

LOCAL RULES OF PRACTICE

VIRGINIA TOWNSHIP JUSTICE COURT

The following are rules that govern Justice Courts in the State of Nevada and, particularly Virginia Township Justice Court. Effort has been made to make sure that the rules are current, but parties are encouraged to make sure that rules that they are relying on are the most recent. The Court accepts no responsibility for a party's reliance on outdated rules.

Rule 1. Title. These rules may be known and cited as the Rural Justice Court Rules, or may be abbreviated RJCR. These rules may be adopted by a majority of the justices of the peace of any justice court that has not had court rules previously approved pursuant to [Rule 83](#) of the Justice Court Rules of Civil Procedure. [Added; effective July 11, 2012.]

Rule 2. Definitions of words and terms. In these rules, unless the context or subject matter otherwise requires:

1. "Case" shall include and apply to any and all actions, proceedings, and other court matters, however designated.
2. "Clerk" means the clerk of the justice court.
3. "Court" means the justice court.
4. "Party," "petitioner," "applicant," "claimant," "plaintiff," "defendant," or any other designation of a party to any action or proceeding, case, or other court matter shall include and apply to such party's attorney of record.
5. "Person" shall include and apply to corporations, firms, associations, and all other entities, as well as natural persons.
6. "Shall" is mandatory, and "may" is permissive.
7. The past, present, and future tenses shall each include the others; the masculine, feminine, and neuter genders shall each include the others; and the singular and plural numbers shall each include the other.

[Added; effective July 11, 2012.]

Rule 3. Effect of rule and subdivision headings. Rule and subdivision headings set forth in these rules shall not in any manner affect the scope, meaning, or intent of any of the provisions of these rules.

[Added; effective July 11, 2012.]

Rule 4. Nonjudicial days. If any day on which an act required to be done by any one of these rules falls on a Saturday, Sunday, or legal holiday, the act may be performed on the next succeeding judicial day.

[Added; effective July 11, 2012.]

Rule 5. Scope, construction, and application of rules. These rules shall be liberally construed to secure the proper and efficient administration of

the business and affairs of the court and to promote and facilitate the administration of justice by the court. These rules cover the practice and procedure in all actions in the justice courts of all judicial districts where no local rule covering the same subject has been otherwise approved by the supreme court. The court may in its discretion, suspend, modify, or disregard in order to achieve judicial economy and the ends of justice. [Added; effective July 11, 2012.]

Rule 6. Duties of bailiff. During the time the court remains in session, the bailiff, if there is one, or the sheriff, constable, marshal, or deputy in attendance pursuant to order of the justice of the peace if there is no bailiff, shall:

1. Prevent all persons from coming within the bar, except officers of the court, attorneys, and parties to, or jurors or witnesses in, the cause or matter being tried or heard.
 2. Keep the passageway to the bar clear for ingress or egress.
 3. Preserve order in the court and within the hearing of the court.
 4. Attend the needs of the jury.
 5. Open and close court.
 6. Perform such other duties as are required by the justice of the peace.
- [Added; effective July 11, 2012.]

Rule 7. Custody and withdrawal of papers, records, and exhibits.

1. The clerk shall have custody of the records and papers of the court. He shall not permit any original record, paper, or exhibit to be taken from the courtroom, judge's chambers, or from his office, except at the direction of the court or as provided by statute or these rules.

2. Papers, records, or exhibits belonging to the files of the court may be temporarily withdrawn from the office and custody of the clerk for a limited time upon the special order of the judge in writing, specifying the record, paper, or exhibit, and limiting the time the same may be retained. A receipt shall be given for any paper, record, or exhibit so withdrawn from the files.

3. Models, diagrams, and exhibits of material forming part of the evidence taken in a case may be withdrawn by order of the court in the following manner:

(a) By stipulation of the parties.

(b) By motion made after notice of the adverse party.

(c) After a judgment is final, by the party introducing the same in evidence, unless the model, diagram, or exhibit is obtained from the adverse party. If any model, diagram, or exhibit is withdrawn under this subparagraph (c), the party or attorney who withdraws the same shall file an affidavit with the clerk to the effect that the person who withdraws it is the owner of, or lawfully entitled to, the possession of the model, diagram, or exhibit.

[Added; effective July 11, 2012.]

Rule 8. Form of papers presented for filing; exhibits; documents; legal citations. All pleadings and papers presented for filing prepared by counsel shall comply with [DCR 12](#), unless the local rules of practice for the judicial district court in which the justice court is located has adopted a different rule, in which case the local district court rule shall be followed. Pleadings and papers prepared by proper person litigants may be interpreted and considered even if such pleadings and papers are not in compliance with this rule. Proof of service upon the opposing party or counsel shall accompany each pleading and paper presented for filing, except in the case of permissible ex parte applications for relief. [Added; effective July 11, 2012.]

Rule 9. Motions: Procedure for making motions; affidavits; renewal, rehearing of motions.

1. All motions shall contain proof of the service of the same or have proof of service filed contemporaneously therewith. Service of all motions, criminal or civil, shall be in accordance with [JCRCP 5](#).

2. A party filing a motion shall also serve and file with it a memorandum of points and authorities in support of each ground thereof. The absence of such memorandum may be construed as an admission that the motion is not meritorious and cause for its denial or as a waiver of all grounds not so supported.

3. Within 10 days after the service of the motion, the opposing party shall serve and file his written opposition thereto, together with a memorandum of points and authorities and supporting affidavits, if any, stating facts showing why the motion should be denied. Failure of the opposing party to timely serve and file his written opposition may be construed as an admission that the motion is meritorious and consent to granting the same.

4. The moving party may serve and file reply points and authorities within 5 days after service of the answering points and authorities.

5. The court may decline to consider any motion, opposition, or reply when it is accompanied by a memorandum that consists of bare citations to statutes, rules, or cases.

6. Upon the expiration of the time to oppose or reply, either party may notify the clerk to submit the matter for decision by filing and serving all parties with a written request for submission of the motion or the court may consider the motion without further notification to the parties.

7. Any affidavit to be used shall identify the affiant, the party on whose behalf it is submitted, and the motion or application to which it pertains and shall be served and filed with the motion, opposition, or reply to which it relates. Affidavits shall contain only factual, evidentiary matter, shall conform to the requirements of [JCRCP 56\(e\)](#), and shall avoid mere general conclusions or argument. Affidavits substantially defective in these respects may be stricken, wholly or in part.

8. Factual contentions involved in any pre-trial or post-trial motion may be initially presented and heard upon affidavits. Oral testimony may be received at the hearing with the approval of the court, or the court may set the matter for a

hearing at a time in the future and allow oral examination of the affiants to resolve factual issues shown by the affidavits to be in dispute.

9. No motion or matter once heard and disposed of shall be renewed in the same cause, nor shall the same matters therein embraced be reheard, unless by leave of the court granted upon motion therefor, after notice of such motion to the adverse parties. [Added; effective July 11, 2012.]

Rule 10. Motions for continuance: Contents, service of affidavits; counter-affidavits; argument.

1. All motions for the continuance of cases shall be made on affidavit, except where it shall appear to the court that the moving party did not have time to prepare an affidavit, in which case counsel for the moving party need only be sworn and orally testify to the same factual matters as hereinafter required for an affidavit.

2. When a motion for the continuance of a cause is made on the ground of absence of witnesses, the affidavit or testimony shall include:

(a) The names of the absent witnesses and their present residences, if known.

(b) What diligence has been used to procure their attendance or their depositions, and the causes of a failure to procure the same.

(c) What the affiant has been informed and believes will be the testimony of each of such absent witnesses, and whether or not the same facts can be proven by other witnesses than parties to the action whose attendance or depositions might have been obtained.

(d) At what time the applicant first learned that the attendance or depositions of such absent witnesses could not be obtained.

(e) That the application is made in good faith and not merely for delay.

3. No continuance will be granted unless the affidavit or testimony upon which it is applied for conforms to this rule.

4. Copies of the affidavits upon which a motion for a continuance is made shall be served upon the opposing party as soon as practicable after the cause for the continuance shall be known to the moving party.

5. Counter-affidavits or counter-testimony may be used in opposition to the motion.

6. No amendments or additions to affidavits for continuance will be allowed at the hearing on the motion, and the court may grant or deny the motion without further argument. [Added; effective July 11, 2012.]

Rule 11. Notice of Dismissal. Any voluntary dismissal of the action by the plaintiff, petitioner, or applicant pursuant to [JCRCPC 41\(a\)\(1\)](#), [NRS 174.085\(5\)](#), or [NRS 178.554](#) must be accompanied by a written notice of dismissal. [Added; effective July 11, 2012.]

Rule 12. Withdrawal or change of counsel.

1. Civil cases. An attorney of record shall be deemed such in all subsequent related proceedings before the court until such time as a valid withdrawal of counsel is made pursuant to [SCR 46](#).

2. Criminal cases. Counsel of record, when intending to withdraw, shall serve notice of such intention upon the prosecution and file proof of the same with the clerk. No withdrawal within 20 days of the date set for trial will be recognized by the court, which may, if necessary to prevent a continuance, require such attorney to proceed with the trial. The attorney intending to withdraw shall give the client at least 10 days actual notice of such intention and file proof of the same with the clerk. In addition, there must be strict compliance with [SCR 46](#) relative to any such withdrawal. The request to withdraw must generally relate to counsel's inability to adequately defend his client, with reasons given in relation thereto, rather than to matters relating to the financial arrangements between the attorney and client.

3. Any form of order permitting withdrawal of an attorney submitted to the court for signature shall contain the address at which the party is to be served with notice of all further proceedings.

4. Except for good cause shown, no application for withdrawal or substitution shall be granted if a delay of the trial or hearing of any other matter in the case would result. Discharge of an attorney may not be grounds to delay a trial or other hearing. [Added; effective July 11, 2012.]

Rule 13. Stipulations to be in writing or to be entered in court minutes. No agreement between the parties with respect to the proceedings or pleadings will be regarded unless it is in writing subscribed by the party against whom the same shall be alleged, or unless it has been confirmed by a written order of the court. [Added; effective July 11, 2012.]

Rule 14. Application for writ, order to another judge prohibited when same application pending before different judge or previously denied; exception. When an application or petition for any writ or order shall have been made to a justice of the peace and is pending or has been denied by such justice, the same application or motion shall not again be made to the same or another justice of the peace, except upon the consent in writing of the justice to whom the application or motion was first made.

[Added; effective July 11, 2012.]

Rule 15. Preparation of order, judgment, or decree. The counsel for the party obtaining any order, judgment, or decree shall furnish the form of the same to the clerk or judge in charge of the court.

[Added; effective July 11, 2012.]

Rule 16. Transfer of certain cases to district court from justice court under [NRS 66.070](#): Grounds for dismissal of action. The plaintiff shall cause the papers in a case certified to the district court under the provisions of [NRS](#)

[66.070](#) to be filed in the clerk's office of the district court within 15 days from the day upon which the order of the justice of the peace is made directing the transfer of the case. [Added; effective July 11, 2012.]

Rule 17. Sanctions for noncompliance. If a party or an attorney fails, refuses, or neglects to comply with these rules, the Supreme Court Rules, the Justice Court Rules of Civil Procedure, the orders of the court, or any other statutory requirements, the court may, after notice and an opportunity to be heard, impose any and all sanctions authorized by statute or rule, including but not limited to the following:

1. Hold the disobedient party or attorney in contempt of court.
2. Continue any hearing until the disobedient party or attorney has complied with the requirements imposed, and require the disobedient party to pay the other party his expenses, including reasonable attorney fees, incurred as a result of the party's disobedience.
3. Set the case for immediate trial.
4. Impose a fine.
5. Continue the trial subject to prescribed conditions.
6. Where such party or attorney has failed to make an adequate and fair disclosure of witnesses, evidence, affirmative defenses, case conference reports, pretrial conferences, or as otherwise ordered by the court, the court may refuse to allow the disobedient party or attorney to support or oppose designated claims or defenses, or prohibit him from introducing evidence relative to such matter at time of trial.
7. Impose such other sanction, condition, or remedy as the court, in its discretion, may allow, including those permitted pursuant to [JCRCP 37](#).
[Added; effective July 11, 2012.]

Rule 18. Release and detention pending judicial proceedings.

1. The court shall determine appropriate conditions for release or detention using the factors set forth in [NRS 178.4853](#) and [NRS 178.486](#).
2. All persons released from custody, on bail or otherwise, shall comply with any terms or conditions of release imposed by the court.
3. The court may order the pretrial release of a defendant on personal recognizance upon conditions as the court deems appropriate unless the court determines that such release will not reasonably assure the appearance of the defendant as required or will endanger the safety of any other person or the community.
4. If the court determines that the release of the defendant pursuant to subsection 3 of this rule will not reasonably assure the appearance of the defendant as required or will endanger the safety of any other person or the community, the court shall consider the release of the defendant upon the least restrictive condition, or combination of conditions that will reasonably assure the presence of the defendant as required and the safety of any other person or the community, which may include the condition that the defendant:

(a) Remain in the custody of a designated person, who agrees to assume supervision and agrees to report any violation of a release condition to the court or to such department or agency as the court may select, if the designated person submits to the jurisdiction of the court and is able reasonably to assure the court that the defendant will appear as required and will not pose a danger to the safety of any other person or the community;

(b) Maintain employment or, if unemployed, actively seek employment;

(c) Maintain or commence educational programs;

(d) Abide by specified restrictions on personal associations, place of abode, or travel;

(e) Avoid all contact with an alleged victim of the crime and with any potential witnesses who may testify concerning the alleged offense;

(f) Report by telephone or in person on a regular basis to the court selected department or agency or a designated law enforcement agency or other agency;

(g) Comply with a specified curfew;

(h) Refrain from possessing a firearm, destructive device, or other dangerous weapon;

(i) Refrain from the use of alcohol and controlled substances;

(j) Undergo a specified program of available medical, psychological, psychiatric, or other counseling or treatment, and remain in a specified institution if required for that purpose;

(k) Execute an agreement to forfeit upon failing to appear as required, such designated property, including money, as is reasonably necessary to assure the appearance of the defendant as required, and post with the court such indicia of ownership of the property or such percentage of the money as the court may specify;

(l) Execute a bail bond with solvent sureties in such amount as is reasonably necessary to assure the appearance of the defendant as required;

(m) Return to custody for specified hours following release for employment, schooling, or other limited purposes; and

(n) Satisfy any other condition that is reasonably necessary to assure the appearance of the defendant as required and to assure the safety of any other person and the community.

5. The court may at any time amend the order or conditions of release in accordance with law.

6. When a defendant is bound over to district court or is ordered by the court to appear in district court for any reason, the bail and conditions of release of the justice court remain in effect until modified by the district court.

[Added; effective July 11, 2012.]