UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SHORT TRIAL RULES

I. SCOPE OF RULES

Rule 1. The Short Trial Program.

(a) Purpose. The purpose of the short trial program is to expedite civil trials (both bench trials and jury trials) through procedures designed to control the length of the trial, including, without limitation, restrictions on discovery, the use of smaller juries, and time limits for presentation of evidence.

(b) Availability of Program. The short trial program is available, with limited exception, to all civil trials. Participation in the program is voluntary.

(c) Applicability of Rules. The Federal Rules of Evidence and Civil Procedure apply in short trials except as otherwise specified by these rules.

Rule 2. Short Trial Administrative Judges.

The Chief Judge shall appoint one Magistrate Judge from the unofficial Southern Division and one from the unofficial Northern Division of the District to serve as Short Trial Administrative Judge to administer the short trial program in their respective divisions.

Rule 3. Presiding Judge.

(a) A short trial may be conducted by the Active or Senior District Judge who has been assigned the case or, if the parties have previously consented to assignment to a Magistrate Judge under 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73, by that Magistrate Judge. However, the assigned Active District Judge, assigned Senior District Judge or consented-to Magistrate Judge, with leave of the Chief Judge, may refer the case to a Senior District Judge, with the consent of the non-assigned Senior District Judge, or under appropriate circumstances, to a recalled Magistrate Judge (if the parties provide the required consent to the recalled Magistrate Judge) and the recalled Magistrate Judge consents to the re-assignment.

(b) The presiding judge for the short trial shall be determined no later than 21 days after a case enters the short trial program.

II. PARTICIPATION IN THE SHORT TRIAL PROGRAM

Rule 4. Matters Subject to the Short Trial Program.

(a) Voluntary Participation in the Short Trial Program. To participate in the short trial program, parties must execute and file an Agreement for Short Trial and Request for Approval (see Forms 4(a)(1) and (2) to these Rules). The agreement is not effective until it has been approved by the assigned District Judge or, if the parties have consented to a trial conducted by a Magistrate Judge pursuant to Fed. R. Civ. P. 73, the assigned Magistrate Judge. The agreement may be terminated by the presiding judge (if one has been assigned) or the assigned District Judge (if no presiding judge has been assigned) upon a showing that one or more parties have not complied in good faith with the Short Trial Rules or that previously

undisclosed facts have been discovered that make it inappropriate to proceed pursuant to the agreement.

(b) **Demand for Jury Trial.** Any party who desires a trial by jury of any issue triable of right by a jury must file and serve upon the other parties a demand therefore in conformity with Fed. R. Civ. P. 38 and 39.

III. PLEADINGS AND MOTIONS; DISCOVERY AND PRETRIAL PROCEDURE

Rule 5. Filing and Service of Documents.

Unless otherwise specified in these rules, all documents must be filed and served in accordance with the provisions of the Federal Rules of Civil Procedure. Following trial, the presiding judge shall file all documents, jury instructions and evidence with the district court clerk.

Rule 6. Motions and Rulings.

Except for discovery disputes, the presiding judge shall hear and decide all motions. With respect to discovery disputes, if the presiding judge is a Magistrate Judge or recalled Magistrate Judge, he/she shall resolve all discovery disputes; if the presiding judge is a District Judge, he/she may designate the assigned Magistrate Judge to resolve discovery disputes. All written rulings issued by the presiding judge shall be filed with the district court clerk.

Rule 7. Mandatory Discovery Disclosures and Scheduling Conference.

No later than seven (7) days after the Agreement for Short Trial has been approved, the parties shall exchange the disclosures required by Fed. R. Civ. P. 26(a)(1)(A). Within 30 days after the appointment of the presiding judge, the parties must submit a Stipulated Scheduling Order and Discovery Plan in conformance with LR 26(1)(d) & (e) and shall meet with the presiding judge to confer, exchange documents not previously produced, identify individuals likely to have discoverable information not previously disclosed who are known to the parties, and to discuss the possibility of settlement or the use of other alternative dispute resolution mechanisms. Except as may be ordered by the presiding judge, experts shall be disclosed in accordance with Fed. R. Civ. P. 26(a)(2). The extent to which discovery is allowed is in the discretion of the presiding judge. The presiding judge shall set deadlines for completion of discovery and filing dispositive motions and shall set a trial date (see also Rule 11 herein).

Rule 8. Pretrial Memorandum.

No later than 7 days before the pretrial conference under Rule 9, the parties shall prepare and serve on the presiding judge a joint pretrial memorandum. The joint pretrial memorandum shall contain:

(a) a brief statement of the nature of the claim(s) and defense(s);

(b) a complete list of witnesses, including rebuttal and impeachment witnesses, and a description of the substance of the testimony of each witness;

(c) a list of exhibits; and

(d) all other matters to be discussed at pretrial conference including any request for leave to allow oral testimony from an expert.

Rule 9. Pretrial Conference.

No later than 10 days before the scheduled short trial date, the presiding judge shall hold a conference with the parties, in person, by video conference or by telephone, to discuss all matters needing attention prior to the trial date. During the pretrial conference the presiding judge may rule on any motions or disputes including dispositive motions, motions to exclude evidence or witnesses or other pretrial evidentiary matters and jury instructions.

Rule 10. Settlement Before Trial.

In the event a case settles before the scheduled short trial date, the parties must, no more than 2 court days after a settlement is reached, submit to the presiding judge either a written stipulation and order of dismissal executed by the parties and/or their attorneys or a written statement signed by counsel confirming that the parties have reached a settlement. Violation of this rule may subject the parties, their attorneys, or both, to sanctions.

IV. TRIALS

Rule 11. Calendaring.

Unless otherwise stipulated to by the parties and approved by the presiding judge, or for good cause shown, a short trial shall be calendared to commence not later than 150 days from the date that the presiding judge is assigned.

Rule 12. Continuances.

No request for the continuance of a trial scheduled in the short trial program may be granted except upon extraordinary circumstances. A motion for a continuance must be in writing and served on the presiding judge, must state the extraordinary circumstances and must otherwise comply with local rules. If the presiding judge grants the motion for continuance, the case shall be reset to be tried within the ensuing 60 days.

Rule 13. Depositions, Interrogatories and Admissions.

Each party is permitted to quote directly from relevant depositions and video depositions, interrogatories, requests for admissions, or any other evidence as stipulated to by the parties.

Rule 14. Documentary Evidence.

Subject to a timely objection pursuant to Rule 15, or as otherwise stipulated to by the parties, any and all reports, documents or other items that would be admitted upon testimony by a custodian of records or other originator such as medical records, wage loss records, auto repair estimate records, photographs, or any other such items as stipulated to, may be admitted into evidence without necessity of authentication or foundation by a live witness.

Rule 15. Evidentiary Objections.

On the date the pretrial memorandum is due, the parties shall submit to the presiding judge all evidentiary objections to reports, documents or other items proposed to be utilized as evidence and presented to the jury or presiding judge at the time of trial. Unless an objection is based upon a reasonable belief about its authenticity, the presiding judge shall admit the report, document or other item into evidence without requiring authentication or foundation by a live witness.

Rule 16. Evidentiary Booklets.

The parties shall create a joint evidentiary booklet that may include, but is not limited to, photographs, facts, diagrams, and other evidence to be presented. The booklet shall be submitted with the joint pretrial memorandum. Any evidentiary objections relating to the booklet shall be raised at the Rule 9 conference or shall be deemed waived.

Rule 17. Expert Witnesses.

(a) Form of Expert Evidence. Parties are encouraged to present expert testimony at trial through the use of written reports and declarations in lieu of oral testimony.

(b) Use of Oral testimony; Disclosure; Leave of Court. If a party desires to use oral testimony from an expert at trial, that party must include the expert's name on the witness list submitted with the pretrial memorandum under Rule 8 and obtain leave of court at the pretrial conference under Rule 9.

(c) Use of Written Report; Disclosure. If a party intends to use at trial a written report or declaration from an expert, that party shall provide a copy of the written report or declaration to the other parties no later than 30 days before the pretrial conference. Copies of any written report or declaration intended solely to contradict or rebut another written report or declaration must be provided to the other parties no later than 15 days before the pretrial conference.

(d) Qualification of Expert Witness. Documents establishing an expert's qualifications to testify as an expert on a given subject, including the information required by Fed. R. Civ. P. 26(a)(2)(B)(iv) - (vi), shall accompany the disclosure of any written report or declaration by that expert. There shall be no voir dire of an expert regarding that expert's qualifications. The presiding judge may rule on any disputes regarding the qualifications of an expert during the pretrial conference under Rule 9.

(e) Expert Witness Fees. Recovery for expert witness fees, if any, is governed by Fed. R. Civ. P 54(d).

(f) Scope of Rule. For purposes of this rule, a treating physician is an expert witness.

Rule 18. Time Limits for Conduct of Trial.

Plaintiff(s) and defendant(s) shall be allowed up to nine (9) hours each to present their respective cases unless a different time frame is stipulated to and approved by the presiding judge. Presentation includes jury voir dire, opening statements, closing statements, presentation of evidence, examination and cross-examination of witnesses, and any other information to be presented to the jury or presiding judge, including rebuttal. Cross-examination of witnesses shall

be attributed to the party cross-examining for calculation of time allowed. For the purposes of this Rule, all plaintiffs collectively shall be treated as one plaintiff, and all defendants collectively shall be treated as one defendant.

Rule 19. Size of Jury.

The jury shall be composed of 6 members.

Rule 20. Juror Selection and Voir Dire.

Fourteen potential jurors will be selected from the district court jury pool for a jury of 6 members. Each side shall be allowed such time, if any, as the presiding judge may determine to conduct voir dire, which time shall be deducted from the 9 hours of presentation time provided under Rule 18. Challenges for cause and peremptory challenges will remain the same as provided by law. In the event the resulting jury panel is greater than 6 members, the first 6 members called will constitute the jury panel.

Rule 21. Jury Instructions.

Standard jury instructions should be taken from the *Ninth Circuit Model Jury Instructions, Nevada Pattern Civil Jury Instruction Booklet* or the *Nevada Jury Instructions: Civil*. Any proposed or agreed to additions to the jury instructions shall be included in the pretrial memorandum and ruled on by the presiding judge at the pretrial conference. All stipulated and proposed instructions and verdict forms must be presented to the presiding judge at the pretrial conference. The presiding judge shall encourage limited jury instructions.

V. JUDGMENT AND POST-TRIAL MOTIONS

Rule 22. Entry of Judgment.

Judgment shall be entered within thirty (30) days after a bench trial, except as ordered by the court for good cause. Judgment shall be entered upon the short trial jury verdict form in a jury trial. The judgment, including any costs or attorney's fees, shall be filed with the clerk.

Rule 23. Attorneys' Fees, Costs and Interest.

Attorneys' fees, costs and interest shall be allowed pursuant to applicable law as in any other civil case.

Rule 24. Post-Trial Motions.

(a) Post-trial motions shall be limited to determination of costs and attorney's fees, correcting a judgment for clerical error, conforming the verdict to the Agreement for Short Trial, enforcement of judgment and motions for a new trial.

(b) Within ten (10) court days after entry of jury verdict or judgment, a party may file with the clerk and serve on each adverse party a notice of intention to move for a new trial on any grounds permissible under the Federal Rules of Civil Procedure. The notice shall be deemed to be a motion for a new trial.

Rule 25. Binding Short Trial.

The results of a short trial are binding and final as in any other civil trial. If the parties have agreed that the results of the short trial shall be non-appealable pursuant to the submission of Form 4(a)(2), Rule 26 does not apply to the case.

VI. APPEALS

Rule 26. Appeal.

Subject to Rule 25, any party to a case within the short trial program shall have a right to file a direct appeal of the final judgment to the United States Court of Appeals for the Ninth Circuit pursuant to the provisions of the Federal Rules of Civil Procedure or the United States Court of Appeals for the Federal Circuit, as appropriate, pursuant to provisions of the Federal Rules of Appellate Procedure.