

**FILED**

**JAN 12 2009**

HOWARD W. CONYERS, CLERK  
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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE  
8

9 IN THE ADMINISTRATIVE MATTER  
10 OF THE MANAGEMENT OF  
11 DEPENDENCY HEARINGS AND RELATED  
12 MATTERS.  
13

14 **ADMINISTRATIVE ORDER 08-09**

15 Whereas dependency cases are governed by NRS Chapter 432B which requires a  
16 petition to be filed within ten (10) days after a protective custody hearing, requires a  
17 hearing to adjudicate the petition within thirty (30) days of the petition being filed unless  
18 there is a showing of good cause, and requires a hearing on the disposition of the case  
19 within fifteen (15) working days following adjudication;

20 Whereas dependency cases are otherwise governed by the Nevada Rules of Civil  
21 Procedure;

22 Whereas the timing requirements pursuant to the Nevada Rules of Civil Procedure  
23 for early case conferences, settlement conferences, and discovery are inconsistent with the  
24 time requirements for dependency cases pursuant to NRS Chapter 432B;

25 Whereas 42 U.S.C. sec. 675(5)(C) requires procedural safeguards to be applied to  
26 assure that in any permanency hearing held with respect to a child, the court conducting  
27 the hearing consults, in an age appropriate manner, with the child regarding the proposed  
28 permanency or transition plan for the child;

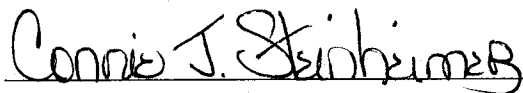
1           Whereas the Family Division Model Court Committee convened a subcommittee to  
2 draft proposed local rules to address the above referenced issues and the Family Division  
3 Model Court Committee accepted the recommendations of the subcommittee to  
4 implement the proposed local rules prior to seeking their adoption by the Nevada  
5 Supreme Court; it is

6           HEREBY ORDERED,

7           1. The Dependency Mandatory Case Conference rule, attached hereto as Exhibit 1,  
8 and incorporated herein, the Dependency Settlement Conference rule, attached hereto as  
9 Exhibit 2, and incorporated herein, the Dependency Post Adjudication Discovery rule,  
10 attached hereto as Exhibit 3, and incorporated herein, and the Participation of Minors at  
11 Permanency Hearing rule, attached hereto as Exhibit 4, and incorporated herein, are  
12 hereby adopted as administrative rules in all juvenile dependency cases in the Second  
13 Judicial District Court.

14           2. The rules shall become effective upon the signing of this Administrative Order  
15 and shall be effective until June 30, 2009 unless otherwise modified by a subsequent  
16 Administrative Order.

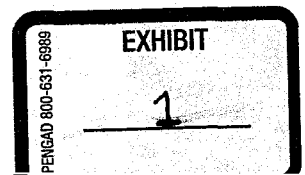
17           Dated: January 12, 2009.

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19           

20           Connie Steinheimer  
21           Chief Judge  
22           Second Judicial District Court  
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## DEPENDENCY MANDATORY CASE CONFERENCE

- 1) **Attendance at Dependency Case Conference.** After a party has denied a petition brought pursuant to NRS 432B, the attorneys for the parties, or the party (except a minor) if acting in pro per, who must possess authority to act and knowledge of the case obtained after reasonable inquiry under the circumstances, shall meet in person for the purpose of complying with subdivision (d) of this rule. The time for holding a case conference shall be within (10) judicial days from the denial of a petition or as ordered by the Court, but not later than (5) judicial days prior to Mediation, or Settlement Conference if Mediation is not so ordered.
- 2) **Case Conference Location.** The attorneys shall agree on the time and place of each meeting which must be held in the county where the action was filed, unless the parties agree upon a different location. If the parties cannot reach an agreement, the default location will be the courthouse in which the case is pending.
- 3) **Meet and Confer Requirements.** At each case conference, the attorneys must:
  - a) **Mandatory Disclosure**
    - i) By the County Agency. Unless a protective order is obtained under this rule, the county agency shall exchange or make available for inspection and copying to a party all of the following items or information, provided they are material to the instant case:
      - (1) The name and last known address of each witness to the occurrence that forms the basis of allegation of dependency, unless disclosure is prohibited by law;
      - (2) The name and last known address of any other witness who is expected to testify;
      - (3) Copies of any written statements made by any party or witnesses unless disclosure is prohibited by law;
      - (4) Any results or reports of scientific tests or expert opinions that are within the possession and control of the county agency that the county agency intends to use as evidence that the evidentiary hearing;
      - (5) Any police reports, records of prior county agency involvement, or records of current or prior reports that the county agency intends to use as evidence at the evidentiary hearing;
      - (6) If any physical or mental condition of a party is in controversy, any physical or mental examinations, including oral or written reports that a party intends to use as evidence at the hearing;
      - (7) Any tangible objects, including documents, photographs, or other tangible evidence unless disclosure is prohibited by law;
      - (8) The names, addresses, and curriculum vitae of any expert witnesses that a party intends to call at a hearing and the subject matter about which each expert witness is expected to testify, and a summary of the grounds for each opinion to be offered; and
      - (9) Any other evidence within the possession and control of the county agency that is material to adjudication unless disclosure is prohibited by law.
    - ii) By all other parties. Unless a protective order is obtained under this rule, all other parties shall exchange or make available for inspection and copying to the county agency and all other parties all of the following items or information, provided they are material to the instant case:
      - (1) The name and last known address of any witness who is expected to testify;
      - (2) Copies of any written statements made by any party or witnesses unless disclosure is prohibited by law;
      - (3) Any tangible objects, including documents, photographs, or other tangible evidence unless disclosure is prohibited by law;
      - (4) The names, addresses, and curriculum vitae of any expert witnesses that a party intends to call at a hearing and the subject matter about which each expert witness is expected to testify, and a summary of the grounds for each opinion to be offered; and
      - (5) Any other evidence the party intends to introduce at a hearing.
  - b) **Additional Discovery**
    - i) The parties shall develop a discovery plan for any additional discovery requested. The discovery plan shall include: specific requests by a party from another party of additional



items to be exchanged or made available for inspection and copying; the timing of such additional discovery.

- c) Continuing Duty to Disclose
    - i) If, prior to or during a hearing, either party discovers additional evidence previously required to be disclosed by it, which is subject to discovery under this rule, or the identity of an additional witness or witnesses, such party shall promptly notify the other parties or the court of the additional evidence or witnesses.
  - d) Settlement Discussion
    - i) Discuss settlement of the action and the use of extrajudicial procedures or alternative methods of dispute resolution to resolve the controversy; and
    - ii) Discuss such other matters as may aid in the disposition of the action.
- 4) Remedy. If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with this rule, the Court may order such party to permit discovery, may grant a continuance, or may prohibit such party from introducing evidence or witnesses not disclosed, or it may enter such other order as it deems just under the circumstances.
- 5) Protective Orders. Upon a sufficient showing, the court may at any time order that the discovery or inspection be denied, restricted, or deferred, or make such other order as is appropriate to protect the best interests of the child.

## DEPENDENCY SETTLEMENT CONFERENCE

(1) A settlement conference shall be held in all dependency cases set for trial upon the request of any party or order of the Court.

(2) When a settlement conference is ordered, the settlement conference shall be scheduled at a time to be determined by the judge who is to preside over the settlement conference. The settlement conference may be ordered to be held after the parties participate in mediation.

(3) The settlement conference shall be set contemporaneously with the setting of the trial.

(4) Judge presiding over settlement conference.

(a) The judge assigned the case shall preside over the settlement conference.

(b) The judge presiding in the case may assign the settlement conference to another judge if appropriate.

(5) Attendance

(a) Each party who is the subject of the trial, except the minor unless ordered by the Court, and the attorney for each party shall personally attend the settlement conference unless the court excuses such attendance.

(b) The party in attendance must include at least one (1) person with authority to settle the issues in the case.

(c) Each party who is the subject of the trial, or their counsel if the party is incarcerated, is responsible for making necessary arrangements for transportation for the settlement conference. The Court may permit telephone appearances in lieu of personal appearance for good cause.

(6) Settlement Conference Statements.

(a) Each party participating in the settlement conference shall prepare a settlement conference statement, which includes the following:

(1) specific statement of any legal issues in dispute;

(2) specific statement of the allegations of the Petition for Hearing that are in dispute;

(3) specific statement of any discovery issues in dispute;

(4) description of status of settlement negotiations;

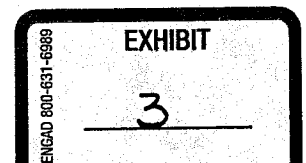
(5) any other information which will assist in informing the Court of the issues in the case.

(b) At least two (2) judicial days before the settlement conference, each party who is participating in the settlement conference shall hand deliver a copy of the settlement conference statement to the judge's chambers.

(c) Settlement conference statements and any documents submitted with them pursuant to this rule, including any notes prepared by the judge, shall not be made part of the court file and shall be confidential, except by permission of the attorneys and/or parties or by court order.

## DEPENDENCY POST ADJUDICATION DISCOVERY

- (1) At any hearing following adjudication, a party who intends to use any documents in its case in chief shall provide such documents to the other parties no later than 72 hours before the hearing or immediately upon receipt if obtained within the 72 hours. If a party has failed to comply with this rule, the Court may order such party to permit discovery, may grant a continuance, or may prohibit such party from introducing evidence not disclosed, or it may enter such other order as it deems just under the circumstances.
- (2) Following adjudication of a petition, a party may seek additional relevant discovery from another party.
- (3) A party seeking additional discovery may file a motion which must identify the following:
  - (a) A description of the discovery being sought; and
  - (b) Why the additional discovery is necessary.
- (4) The party filing the motion for additional discovery must certify in the motion:
  - (a) That the party is not able to obtain the requested discovery directly from a source other than the opposing party; and
  - (b) That the party seeking discovery has made a good faith effort to obtain the discovery without court action.
- (5) The opposing party shall file any opposition to the motion within five (5) days of being served with the motion. Any reply to the opposition shall be filed within three (3) days following service of the opposition.
- (6) Except by leave of the court for good cause, any motion for additional discovery may not be filed less than 30 days prior to a semi-annual review hearing or permanency hearing.



## Participation of Minors at Permanency Hearing

1. Any child six (6) years or older shall attend every permanency hearing held pursuant to NRS 432B.590 unless:
  - a. The child, who is 12 years or older, has signed a written waiver of appearance;
  - b. The child must attend essential school activities, including, but not limited to, proficiency examinations and final examinations;
  - c. The child must attend a necessary counseling, medical or dental appointment, and the appointment cannot be rescheduled within a reasonable period of time;
  - d. A psychologist or medical doctor deems participation in the hearing unsafe for the emotional or physical well-being of the child;
  - e. A medical doctor certifies that due to the physical or mental condition of the child, the child cannot participate in any meaningful way in the hearing; or
  - f. Unless excused by the court for good cause.
2. If a child's attendance at the hearing is excused pursuant to section 1(a)-(e) above, the agency having custody of the child or the child's attorney shall file a Notice of Non-Appearance of Minor at least 10 judicial days before the scheduled hearing, unless the reason causing the child to be excused for the hearing is not known 10 judicial days before the hearing, then the notice shall be filed as soon as reasonably practicable.
3. If the child resides out of the state or out of the county in which the hearing is being held, the court in the permanency hearing shall consult with the child by telephone in an age appropriate manner.
4. The agency having custody of the child or the parent or legal guardian with whom the child has been placed is responsible for arranging transportation to the hearing for the child or for arranging to have the child available by telephone.
5. A child whose attendance at the hearing is excused pursuant to section (1)(a)-(f) above may submit a written letter to the court.

