

~~IN THE SUPREME COURT OF THE STATE OF NEVADA~~

IN THE MATTER OF THE
AMENDMENT OF THE NEVADA
SHORT TRIAL RULES TO PROVIDE
FOR ALTERNATE TRIALS.

ADKT No. 447

FILED

JUN 23 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER

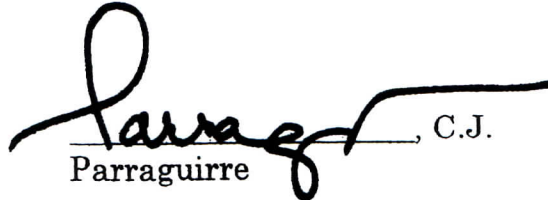
WHEREAS, Associate Justices Mark Gibbons and James W. Hardesty filed a Petition on March 22, 2010 seeking to amend the Nevada Short Trial Rules; and

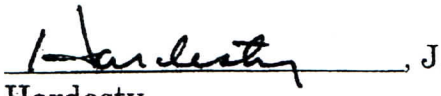
WHEREAS, the en banc court has held public hearings upon this Petition in Carson City and Las Vegas; and

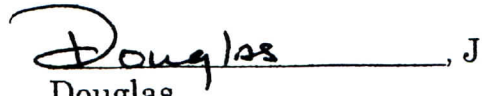
WHEREAS, the Supreme Court Clerk has received public comments to the Petition; and

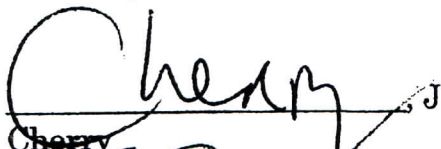
WHEREAS, the en banc court desires to commence an alternate trial program as a pilot project for six months pending the adoption of formal rules; accordingly,

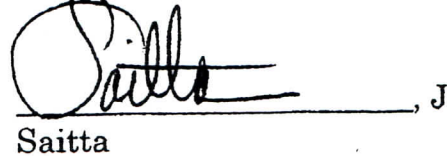
IT IS HEREBY ORDERED that the pilot program be established from July 1, 2010 through December 31, 2010 for alternate jury and bench trials pursuant to the provisions of Exhibits A, B and C attached hereto.

 C.J.
Parraguirre

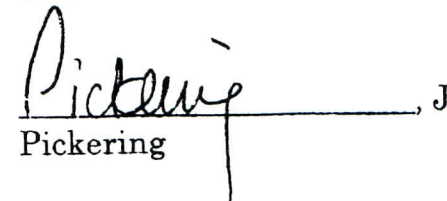
 J.
Hardesty

 J.
Douglas

 J.
Cherry

 J.
Saitta

 J.
Gibbons

 J.
Pickering

cc: All District Court Judges
Kathleen J. England, President, State Bar of Nevada
Kimberly Farmer, Executive Director, State Bar of Nevada
Clark County Bar Association
Washoe County Bar Association
First Judicial District Bar Association
Administrative Office of the Courts

EXHIBIT A

ALTERNATE TRIALS

1. Notwithstanding the amount in controversy, parties to a case pending in district court may stipulate at anytime in writing to conduct an alternate bench or jury trial and to select an alternate trial judge who shall conduct all further proceedings in the case. The stipulation shall be signed by counsel and the parties, set forth the name of the alternate trial judge and shall be filed and served upon the district court judge assigned to the case and, if applicable, the ADR commissioner.

2. The written stipulation to conduct an alternate trial shall be submitted to the district court forthwith. Upon approval, all proceedings shall thereafter be conducted by the alternate trial judge, but all pleadings in the case must be filed in the district court in accordance with the Nevada Rules of Civil Procedure, the local district court rules and the Nevada Rules of Appellate Procedure.

3. The alternate trial judge must be a pro tempore judge pursuant to NSTR 3(c), commissioned as a senior justice or senior district judge, or a person who previously served as a Supreme Court Justice or district judge for at least four consecutive years and not have been removed from office by the Nevada Judicial Discipline Commission. All alternate trial judges shall be paid directly by the parties according to amounts and terms set forth in the stipulation.

4. The stipulation and the district court order approving the stipulation must require that all of the costs of the alternate trial, including but not limited to compensation for the alternate trial judge, jury, clerk, bailiff, and reporter/recorder. The parties shall pay the cost of the facilities for the trial. All of the costs set forth above shall be

considered taxable court costs under NRS 18.005, but may be allocated among the parties by stipulation.

5. Should the parties stipulate to an alternate jury trial, jurors must be eligible to serve under NRS 6.010. The alternate trial judge shall summon and compensate the jury venire.

6. Except as modified by this order, alternate trials shall be governed by the Nevada Rules of Civil Procedure, Nevada's Statutes and jurisprudence governing the admission of evidence, the local district court rules and the Nevada Short Trial Rules; however, the parties may stipulate to modify any of the procedures set forth in the Nevada Short Trial Rules.

7. All alternate trials shall be open to the public. The proceedings and pleadings shall not be sealed by the alternate trial judge except in accordance with SCR Part VII (Rules Governing, Sealing and Redacting Court Records).

8. Not later than 10 days after a jury verdict or findings of facts and conclusions of law in a bench trial, the alternate trial judge shall submit to the district court judge, to whom the case is assigned, a proposed judgment. Written notice of the proposed judgment shall be served on the parties.

9. A proposed judgment from an alternate trial judge is not effective or final until expressly approved by the district court as evidenced by the signature of the district court judge on an order approving the proposed judgment or post judgment order entered in district court.

10. The district court judge shall enter an order approving the proposed judgment, together with any post judgment order, which shall constitute the final judgment in the case. The date of filing the judgment in the district court shall commence the time period in which to

file post-judgment motions before the alternate trial judge together with the filing of a Notice of Appeal to the Nevada Supreme Court.

11. Any party aggrieved by the final judgment shall have the right to file a direct appeal of that judgment to the Supreme Court under the provisions of the Nevada Rules of Civil Procedure and the Nevada Rules of Appellate Procedure and the standard of review shall be the same as for a district court bench or jury trial.

12. Parties participating in an alternate trial may waive appeal by stipulating in writing to be bound by the proposed judgment of the alternate trial judge.

Exhibit B

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Stipulation for Alternate Trial

(TITLE OF COURT)

Civil Action, File Number _____

Plaintiff,

vs.

Defendant.

Stipulation

IT IS HEREBY STIPULATED by and between the parties that they shall conduct a alternate (bench or jury) trial pursuant to Supreme Court Administrative Docket Number 447.

IT IS FUTHER STIPULATED that _____ shall act as the alternate trial judge and shall be compensated at the rate of (insert hourly or daily rate).

IT IS FUTHER STIPULATED that all costs of the alternate trial, including but not limited to, compensation for the alternate trial judge, jury, clerk, bailiff and reporter/recorder, shall be paid by the parties. The parties shall pay the costs of the facilities for the trial. All of the costs set forth above shall be taxable under NRS 18.005, and shall be allocated among the parties as follows: _____

IT IS FUTHER STIPULATED that the jury venire shall be summoned by the alternate trial judge.

IT IS FUTHER STIPULATED that the procedures set forth in the Nevada Short Trial Rules are modified as follows: _____

Dated this ____ day of _____, 20__.

(signed by all attorneys or parties in proper person)

It is so ORDERED this ____ day of _____, 20__.

District Judge

Exhibit C

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Judgment on Alternate Trial

(TITLE OF COURT)

Civil Action, File Number _____

Plaintiff,

vs.

Defendant.

Judgment

This action came on for trial before a alternate judge [and jury], _____, Alternate Trial Judge, presiding, and the issues having been duly tried and the judge [jury] having duly rendered the verdict,

It is Ordered and Adjudged: _____.

Dated this _____ day of _____, 20____.

Alternate Trial Judge

It is so ORDERED this _____ day of _____, 20____.

District Judge