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IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WHITE PINE

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IN THE MATTER OF The Seventh Judicial District Court's Response to Coronavirus Disease (COVID-19)

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On March 12, 2020, Governor Steve Sisolak declared a state of emergency in Nevada in response to the recent outbreak of the Coronavirus Disease (COVID-19). Given the severity of the risk posed to the public by COVID-19, and after considering recommendations by the Nevada Supreme Court Chief Justice Kristina Pickering, and consultation with the Honorable Gary D. Fairman, the Chief Judge of the District Court has determined that alterations to court procedure are necessary for the protection of the community.

Article 3, section 1 of the Nevada Constitution provides that, "The powers of the Government of the State of Nevada shall be divided into three separate departments, -- Legislative,--the Executive and the Judicial; and no persons charged with the exercise of powers properly belonging to one of these departments shall exercise any functions, appertaining to either of the others, except in the cases expressly directed or permitted in this constitution." "In addition to the constitutionally expressed powers and functions of each Department (the Legislative, the Executive, and the Judicial" each possesses inherent and incidental powers that are properly termed ministerial. Ministerial functions are methods of implementation to accomplish or put into effect the basic function of each Department." *Galloway v. Truesdell*, 83 Nev. 13, 21, 422 P.2d 237, 243 (1967).

Following the March 12, 2020, Declaration of Emergency this Court exercised its ministerial judicial power and on March 17, 2020, entered an emergency order. This Order changed court procedures so as to minimize person-to-person contact and

1 mitigate the risk associated with COVID-19 pandemic, while continuing to provide
2 essential court services. The Order specifies that it "shall be reviewed no later than
3 every 30 days and shall continue until modified or rescinded by subsequent order."

4 On March 30, 2020, this Court entered a second administrative order which
5 temporarily suspended court rules that prohibit or restrict the court clerk from receiving
6 documents through fax or email.

7 On March 31, 2020, Governor Sisolak entered Declaration of Emergency
8 Directive 010, which directs Nevadans to stay home except to seek or provide
9 essential services. Directive 010 extends the declared emergency through April 30,
10 2020. Consistent with this Directive and its original Order, the Court has reviewed the
11 prior Administrative Order and, after consultation with the Chief Justice of the Nevada
12 Supreme Court, orders as follows:

13 1. This order shall serve to extend the prior order regarding fax or email
14 documents and extend and modify the prior order regarding general court procedures.

15 2. All jury trials, civil and criminal, to commence on or before June 1, 2020,
16 are suspended, and will be rescheduled as the court calendar allows.

17 This order shall operate to stay trials in civil cases for purposes of NRCP 41(e).
18 The time period of any continuance entered in a criminal trial as a result of this order
19 may be considered by the court to be good cause for purposes of calculating a speedy
20 trial under NRS 178.556(1), and NRS 174.511 and any constitutional mandates for a
21 speedy trial.

22 The need to protect the public, parties to cases, and court staff from COVID-19
23 will be afforded substantial weight in any claim of a denial of the right to a speedy trial.

24 Absent further order of the court, the period of exclusion shall be from March
25 16, 2020 through July 1, 2020. The court may extend the period of exclusion as
26 appropriate.

27 3. During this time, District Court will continue to accept filings and continue
28 to manage cases within the parameters set forth in this order and the prior orders.

1 4. Effective March 16, 2020 until June 1, 2020, all court hearings involving
2 in-custody inmates from the Nevada Department of Corrections are postponed until
3 a later date or until audio/visual technology is available. The potential risk of infecting
4 an inmate who could then spread the virus throughout the prison mandates this
5 action.

6 5. Effective March 16, 2020 until June 1, 2020, all court hearings involving
7 in-custody inmates at the White Pine County Sheriff's office are postponed until a
8 later date or until audio/visual technology is available. The potential risk of infecting
9 an inmate who could then spread the virus throughout the jail mandates this action.
10 The court may exercise its discretion and allow physical presence of inmates for
11 good cause shown.

12 6. All currently scheduled non-essential District Court hearings shall be
13 conducted by video or telephonic means, decided on the pleadings or rescheduled
14 unless otherwise directed by the presiding judge. This includes all status hearings,
15 432B staffings, 432B cases, and juvenile delinquency cases.

16 7. Essential case types and hearings shall be conducted by video or
17 telephonic means unless the specific case requires in person appearances. Essential
18 case types and hearings include the following:

- 19 a. Criminal sentencings, arraignments, and probation revocation hearings;
- 20 b. Civil commitment cases;
- 21 c. Guardianship matters except for compliance related hearings which
22 include annual accountings;
- 23 d. Domestic temporary or extended protection orders;
- 24 e. Juvenile delinquency matters;
- 25 f. Abuse and neglect preliminary protective hearings;
- 26 g. High-risk protective orders;
- 27 h. Civil temporary restraining orders and preliminary/permanent injunctive
28 relief hearings.

- 1 i. Probate petitions for orders of cremation.
- 2 j. Other than jury trials, case-by-case exceptions may be ordered at the
- 3 discretion of a District Court Judge.
- 4 k. Drug Court, however, drug court team members are encouraged to
- 5 appear telephonically for staffing and at their discretion may skip court.
- 6 Participants may be required to attend court on an individual basis.

7 8. The Center for Disease Control has advised people to take precautions
8 and that the best way to prevent illness is to avoid exposure. As a result, the county
9 is ordered to continue to post a notice at the entrance of all district court facilities
10 advising the following people that they may not enter the court facility:

- 11
- 12 a. Persons who have been asked to self-quarantine by any doctor, hospital, or
- 13 health agency;
- 14 b. Persons who have been diagnosed with coronavirus or who have had
- 15 contact in the past 14 days with anyone who has been diagnosed with CoVID-
- 16 19; or
- 17 c. Persons with unexplained fever, cough or shortness of breath.

18 Anyone attempting to enter in violation of these protocols will be denied entry
19 by District Court Bailiffs or Deputy Sheriffs.

20
21 CIVIL CASES

22 9. Issuance of Summons. A party or lawyer seeking to have the Clerk
23 of the Court issue summons under NRCP 4(b) shall fax, mail, or email the summons
24 with the Clerk (or e-file it when available), who will issue the summons and return a
25 copy of it by mail in a stamped, self-addressed envelope provided by the requestor
26 included for that purpose, or by email.

27 10. Service of Summons. The court recognizes that accomplishing
28 personal service of process may pose significant challenges at this time, given the

1 closure of non-essential businesses and stay-home directives. Properly documented
2 service issues related to the COVID-19 pandemic may constitute “good cause” for the
3 extension of time for service pursuant to NRCP 4(e) , whether the motion is made
4 before or after the one hundred twenty (120) day service period.

5 11. Extensions of time deadlines. Pursuant to NRCP 6(b), the Court
6 recognizes the COVID-19 emergency may constitute “good cause” and “excusable
7 neglect” warranting the extension of time in non-essential civil case types. This does
8 not apply to the time deadlines that NRCP 6(b)(2) states must not be extended
9 (motions under NRCP 50(b), 52(b), 59, and 60 and motion made after NRCP 54(d)(2)
10 time has expired).

11 12. Rule 16.1, 16.2, and 16.205 early case conferences. NRCP 16.1,
12 16.2, and 16.205 early case conferences should continue to take place but are to be
13 conducted by telephone, teleconference, videoconference or other remote means.
14 Until July 1, 2020, if an early case conference cannot be accomplished by alternate
15 means, it shall be rescheduled. No early case conference shall be conducted in
16 person while this order is in effect. On stipulation or order entered after motion
17 therefor, the deadlines for initial disclosures, supplements and other written discovery
18 may be extended. If not stayed, such discovery shall be exchanged by mail or through
19 electronic means.

20 13. Rule 16 conferences. NRCP 16 pretrial scheduling conferences
21 will still take place when possible. Rule 16 conferences are to be conducted by video
22 or telephonic means or, if they cannot be conducted remotely, rescheduled at the
23 direction of the assigned District Court Judge.

24 14. NRCP 25(a)(1). The COVID-19 pandemic poses special
25 challenges for dealing with the death of a party and timely substitution of a successor
26 or representative. To alleviate those challenges, consistent with NRCP 1, NRCP
27 25(a)(1) is tolled during the period of the COVID-19 emergency.

28 15. Depositions through remote electronic means. During the period
of the COVID-19 emergency, no in-person depositions shall proceed except on

1 stipulation or order obtained on motion demonstrating cause therefor. Depositions by
2 remote means may proceed as provided in NRCP 30(b)(4). The Court interprets
3 NRCP 28(a)(1) and NRCP 30 to allow the deposition officer to be in a separate
4 location from the deponent. See SCR IX-B (A) and (B) Rules 9.

5 16. NRCP 41(e). This order and its predecessor shall operate to stay
6 trials in civil cases and toll the time for bringing a case to trial for purposes of NRCP
7 41(e) until July 1, 2020.

8 17. Non-jury trials in civil cases. Any scheduled non-jury trials in non-
9 essential civil cases are stayed. On order of the District Court and for good cause
10 shown, a non-jury trial may be rescheduled or conducted by alternative means.

11 18. Non-jury trials and hearings in civil-domestic cases. Non-jury trials
12 and evidentiary hearings in civil-domestic cases may conducted by alternative means
13 or continued, to be decided on a case-by-case basis.

14 CRIMINAL CASES

15 19. Appearances by in-custody defendants. In-custody defendants
16 will appear by alternate means when possible. No defendant who is in isolation
17 pursuant to the detention health protocol will be brought for any court appearance.
18 Attorneys may appear by alternate means, when available.

19 20. Out-of-custody matters. Out-of-custody matters may be decided
20 by the judge or may be heard at the discretion of the judge if the matter can be heard
21 entirely by alternate means. Otherwise, out-of-custody matters will be continued,
22 including status checks for specialty courts.

23 JUVENILE DELINQUENCY

24 21. In-custody juvenile appearances. Subject to constitutional,
25 statutory, and rule requirements, the court will exercise its discretion to insure that
26 contested juvenile hearings, detention hearings, admit or deny hearings, certification
27 hearings, disposition hearings, probation violation hearings, and parole violations for
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1 in-custody juveniles will be held in a way the protects the health and safety of all
2 involved. These hearings will, if possible, be conducted by alternative means.
3 Attorneys, probation officers, social workers, parents, guardians, and any other
4 necessary parties are strongly encouraged to appear by alternative means. Video
5 appearances are strongly preferred. No in-custody juvenile who is hospitalized,
6 isolated, or quarantined will be transported to court or appear for a court proceeding,
7 until the juvenile is no longer under any hospitalization, isolation, or quarantine.

8 22. Out-of-custody matters. All matters where the juvenile is out of
9 custody shall be heard by audio/video means or will be continued until further order
10 of the court.

11 JUVENILE DEPENDENCY AND ADOPTIONS

12 23. Abuse and Neglect.

13 a. Initial protective custody hearings will continue to be heard as an
14 essential case type.

15 b. The COVID-19 pandemic is good cause to continue all
16 adjudicatory hearings set under NRS 432B.530 until June 1, 2020.

17 c. Disposition hearings held under NRS 432B.540 and NRS
18 432B.550 currently set will be decided on the report filed with the court. Attorneys,
19 parents and children may file a report to supplement the DCFS recommendation for
20 disposition, placement and services. All disputed dispositions will be heard by
21 teleconference.

22 d. All semi-annual and annual reviews to be heard during the next 30
23 days under NRS 432B.580 and NRS 432B.590 will be decided on the reports
24 submitted by DCFS to the court. Attorneys, parents and children may file a
25 supplemental information for the court's consideration. The court may notice parties
26 of a court hearing with an appearance by alternative means for disputed issues.

27 e. Hearings regarding presumptions held under NRS 432B.153,
28 432B.157, 432B.159 and 432B.555 will be continued for at least 30 days, unless the

1 parties stipulate to the facts a decision can be made on the papers, and that the court
2 determines extraordinary circumstances exist to proceed with the hearing.

3 24. Termination of Parental Rights.

4 a. Uncontested motions to terminate parental rights under
5 432B.5901 and any related motions may be decided on the pleadings and papers
6 filed unless the court determines a hearing is required. Contested motions shall be
7 continued or heard by audio/visual means if all parties are in agreement.

8 b. All mediations conducted pursuant to NRS 432B.5904 will be
9 continued for 30 days unless arrangements can be made to hold the mediation by
10 alternative means.

11 25. Adoptions. Adoptions will be conducted by alternative means
12 unless the court determines otherwise.

13 FINAL PROVISIONS

14 26. Attorney obligations. Attorneys, as officers of the court, have
15 ethical obligations for cooperative civility under normal circumstances. This Court,
16 under the present emergency, reminds attorneys that they have an obligation to be
17 cooperative with courts and each other as we all navigate this emergency.

18 27. Duration. This order shall be reviewed no later than every 30 days
19 and shall remain in effect until thirty (30) days following the expiration of the March
20 12, 2020 Governor's Emergency Declaration or until modified or rescinded by a
21 subsequent order, whichever occurs earlier.

22 DATED this 23 day of April, 2020.

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25 STEVE L. DOBRESCU
26 Chief District Court Judge, Dept. 1
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