[Amended; effective August 21, 2000.]

Rule 5.44. Trial setting.

Rule 2.60 applies to the setting of trials in the family division.
[Amended; effective August 21, 2000.]

Rule 5.45. Notice of trial setting.

Rule 2.65 applies to notice of trial setting in the family division.
[Amended; effective August 21, 2000.]

Rule 5.46. Stipulations for dismissal.

Rule 2.75 applies to stipulations for dismissal in the family division.
[Amended; effective August 21, 2000.]

Rule 5.88. Final pre-trial conference.

Rule 2.68 applies to final pre-trial conferences in the family division.
[Amended; effective August 21, 2000.]