

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE COURT  
ADMINISTRATION IN THE SECOND  
AND EIGHTH JUDICIAL DISTRICT  
COURTS.

ADKT No. 398

**FILED**

APR 23 2009

TRACEY KLINDEMAN  
CLERK OF SUPREME COURT  
BY *B. Crutts*  
CHIEF DEPUTY CLERK

ORDER AMENDING RULE 2.1 OF THE LOCAL RULES OF PRACTICE  
FOR THE SECOND JUDICIAL DISTRICT COURT AND RULES 1.33  
AND 1.61 OF THE LOCAL RULES OF PRACTICE FOR THE EIGHTH  
JUDICIAL DISTRICT COURT

WHEREAS, on October 2, 2006, this court amended the Local Rules for the Second and Eighth Judicial District Courts that provide for business courts in both of those judicial districts; and

WHEREAS, on November 6, 2008, this court entered an order scheduling a public hearing concerning the court administration of the Second and Eighth Judicial District Courts, including the operation of the business court docket in each judicial district and suggestions to improve the handling of business court cases; and

WHEREAS, on December 9, 2008, this court held a public hearing and considered information from the chief judges, other judges, and court administrators of the Second and Eighth Judicial District Courts; and

WHEREAS, based on the information provided to this court, it appears that amendment of the Local Rules of Practice for the Second and Eighth Judicial District Courts is warranted; accordingly,

IT IS HEREBY ORDERED that:

1. Rule 2.1 of the Second Judicial District Court Rules shall be amended and shall read as set forth in Exhibit A; and
2. Rules 1.33 and 1.61 of the Eighth Judicial District Court Rules shall be amended and shall read as set forth in Exhibit B; and
3. Within 60 days from the date of this order, the chief judge of the Second Judicial District Court shall assign two judges of that district to the business court docket as provided in amended Second Judicial District Court Rule 2.1, and the chief judge of the Eighth Judicial District Court shall assign three judges of that district to the business court as provided in amended Eighth Judicial District Court Rule 1.33; and

IT IS FURTHER ORDERED that these amendments shall be effective 90 days from the date of this order. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada. Publication of this order shall be accomplished by the clerk disseminating copies of this order to all subscribers of the advance sheets of the Nevada Reports and all persons and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk of this court as to the accomplishment of the above-described publication of notice of entry and

dissemination of this order shall be conclusive evidence of the adoption and publication of the foregoing rule amendment.

Dated this 23<sup>rd</sup> day of April, 2009.

Hardesty, C.J.  
Hardesty

Parraguirre, J.  
Parraguirre

Saitta, J.  
Saitta

Douglas, J.  
Douglas

Gibbons, J.  
Gibbons

Cherry, J.  
Cherry

Pickering, J.  
Pickering

cc: All Judges of the Second and Eighth Judicial District Courts  
Administrative Office of the Courts

## EXHIBIT A

### AMENDMENTS TO THE LOCAL RULES OF PRACTICE FOR THE SECOND JUDICIAL DISTRICT COURT

#### **Rule 2.1. Business court docket.**

1. A civil action shall be assigned to the business court docket if, regardless of the nature of relief sought, the primary subject matter of the action is:

(a) A dispute concerning the validity, control, operation or governance of entities created under NRS Chapters 78-88, including shareholder derivative actions;

(b) A dispute concerning a trade-mark or trade name; a claim asserted pursuant to the Nevada Trade Secrets Act, NRS 600A.010, et seq.; a claim asserted pursuant to the Nevada Securities Act, NRS 90.211, et seq.; a claim asserted pursuant to the Nevada Deceptive Trade Practices Act, NRS 598.0903, et seq.; a claim involving investment securities governed by NRS 104.8101, et seq.; or,

(c) Any dispute among business entities if the presiding judge of the business court docket determines that the case would benefit from enhanced case management.

2. Actions in which the primary claim alleges personal injury or products liability, damage of a consumer by a business, wrongful termination of employment, or actions arising from a landlord-tenant relationship shall not be included in the business court docket.

3. A party in an action assigned to another department of the court may request that the action be transferred to the business court docket. Upon filing of such a request, the clerk shall transfer the case file to the presiding judge of the business court docket who shall thereupon determine whether to assume jurisdiction of the case. The decision of the presiding judge of the

business court docket to accept or decline jurisdiction of the action is final, and is not appealable nor reviewable upon any petition for extraordinary relief.

4. The **[presiding]** judges of the business court docket may hear and decide all other civil and criminal actions assigned to such judge as any other general jurisdiction district court judge.

5. The ~~**[presiding judge of the business court docket shall be appointed by the chief judge]**~~ *chief judge shall assign at least two judges of the district to the business court docket. The judges so selected shall* ~~[and must]~~ have experience as a judge or practitioner in the subject matters listed in subsection 1 of this rule, ~~[. The judge so selected]~~ *and* shall serve for a term of two years unless reappointed. *Each judge assigned to the business court docket shall receive an equal, random assignment of business court cases.* Management of the business court docket shall be the highest case management priority of the **[presiding]** judges of the business court docket, who may request reassignment by the chief judge of civil or criminal cases, as necessary, consistent with this case management priority.

6. Subject to approval by the **[presiding]** judges of the business court docket and the chief judge, an action filed in any other judicial district may be transferred to the business court docket of this district if all parties and the district judge assigned to the case consent.

7. The **[presiding]** judges of the business court docket may transfer a business action to another judge of this district for any and all proceedings, subject to the consent of the judge to whom the action is transferred.

8. If ~~**[the presiding]**~~ *any* judge of the business court docket is the subject of a peremptory challenge pursuant to S.C.R. 48.1, the clerk shall randomly reassign the case to another department of the court.

## EXHIBIT B

### AMENDMENTS TO THE LOCAL RULES OF PRACTICE FOR THE EIGHTH JUDICIAL DISTRICT COURT

#### **Rule 1.33. Specialization of judges; procedure for selection.**

The chief judge must assign the judges of the district (excluding family court judges) to specialized divisions of the court for 2-year terms as needed. The assignments must provide for rotation of the judges among the various divisions. In making the assignments, the chief judge shall request the district judges to recommend the assignments, and shall take into account the desires of each individual judge. The final selection, however, is left to the discretion of the chief judge. Assignments shall be made as follows:

- (a) Civil/Criminal division: judges as needed;
- (b) Business court division: at least 3 [2] judges who have experience as a judge or practitioner in “business matters” as defined in Rule 1.61(a);
- (c) Civil only division: judges as needed;
- (d) Drug Court/Overflow division: judges as needed;
- (e) Overflow division: judges as needed.

#### **Rule 1.61. Assignment of business matters.**

- (a) Business matters defined. “Business matters” shall be:
  - (1) Matters in which the primary claims or issues are based on, or will require decision under NRS Chapters 78-92A or other similar statutes from other jurisdictions, without regard to the amount in controversy;
  - (2) Any of the following [~~where the amount in controversy exceeds \$500,000, excluding costs, fees, interest, and/or punitive damages~~]:
    - (i) Claims or cases arising under the Uniform Commercial Code, or as to which the Code will supply the rule of decision;
    - (ii) Claims arising from business torts;

(iii) Claims arising from the purchase or sale of (A) the stock of a business, (B) all or substantially all of the assets of a business, or (C) commercial real estate; or

(iv) Business franchise transactions and relationships.

(b) Examples of cases that are not business matters. Examples of cases which are not business matters include, but are not limited to, those for which the predominant legal issues are centered on:

- (1) Personal injury;
- (2) Products liability;
- (3) Claims brought by a consumer individually or as a representative of a class against a business;
- (4) Landlord-tenant disputes involving residential property;
- (5) Occupational health or safety;
- (6) Environmental claims which do not arise as a result of the sale or disposition of a business subject to subsection (a)(2)(iii), above;
- (7) Eminent domain;
- (8) Malpractice;
- (9) Employment law, including but not limited to wrongful termination of employment;
- (10) Administrative agency, tax, zoning, and other appeals;
- (11) Petition actions involving public elections;
- (12) Residential real estate disputes between individuals or between an individual and an association of homeowners;
- (13) Claims to collect professional fees;
- (14) Declaratory judgment as to insurance coverage for a personal injury or property damage action;
- (15) Proceedings to register or enforce a judgment regardless of the nature of the underlying case;
- (16) Actions by insurers to collect premiums or rescind policies;

(17) Construction defect claims involving primarily residential units;

(18) The granting, denying, or withholding of governmental approvals, permits, licenses, variances, registrations, or findings of suitability; and

(19) Cases filed under NRS 3.223 in the family division.

(c) Assignment of business matters.

(1) Unless otherwise provided in these rules, business matters shall be divided among those full-time civil judges designated as business court judges by the chief judge.

(2) Any party in a case may file a request in the pleadings that a case be assigned as a business matter. A request may be made by a plaintiff or petitioner in the caption of the initial complaint or petition by identifying the category that provides the basis for assignment as a business matter. If the request is made in the caption of the initial complaint or petition, the matter will be automatically assigned as a business matter by the clerk's office. If the request is made by a party in the caption of its initial appearance or response, other than the plaintiff/petitioner, then the case shall be randomly assigned to a business court judge for determination as to whether the case should be handled as a business matter.

(3) Any party aggrieved by designation of a case as a business matter may seek review by the business court judge within ten (10) days of receipt of the assignment of the case to a business court judge or within ten (10) days of filing a responsive pleading, whichever is later.

(4) The business court judge shall decide whether a case is or is not a business matter and that decision shall not be appealable or reviewable by writ. Any matter not deemed a business matter shall be randomly reassigned if it was originally assigned to the business court judge. If a case was submitted to the business court judge to determine whether it is a



business matter and the business court judge rules that it is not, that case will be remanded to the department from which it came.

(d) Peremptory challenge. In those instances where one of the business court judges is peremptorily challenged pursuant to SCR 48.1, or recuses or is disqualified, the case shall be assigned to another business court judge. If all business court judges are ineligible to sit, then the case shall be assigned to the alternative judge. In those instances where all business court judges and the alternative judge are ineligible to sit, then the case shall be assigned to the chief judge.