

The National Agricultural
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University of Arkansas School of Law

An Agricultural Law Research Project

States' Alternative Dispute Resolution Statutes

State of Nevada

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UNIVERSITY of ARKANSAS
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States' Alternative Dispute Resolution Statutes

STATE OF NEVADA

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General Provisions for Alternative Dispute Resolution

Current through Rules received through August 15, 2008

Rule 1. Definitions.

As used in these rules:

(A) "Arbitration" means a process whereby a neutral third person, called an arbitrator, considers the facts and arguments presented by the parties and renders a decision, which may be binding or nonbinding as provided in these rules.

(B) "Mediation" means a process whereby a neutral third person, called a mediator, acts to encourage and facilitate the resolution of a dispute between two or more parties. It is an informal and nonadversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. In mediation, decision-making authority rests with the parties. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem solving, and exploring settlement alternatives.

(C) "Settlement conference" is a process whereby, with the approval of the district judge to whom the case is assigned, a district court judge not assigned to the particular case, senior judge, special master, referee or other neutral third person, conducts, in the presence of the parties and their attorneys and person or persons with authority to resolve the matter, a conference for the purpose of facilitating settlement of the case.

Rule 2. Forms of court annexed alternative dispute resolution.

(A) For certain civil cases commenced in judicial districts that include a county whose population is 100,000 or more, there shall be made available the following forms of court annexed alternative dispute resolution:

- (1) Arbitration, pursuant to Subpart B of these rules;
- (2) Mediation, pursuant to Subpart C of these rules;
- (3) Settlement conference, as provided herein; and
- (4) Such other alternative dispute resolution mechanisms contemplated by NRS 38.250 as may from time to time be promulgated.

(B) Judicial districts having a lesser population may adopt local rules implementing all or part of these forms of alternative dispute resolution.

(C) Each district may appoint an alternative dispute resolution commissioner to serve at the pleasure of the court. The alternative dispute resolution commissioner (hereafter the commissioner) may be an arbitration commissioner, discovery commissioner, short trial commissioner, other special master, or any qualified and licensed Nevada attorney appointed by the court. The appointment shall be made in accordance with local rules. The commissioner so appointed shall have the responsibilities and powers conferred by these Alternative Dispute Resolution Rules and any local rules.

Uniform Arbitration Act of 2000
Title 3, Chapter 38.

Current through End of 2007 Regular Session

38.206. Short title

NRS 38.206 to 38.248, inclusive, may be cited as the Uniform Arbitration Act of 2000.

38.207. Definitions

As used in NRS 38.206 to 38.248, inclusive, the words and terms defined in NRS 38.208 to 38.213, inclusive, have the meanings ascribed to them in those sections.

38.208. "Arbitral organization" defined

"Arbitral organization" means an association, agency, board, commission or other entity that is neutral and initiates, sponsors or administers an arbitral proceeding or is involved in the appointment of an arbitrator.

38.209. "Arbitrator" defined

"Arbitrator" means an individual appointed to render an award, alone or with others, in a controversy that is subject to an agreement to arbitrate.

38.211. "Court" defined

"Court" means the district court.

38.212. "Knowledge" defined

"Knowledge" means actual knowledge.

38.213. "Record" defined

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

38.214. Notice

1. Except as otherwise provided in NRS 38.206 to 38.248, inclusive, a person gives notice to another person by taking action that is reasonably necessary to inform the other person in ordinary course, whether or not the other person acquires knowledge of the notice.

2. A person has notice if he has knowledge of the notice or has received notice.

3. A person receives notice when it comes to his attention or the notice is delivered at his place of residence or place of business, or at another location held out by him as a place of delivery of such communications.

38.216. Applicability

1. NRS 38.206 to 38.248, inclusive, govern an agreement to arbitrate made on or after October 1, 2001.

2. NRS 38.206 to 38.248, inclusive, govern an agreement to arbitrate made before October 1, 2001, if all the parties to the agreement or to the arbitral proceeding so agree in a record.

3. On or after October 1, 2003, NRS 38.206 to 38.248, inclusive, govern an agreement to arbitrate whenever made.

38.217. Waiver of requirements or variance of effects of requirements; exceptions

1. Except as otherwise provided in subsections 2 and 3, a party to an agreement to arbitrate or to an arbitral proceeding may waive, or the parties may vary the effect of, the requirements of NRS 38.206 to 38.248, inclusive, to the extent permitted by law.

2. Before a controversy arises that is subject to an agreement to arbitrate, a party to the agreement may not:

(a) Waive or agree to vary the effect of the requirements of subsection 1 of NRS 38.218, subsection 1 of NRS 38.219, NRS 38.222, subsection 1 or 2 of NRS 38.233, NRS 38.244 or 38.247;

(b) Agree to unreasonably restrict the right under NRS 38.223 to notice of the initiation of an arbitral proceeding;

(c) Agree to unreasonably restrict the right under NRS 38.227 to disclosure of any facts by a neutral

arbitrator; or

(d) Waive the right under NRS 38.232 of a party to an agreement to arbitrate to be represented by a lawyer at any proceeding or hearing under NRS 38.206 to 38.248, inclusive, but an employer and a labor organization may waive the right to representation by a lawyer in a labor arbitration.

3. A party to an agreement to arbitrate or arbitral proceeding may not waive, or the parties may not vary the effect of, the requirements of this section or subsection 1 or 3 of NRS 38.216, NRS 38.221, 38.229, 38.234, subsection 3 or 4 of NRS 38.237, NRS 38.239, 38.241, 38.242, subsection 1 or 2 of NRS 38.243, NRS 38.248 or 38.330.

38.218. Application for judicial relief; service of notice of initial motion

1. Except as otherwise provided in NRS 38.247, an application for judicial relief under NRS 38.206 to 38.248, inclusive, must be made by motion to the court and heard in the manner provided by rule of court for making and hearing motions.

2. Unless a civil action involving the agreement to arbitrate is pending, notice of an initial motion to the court under NRS 38.206 to 38.248, inclusive, must be served in the manner provided by rule of court for the service of a summons in a civil action. Otherwise, notice of the motion must be given in the manner provided by rule of court for serving motions in pending cases.

38.219. Validity of agreement to arbitrate

1. An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable and irrevocable except upon a ground that exists at law or in equity for the revocation of a contract.

2. The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.

3. An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable.

4. If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitral proceeding may continue pending final resolution of the issue by the court, unless the court otherwise orders.

38.221. Motion to compel or stay arbitration

1. On motion of a person showing an agreement to arbitrate and alleging another person's refusal to arbitrate pursuant to the agreement:

(a) If the refusing party does not appear or does not oppose the motion, the court shall order the parties to arbitrate; and

(b) If the refusing party opposes the motion, the court shall proceed summarily to decide the issue and

order the parties to arbitrate unless it finds that there is no enforceable agreement to arbitrate.

2. On motion of a person alleging that an arbitral proceeding has been initiated or threatened but that there is no agreement to arbitrate, the court shall proceed summarily to decide the issue. If the court finds that there is an enforceable agreement to arbitrate, it shall order the parties to arbitrate.

3. If the court finds that there is no enforceable agreement, it may not, pursuant to subsection 1 or 2, order the parties to arbitrate.

4. The court may not refuse to order arbitration because the claim subject to arbitration lacks merit or grounds for the claim have not been established.

5. If a proceeding involving a claim referable to arbitration under an alleged agreement to arbitrate is pending in court, a motion under this section must be made in that court. Otherwise, a motion under this section may be made in any court as provided in NRS 38.246.

6. If a party makes a motion to the court to order arbitration, the court on just terms shall stay any judicial proceeding that involves a claim alleged to be subject to the arbitration until the court renders a final decision under this section.

7. If the court orders arbitration, the court on just terms shall stay any judicial proceeding that involves a claim subject to the arbitration. If a claim subject to the arbitration is severable, the court may limit the stay to that claim.

38.222. Provisional remedies

1. Before an arbitrator is appointed and is authorized and able to act, the court, upon motion of a party to an arbitral proceeding and for good cause shown, may enter an order for provisional remedies to protect the effectiveness of the arbitral proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action.

2. After an arbitrator is appointed and is authorized and able to act:

(a) The arbitrator may issue such orders for provisional remedies, including interim awards, as he finds necessary to protect the effectiveness of the arbitral proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and under the same conditions as if the controversy were the subject of a civil action; and

(b) A party to an arbitral proceeding may move the court for a provisional remedy only if the matter is urgent and the arbitrator is not able to act timely or the arbitrator cannot provide an adequate remedy.

3. A party does not waive a right of arbitration by making a motion under subsection 1 or 2.

38.223. Initiation of arbitration

1. A person initiates an arbitral proceeding by giving notice in a record to the other parties to the agreement to arbitrate in the agreed manner between the parties or, in the absence of agreement, by

certified or registered mail, return receipt requested and obtained, or by service as authorized for the commencement of a civil action. The notice must describe the nature of the controversy and the remedy sought.

2. Unless a person objects for lack or insufficiency of notice under subsection 3 of NRS 38.231 not later than the beginning of the arbitration hearing, by appearing at the hearing he waives any objection to lack of or insufficiency of notice.

38.224. Consolidation of separate arbitration proceedings

1. Except as otherwise provided in subsection 3, upon motion of a party to an agreement to arbitrate or to an arbitral proceeding, the court may order consolidation of separate arbitral proceedings as to all or some of the claims if:

(a) There are separate agreements to arbitrate or separate arbitral proceedings between the same persons or one of them is a party to a separate agreement to arbitrate or a separate arbitral proceeding with a third person;

(b) The claims subject to the agreements to arbitrate arise in substantial part from the same transaction or series of related transactions;

(c) The existence of a common issue of law or fact creates the possibility of conflicting decisions in the separate arbitral proceedings; and

(d) Prejudice resulting from a failure to consolidate is not outweighed by the risk of undue delay or prejudice to the rights of or hardship to parties opposing consolidation.

2. The court may order consolidation of separate arbitral proceedings as to some claims and allow other claims to be resolved in separate arbitral proceedings.

3. The court may not order consolidation of the claims of a party to an agreement to arbitrate if the agreement prohibits consolidation.

38.226. Appointment of arbitrator; service as neutral arbitrator

1. If the parties to an agreement to arbitrate agree on a method for appointing an arbitrator, that method must be followed, unless the method fails. If the parties have not agreed on a method, the agreed method fails, or an arbitrator appointed fails or is unable to act and a successor has not been appointed, the court, on motion of a party to the arbitral proceeding, shall appoint the arbitrator. An arbitrator so appointed has all the powers of an arbitrator designated in the agreement to arbitrate or appointed pursuant to the agreed method.

2. An individual who has a known, direct and material interest in the outcome of the arbitral proceeding or a known, existing and substantial relationship with a party may not serve as an arbitrator required by an agreement to be neutral.

38.227. Disclosure by arbitrator

1. Before accepting appointment, an individual who is requested to serve as an arbitrator, after making a reasonable inquiry, shall disclose to all parties to the agreement to arbitrate and arbitral proceeding and to any other arbitrators any known facts that a reasonable person would consider likely to affect the impartiality of the arbitrator in the proceeding, including:

(a) A financial or personal interest in the outcome of the arbitral proceeding; and

(b) An existing or past relationship with any of the parties to the agreement to arbitrate or the arbitral proceeding, their counsel or representatives, a witness or another arbitrator.

2. An arbitrator has a continuing obligation to disclose to all parties to the agreement to arbitrate and arbitral proceeding and to any other arbitrators any facts that he learns after accepting appointment which a reasonable person would consider likely to affect the impartiality of the arbitrator.

3. If an arbitrator discloses a fact required by subsection 1 or 2 to be disclosed and a party timely objects to the appointment or continued service of the arbitrator based upon the fact disclosed, the objection may be a ground under paragraph (b) of subsection 1 of NRS 38.241 for vacating an award made by the arbitrator.

4. If the arbitrator did not disclose a fact as required by subsection 1 or 2, upon timely objection by a party, the court under paragraph (b) of subsection 1 of NRS 38.241 may vacate an award.

5. An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct and material interest in the outcome of the arbitral proceeding or a known, existing and substantial relationship with a party is presumed to act with evident partiality for the purposes of paragraph (b) of subsection 1 of NRS 38.241.

6. If the parties to an arbitral proceeding agree to the procedures of an arbitral organization or any other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a motion to vacate an award on that ground under paragraph (b) of subsection 1 of NRS 38.241.

38.228. Action by majority

If there are two or more arbitrators, the powers of an arbitrator must be exercised by a majority of the arbitrators, but all of them shall conduct the hearing under subsection 3 of NRS 38.231.

38.229. Immunity of arbitrator; competency to testify; attorney's fees and costs

1. An arbitrator or an arbitral organization acting in that capacity is immune from civil liability to the same extent as a judge of a court of this State acting in a judicial capacity.

2. The immunity afforded by this section supplements any immunity under other law.

3. The failure of an arbitrator to make a disclosure required by NRS 38.227 does not cause any loss of immunity under this section.

4. In a judicial, administrative or similar proceeding, an arbitrator or representative of an arbitral organization is not competent to testify, and may not be required to produce records as to any statement, conduct, decision or ruling occurring during the arbitral proceeding, to the same extent as a judge of a court of this State acting in a judicial capacity. This subsection does not apply:

(a) To the extent necessary to determine the claim of an arbitrator, arbitral organization or representative of the arbitral organization against a party to the arbitral proceeding; or

(b) To a hearing on a motion to vacate an award under paragraph (a) or (b) of subsection 1 of NRS 38.241 if the movant establishes prima facie that a ground for vacating the award exists.

5. If a person commences a civil action against an arbitrator, arbitral organization or representative of an arbitral organization arising from the services of the arbitrator, organization or representative or if a person seeks to compel an arbitrator or a representative of an arbitral organization to testify or produce records in violation of subsection 4, and the court decides that the arbitrator, arbitral organization or representative is immune from civil liability or that the arbitrator or representative is not competent to testify, the court shall award to the arbitrator, organization or representative reasonable attorney's fees and other reasonable expenses of litigation.

38.231. Arbitration process

1. An arbitrator may conduct an arbitration in such manner as he considers appropriate for a fair and expeditious disposition of the proceeding. The authority conferred upon the arbitrator includes the power to hold conferences with the parties to the arbitral proceeding before the hearing and, among other matters, determine the admissibility, relevance, materiality and weight of any evidence.

2. An arbitrator may decide a request for summary disposition of a claim or particular issue:

(a) If all interested parties agree; or

(b) Upon request of one party to the arbitral proceeding if that party gives notice to all other parties to the proceeding, and the other parties have a reasonable opportunity to respond.

3. If an arbitrator orders a hearing, he shall set a time and place and give notice of the hearing not less than 5 days before the hearing begins. Unless a party to the arbitral proceeding makes an objection to lack or insufficiency of notice not later than the beginning of the hearing, his appearance at the hearing waives the objection. Upon request of a party to the arbitral proceeding and for good cause shown, or upon his own initiative, the arbitrator may adjourn the hearing from time to time as necessary but may not postpone the hearing to a time later than that fixed by the agreement to arbitrate for making the award unless the parties to the arbitral proceeding consent to a later date. The arbitrator may hear and decide the controversy upon the evidence produced although a party who was duly notified of the arbitral proceeding did not appear. The court, on request, may direct the arbitrator to conduct the hearing promptly and render a timely decision.

4. At a hearing held under subsection 3, a party to the arbitral proceeding has a right to be heard, to present evidence material to the controversy and to cross-examine witnesses appearing at the hearing.

5. If an arbitrator ceases or is unable to act during an arbitral proceeding, a replacement arbitrator must be appointed in accordance with NRS 38.226 to continue the proceeding and to resolve the controversy.

38.232. Representation by lawyer

A party to an arbitral proceeding may be represented by a lawyer.

38.233. Witnesses; subpoenas; depositions; discovery

1. An arbitrator may issue a subpoena for the attendance of a witness and for the production of records and other evidence at any hearing and may administer oaths. A subpoena must be served in the manner for service of subpoenas in a civil action and, upon motion to the court by a party to the arbitral proceeding or the arbitrator, enforced in the manner for enforcement of subpoenas in a civil action.
2. To make the proceedings fair, expeditious and cost effective, upon request of a party to or a witness in an arbitral proceeding, an arbitrator may permit a deposition of any witness to be taken for use as evidence at the hearing, including a witness who cannot be subpoenaed for or is unable to attend a hearing. The arbitrator shall determine the conditions under which the deposition is taken.
3. An arbitrator may permit such discovery as he decides is appropriate in the circumstances, taking into account the needs of the parties to the arbitral proceeding and other affected persons and the desirability of making the proceeding fair, expeditious and cost effective.
4. If an arbitrator permits discovery under subsection 3, he may order a party to the arbitral proceeding to comply with the arbitrator's orders related to discovery, issue subpoenas for the attendance of a witness and for the production of records and other evidence at a proceeding for discovery, and take action against a noncomplying party to the extent a court could if the controversy were the subject of a civil action in this State.
5. An arbitrator may issue a protective order to prevent the disclosure of privileged information, confidential information, trade secrets and other information protected from disclosure to the extent a court could if the controversy were the subject of a civil action in this State.
6. All laws compelling a person under subpoena to testify and all fees for attending a judicial proceeding, a deposition or a proceeding for discovery as a witness apply to an arbitral proceeding as if the controversy were the subject of a civil action in this State.
7. The court may enforce a subpoena or order related to discovery for the attendance of a witness within this State and for the production of records and other evidence issued by an arbitrator in connection with an arbitral proceeding in another state upon conditions determined by the court so as to make the arbitral proceeding fair, expeditious and cost effective. A subpoena or order related to discovery issued by an arbitrator in another state must be served in the manner provided by rule of court for service of subpoenas in a civil action in this State and, upon motion to the court by a party to the arbitral proceeding or the arbitrator, enforced in the manner provided by rule of court for enforcement of subpoenas in a civil action in this State.

38.234. Judicial enforcement of preaward ruling by arbitrator

If an arbitrator makes a preaward ruling in favor of a party to an arbitral proceeding, the party may request the arbitrator to incorporate the ruling into an award under NRS 38.236. A prevailing party may make a motion to the court for an expedited order to confirm the award under NRS 38.239, in which case the court shall summarily decide the motion. The court shall issue an order to confirm the award unless the court vacates, modifies or corrects the award under NRS 38.241 or 38.242.

38.236. Award

1. An arbitrator shall make a record of an award. The record must be signed or otherwise authenticated by an arbitrator who concurs with the award. The arbitrator or the arbitral organization shall give notice of the award, including a copy of the award, to each party to the arbitral proceeding.
2. An award must be made within the time specified by the agreement to arbitrate or, if not specified therein, within the time ordered by the court. The court may extend or the parties to the arbitral proceeding may agree in a record to extend the time. The court or the parties may do so within or after the time specified or ordered. A party waives any objection that an award was not timely made unless he gives notice of the objection to the arbitrator before receiving notice of the award.

38.237. Change of award by arbitrator

1. On motion to an arbitrator by a party to an arbitral proceeding, the arbitrator may modify or correct an award:
 - (a) Upon a ground stated in paragraph (a) or (c) of subsection 1 of NRS 38.242;
 - (b) Because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitral proceeding; or
 - (c) To clarify the award.
2. A motion under subsection 1 must be made and notice given to all parties within 20 days after the movant receives notice of the award.
3. A party to the arbitral proceeding must give notice of any objection to the motion within 10 days after receipt of the notice.
4. If a motion to the court is pending under NRS 38.239, 38.241 or 38.242, the court may submit the claim to the arbitrator to consider whether to modify or correct the award:
 - (a) Upon a ground stated in paragraph (a) or (c) of subsection 1 of NRS 38.242;
 - (b) Because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitral proceeding; or
 - (c) To clarify the award.

5. An award modified or corrected pursuant to this section is subject to subsection 1 of NRS 38.236 and to NRS 38.239, 38.241 and 38.242.

38.238. Remedies; fees and expenses of arbitration proceeding

1. An arbitrator may award reasonable attorney's fees and other reasonable expenses of arbitration if such an award is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitral proceeding.

2. As to all remedies other than those authorized by subsection 1, an arbitrator may order such remedies as he considers just and appropriate under the circumstances of the arbitral proceeding. The fact that such a remedy could not or would not be granted by the court is not a ground for refusing to confirm an award under NRS 38.239 or for vacating an award under NRS 38.241.

3. An arbitrator's expenses and fees, together with other expenses, must be paid as provided in the award.

38.239. Confirmation of award

After a party to an arbitral proceeding receives notice of an award, he may make a motion to the court for an order confirming the award at which time the court shall issue a confirming order unless the award is modified or corrected pursuant to NRS 38.237 or 38.242 or is vacated pursuant to NRS 38.241.

38.241. Vacating award

1. Upon motion to the court by a party to an arbitral proceeding, the court shall vacate an award made in the arbitral proceeding if:

(a) The award was procured by corruption, fraud or other undue means;

(b) There was:

(1) Evident partiality by an arbitrator appointed as a neutral arbitrator;

(2) Corruption by an arbitrator; or

(3) Misconduct by an arbitrator prejudicing the rights of a party to the arbitral proceeding;

(c) An arbitrator refused to postpone the hearing upon showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to NRS 38.231, so as to prejudice substantially the rights of a party to the arbitral proceeding;

(d) An arbitrator exceeded his powers;

(e) There was no agreement to arbitrate, unless the movant participated in the arbitral proceeding without raising the objection under subsection 3 of NRS 38.231 not later than the beginning of the arbitral hearing; or

(f) The arbitration was conducted without proper notice of the initiation of an arbitration as required in

NRS 38.223 so as to prejudice substantially the rights of a party to the arbitral proceeding.

2. A motion under this section must be made within 90 days after the movant receives notice of the award pursuant to NRS 38.236 or within 90 days after he receives notice of a modified or corrected award pursuant to NRS 38.237, unless he alleges that the award was procured by corruption, fraud or other undue means, in which case the motion must be made within 90 days after the ground is known or by the exercise of reasonable care would have been known by the movant.

3. If the court vacates an award on a ground other than that set forth in paragraph (e) of subsection 1, it may order a rehearing. If the award is vacated on a ground stated in paragraph (a) or (b) of subsection 1, the rehearing must be before a new arbitrator. If the award is vacated on a ground stated in paragraph (c), (d) or (f) of subsection 1, the rehearing may be before the arbitrator who made the award or his successor. The arbitrator must render the decision in the rehearing within the same time as that provided in subsection 2 of NRS 38.236 for an award.

4. If the court denies a motion to vacate an award, it shall confirm the award unless a motion to modify or correct the award is pending.

38.242. Modification or correction of award

1. Upon motion made within 90 days after the movant receives notice of the award pursuant to NRS 38.236 or within 90 days after he receives notice of a modified or corrected award pursuant to NRS 38.237, the court shall modify or correct the award if:

(a) There was an evident mathematical miscalculation or an evident mistake in the description of a person, thing or property referred to in the award;

(b) The arbitrator has made an award on a claim not submitted to him and the award may be corrected without affecting the merits of the decision upon the claims submitted; or

(c) The award is imperfect in a matter of form not affecting the merits of the decision on the claims submitted.

2. If a motion made under subsection 1 is granted, the court shall modify or correct and confirm the award as modified or corrected. Otherwise, unless a motion to vacate is pending, the court shall confirm the award.

3. A motion to modify or correct an award pursuant to this section may be joined with a motion to vacate the award.

38.243. Judgment on award; attorney's fees and litigation expenses

1. Upon granting an order confirming, vacating without directing a rehearing, modifying or correcting an award, the court shall enter a judgment in conformity therewith. The judgment may be recorded, docketed and enforced as any other judgment in a civil action.

2. A court may allow reasonable costs of the motion and subsequent judicial proceedings.

3. On application of a prevailing party to a contested judicial proceeding under NRS 38.239, 38.241 or 38.242, the court may add reasonable attorney's fees and other reasonable expenses of litigation incurred in a judicial proceeding after the award is made to a judgment confirming, vacating without directing a rehearing, modifying or correcting an award.

38.244. Jurisdiction

1. A court of this state having jurisdiction over the controversy and the parties may enforce an agreement to arbitrate.
2. An agreement to arbitrate providing for arbitration in this state confers exclusive jurisdiction on the court to enter judgment on an award under NRS 38.206 to 38.248, inclusive.

38.246. Venue

A motion pursuant to NRS 38.218 must be made in the court of the county in which the agreement to arbitrate specifies the arbitration hearing is to be held or, if the hearing has been held, in the court of the county in which it was held. Otherwise, the motion may be made in the court of any county in which an adverse party resides or has a place of business or, if no adverse party has a residence or place of business in this State, in the court of any county in this State. All subsequent motions must be made in the court hearing the initial motion unless the court otherwise directs.

38.247. Appeals

1. An appeal may be taken from:
 - (a) An order denying a motion to compel arbitration;
 - (b) An order granting a motion to stay arbitration;
 - (c) An order confirming or denying confirmation of an award;
 - (d) An order modifying or correcting an award;
 - (e) An order vacating an award without directing a rehearing; or
 - (f) A final judgment entered pursuant to NRS 38.206 to 38.248, inclusive.

2. An appeal under this section must be taken as from an order or a judgment in a civil action.

38.248. Uniformity of application and construction

In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Arbitration of Actions in District Courts and Justice Courts

38.250. Nonbinding arbitration of certain civil actions filed in district court required; nonbinding arbitration of certain civil actions filed in Justice Court authorized; effect of certain agreements by parties to use other alternative methods of resolving disputes

1. Except as otherwise provided in NRS 38.310:

(a) All civil actions filed in district court for damages, if the cause of action arises in the State of Nevada and the amount in issue does not exceed \$50,000 per plaintiff, exclusive of attorney's fees, interest and court costs, must be submitted to nonbinding arbitration in accordance with the provisions of NRS 38.250 to 38.259, inclusive, unless the parties have agreed or are otherwise required to submit the action to an alternative method of resolving disputes established by the Supreme Court pursuant to NRS 38.258, including, without limitation, a settlement conference, mediation or a short trial.

(b) A civil action for damages filed in Justice Court may be submitted to binding arbitration or to an alternative method of resolving disputes, including, without limitation, a settlement conference or mediation, if the parties agree to the submission.

2. An agreement entered into pursuant to this section must be:

(a) Entered into at the time of the dispute and not be a part of any previous agreement between the parties;

(b) In writing; and

(c) Entered into knowingly and voluntarily.

An agreement entered into pursuant to this section that does not comply with the requirements set forth in this subsection is void.

3. As used in this section, "short trial" means a trial that is conducted, with the consent of the parties to the action, in accordance with procedures designed to limit the length of the trial, including, without limitation, restrictions on the amount of discovery requested by each party, the use of a jury composed of not more than eight persons and a specified limit on the amount of time each party may use to present his case.

38.253. Adoption of rules by Supreme Court; training; administration by district courts; fees; arbitrator deemed employee of court for certain purposes

1. The Supreme Court shall adopt rules to provide for the establishment of a program of arbitration pursuant to NRS 38.25.

2. The Supreme Court, in association with the State Bar of Nevada or other organizations, shall provide training in arbitration for attorneys and nonattorneys.

3. The district courts in each judicial district shall administer the program in their respective districts in accordance with the rules adopted by Supreme Court.

4. The Supreme Court may:

- (a) Charge each person who applies for training as an arbitrator an application fee.
- (b) Charge a fee to cover the cost of the training programs.

5. For the purposes of NRS 41.0305 to 41.039, inclusive, a person serving as an arbitrator shall be deemed an employee of the court while in the performance of his duties under the program.

38.255. Guidelines for establishment of programs for arbitration; duty of Supreme Court to submit report concerning programs

1. The rules adopted by the Supreme Court pursuant to NRS 38.253 to provide guidelines for the establishment by a district court of a program must include provisions for a:

- (a) Mandatory program for the arbitration of civil actions pursuant to NRS 38.250.
- (b) Voluntary program for the arbitration of civil actions if the cause of action arises in the State of Nevada and the amount in issue exceeds \$50,000 per plaintiff, exclusive of attorney's fees, interest and court costs.
- (c) Voluntary program for the use of binding arbitration in all civil actions.

2. The rules must provide that the district court of any judicial district whose population is 100,000 or more:

- (a) Shall establish programs pursuant to paragraphs (a), (b) and (c) of subsection 1.
- (b) May set fees and charge parties for arbitration if the amount in issue exceeds \$50,000 per plaintiff, exclusive of attorney's fees, interest and court costs.

The rules may provide for similar programs for the other judicial districts.

3. The rules must exclude the following from any program of mandatory arbitration:

- (a) Actions in which the amount in issue, excluding attorney's fees, interest and court costs, is more than \$50,000 or less than the maximum jurisdictional amounts specified in NRS 4.370 and 73.010;
- (b) Class actions;
- (c) Actions in equity;
- (d) Actions concerning the title to real estate;
- (e) Probate actions;
- (f) Appeals from courts of limited jurisdiction;

- (g) Actions for declaratory relief;
- (h) Actions involving divorce or problems of domestic relations;
- (i) Actions brought for relief based on any extraordinary writs;
- (j) Actions for the judicial review of an administrative decision;
- (k) Actions in which the parties, pursuant to a written agreement executed before the accrual of the cause of action or pursuant to rules adopted by the Supreme Court, have submitted the controversy to arbitration or any other alternative method for resolving a dispute;
- (l) Actions that present unusual circumstances that constitute good cause for removal from the program;
- (m) Actions in which any of the parties is incarcerated; and
- (n) Actions submitted to mediation pursuant to rules adopted by the Supreme Court.

4. The rules must include:

- (a) Provisions for the payment of fees to an arbitrator who is appointed to hear a case pursuant to the rules. The rules must provide that an arbitrator must be compensated at a rate of \$100 per hour, to a maximum of \$1,000 per case, unless otherwise authorized by the arbitration commissioner for good cause shown.
- (b) Guidelines for the award of attorney's fees and maximum limitations on the costs to the parties of the arbitration.
- (c) Disincentives to appeal.
- (d) Provisions for trial upon the exercise by either party of his right to a trial anew after the arbitration.

5. The Supreme Court shall, on or before February 1 of each odd-numbered year, submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Chairmen of the Assembly and Senate Standing Committees on Judiciary. The report must include, for the period since the previous such report, if any:

- (a) A listing of the number of actions which were submitted to arbitration or other alternative methods of resolving disputes pursuant to NRS 38.250 or 38.258 and their manner of disposition;
- (b) A statement of the amount of money collected in each judicial district pursuant to NRS 19.0315 and a summary of the manner in which the fees were expended; and
- (c) Any recommendations for legislation or other information regarding the programs on arbitration deemed relevant by the Supreme Court.

38.258. Use of other alternative methods of resolving disputes; adoption of rules by Supreme Court

1. The Supreme Court may authorize the use of settlement conferences and other alternative methods of resolving disputes, including, without limitation, mediation and a short trial, that are available in the county in which a district court is located:

- (a) In lieu of submitting an action to nonbinding arbitration pursuant to NRS 38.250; or
- (b) During or following such nonbinding arbitration if the parties agree that the use of any such alternative methods of resolving disputes would assist in the resolution of the dispute.

2. If the Supreme Court authorizes the use of an alternative method of resolving disputes pursuant to subsection 1, the Supreme Court shall adopt rules and procedures to govern the use of any such method.

3. As used in this section, "short trial" has the meaning ascribed to it in NRS 38.250.

38.259. Certain written findings concerning arbitration required; admissibility of such findings at trial anew before jury; instructions to jury

1. If an action is submitted to arbitration in accordance with the provisions of NRS 38.250 to 38.259, inclusive, the arbitrator or panel of arbitrators shall, in addition to any other written findings of fact or conclusions of law, make written findings in accordance with this subsection concerning each cause of action. The written findings must be in substantially the following form, with "panel of arbitrators" being substituted for "arbitrator" when appropriate:

Based upon the evidence presented at the arbitration hearing concerning the cause of action for, the arbitrator finds in favor of(name of the party) and("awards damages in the amount of \$" or "does not award any damages on that cause of action").

2. If an action is submitted to arbitration in accordance with the provisions of NRS 38.250 to 38.259, inclusive, and, after arbitration, a party requests a trial anew before a jury

(a) The written findings made by the arbitrator or the panel of arbitrators pursuant to subsection 1 must be admitted at trial. The testimony of the arbitrator or arbitrators, whenever taken, must not be admitted at trial, and the arbitrator or arbitrators must not be deposed or called to testify concerning the arbitration. Any other evidence concerning the arbitration must not be admitted at trial, unless the admission of such evidence is required by the Constitution of this State or the Constitution of the United States.

(b) The court shall give the following instruction to the jury concerning the action, substituting "panel of arbitrators" for "arbitrator" when appropriate:

During the course of this trial, certain evidence was admitted concerning the findings of an arbitrator. On the cause of action for, the arbitrator found in favor of(name of the party) and("awarded damages in the amount of \$" or "did not award any damages on that cause of action"). The findings of the arbitrator may be given the same weight as other evidence or may be disregarded. However, you must not give those findings undue weight because they were made by an arbitrator, and you must not use the findings of the arbitrator as a substitute for your independent

judgment. You must weigh all the evidence that was presented at trial and arrive at a conclusion based upon your own determination of the cause of action.

3. The court shall give a separate instruction pursuant to paragraph (b) of subsection 2 for each such cause of action that is tried before a jury.

Nevada Arbitration Rules

Current through Rules received through August 15, 2008

Rule 1. The court annexed arbitration program.

The Court Annexed Arbitration Program (the program) is a mandatory, non-binding arbitration program, as hereinafter described, for certain civil cases commenced in judicial districts that include a county whose population is 100,000 or more. Judicial districts having a lesser population may adopt local rules implementing all or part of the program.

Rule 2. Intent of program and application of rules.

(A) The purpose of the program is to provide a simplified procedure for obtaining a prompt and equitable resolution of certain civil matters.

(B) These rules shall apply to all arbitration proceedings commenced in the program.

(C) These arbitration rules are not intended, nor should they be construed, to address every issue which may arise during the arbitration process. The intent of these rules is to give considerable discretion to the arbitrator, the commissioner and the district judge. Arbitration hearings are intended to be informal, expeditious and consistent with the purposes and intent of these rules.

(D) These rules may be known and cited as the Nevada Arbitration Rules, or abbreviated N.A.R.

Rule 3. Matters subject to arbitration.

(A) All civil cases commenced in the district courts that have a probable jury award value not in excess of \$50,000 per plaintiff, exclusive of interest and costs, and regardless of comparative liability, are subject to the program, except class actions, appeals from courts of limited jurisdiction, probate actions, divorce and other domestic relations actions, actions seeking judicial review of administrative decisions, actions concerning title to real estate, actions for declaratory relief, actions governed by the provisions of NRS 41A.003 to 41A.069, inclusive, actions presenting significant issues of public policy, actions in which the parties have agreed in writing to submit the controversy to arbitration or other alternative dispute resolution method prior to the accrual of the cause of action, actions seeking equitable or extraordinary relief, actions that present unusual circumstances that constitute good cause for removal from the program, actions in which any of the parties is incarcerated and actions utilizing mediation pursuant to Subpart C of these rules.

(B) Any civil case, regardless of the monetary value, the amount in controversy, or the relief sought, may be submitted to the program upon the agreement of all parties and the approval of the district

judge to whom the case is assigned.

(C) While a case is in the program, the parties may, with the approval of the district judge to whom the case is assigned, stipulate, or the court may order that a settlement conference, mediation proceeding, or other appropriate settlement technique be conducted by another district judge, a senior judge, or a special master. The settlement procedure conducted pursuant to this subdivision will extend by no more than 30 days the timetable set forth in these rules for resolving cases in the program.

(D) Parties to cases submitted or ordered to the program may agree at any time to be bound by any arbitration ruling or award. If the parties agree to be bound by the decision of the arbitrator, the procedures set forth in these rules governing trials de novo will not apply to the case. The parties may, however, either confirm, vacate or modify the decision of the arbitrator in the manner authorized by NRS 38.135, 38.145 and 38.155.

(E) In cases where any party's claim qualifies for exemption, any other party's claim, though suitable for arbitration, may be included with the exempt claims in the district court action for the convenience of the litigants, if the party with the claim qualified for arbitration so requests.

Rule 4. Relationship to district court jurisdiction and rules.

(A) Cases filed in the district court shall remain under the jurisdiction of that court for all phases of the proceedings, including arbitration.

(B) The district court having jurisdiction over a case has the authority to act on or interpret these rules.

(C) Before a case is submitted or ordered to the program, and after a request for trial de novo is filed, and except as hereinafter stated, all applicable rules of the district court, the Nevada Short Trial Rules, and the Nevada Rules of Civil Procedure apply. After a case is submitted or ordered to the program, and before a request for trial de novo is filed, or until the case is removed from the program, these rules apply. Except as stated elsewhere herein, once a case is accepted or remanded into the program, the requirements of N.R.C.P. 16.1 do not apply.

(D) The calculation of time and the requirements of service of pleadings and documents under these rules are the same as under the Nevada Rules of Civil Procedure. The commissioner or the commissioner's designee shall serve all rulings of the commissioner on any matter as defined in N.R.C.P. 5(b); additionally, in the Eighth Judicial District, service may also be made by the commissioner's designee placing the ruling or other communication in the attorney's folder in the clerk's office. Whenever a party is required or permitted to do an act within a prescribed period after service of a ruling by mail or by placement in the attorney's folder, 3 days shall be added to the prescribed period.

(E) During the pendency of arbitration proceedings conducted pursuant to these rules, no motion may be filed in the district court by any party, except motions that are dispositive of the action, or any portion thereof, motions to amend, consolidate, withdraw, intervene, or motions made pursuant to Rule 3(C), requesting a settlement conference, mediation proceeding or other appropriate settlement technique. Any of the foregoing motions must be filed no later than 45 days prior to the arbitration hearing, or said motion may be foreclosed by the judge and/or sanctions may be imposed. A copy of all

motions and orders resulting therefrom shall be served upon the arbitrator.

(F) Once a case is submitted or ordered to the program all parties subsequently joined in the action shall be parties to the arbitration unless dismissed by the district judge to whom the case is assigned.

(G) Except as otherwise provided in these rules, all disputed issues arising under these rules must be resolved in the manner set forth in Rule 8(B).

Rule 5. Exemptions from arbitration.

(A) A party claiming an exemption from the program pursuant to Rule 3(A) on grounds other than the amount in controversy, the presentation of significant issues of public policy, or the presentation of unusual circumstances that constitute good cause for removal from the program will not be required to file a request for exemption if the initial pleading specifically designates the category of claimed exemption in the caption. Otherwise, if a party believes that a case should not be in the program, that party must file with the commissioner a request to exempt the case from the program and serve the request on any party who has appeared in the action. The request for exemption must be filed within 20 days after the filing of an answer by the first answering defendant, and the party requesting the exemption must certify that his or her case is included in one of the categories of exempt cases listed in Rule 3. The request for exemption must also include a summary of facts which supports the party's contentions. For good cause shown, an appropriate case may be removed from the program upon the filing of an untimely request for exemption; however, such filing may subject the requesting party to sanctions by the commissioner.

(B) Any opposition to a request for exemption from arbitration must be filed with the commissioner and served upon all appearing parties within 5 days of service of the request for exemption.

(C) The parties may file a joint request for exemption.

(D) Where requests for exemptions from arbitration are filed, the commissioner shall review the contentions, facts and evidence available and determine whether an exemption is warranted. The commissioner may require that a party submit additional facts supporting the party's contentions. Any objection(s) to the commissioner's decision must be filed with the commissioner who shall then notify the district judge to whom the case is assigned. Objections must be filed within 5 days of the date the commissioner's decision is served, with service to all parties.

(E) The district judge to whom a case is assigned shall make all final determinations regarding the arbitrability of a case and may hold a hearing on the issue of arbitrability, if necessary. The district judge's determination of such an issue is not reviewable.

(F) The district judge to whom a case is assigned may impose any sanction authorized by N.R.C.P. 11 against any party who without good cause or justification attempts to remove a case from the program.

(G) Any party to any action has standing to seek alternative dispute resolution under these rules.

Rule 6. Assignment to arbitrator.

(A) Parties may stipulate to use a private arbitrator or arbitrators who are not on the panel of arbitrators assigned to the program, or who are on the panel but who have agreed to serve on a private basis. Such stipulations must be made and filed with the commissioner no later than the date set for the return of the arbitration selection list and may require the use of any alternative dispute resolution procedure to resolve the dispute. The stipulation must include an affidavit that is signed and verified by the arbitrator expressing his or her willingness to comply with the timetables set forth in these rules. Failure to file a timely stipulation shall not preclude the use of a private arbitrator, but may subject the dilatory parties to sanctions by the commissioner.

(B) Any and all fees or expenses related to the use of a private arbitrator, or the use of any other alternative dispute resolution procedure, shall be borne by the parties.

(C) Unless a request for exemption is filed, the commissioner shall serve the two adverse appearing parties with identical lists of 5 arbitrators selected at random from the panel of arbitrators assigned to the program.

(1) Thereafter, the parties shall, within 10 days, file with the commissioner either a private arbitrator stipulation and affidavit or each party shall file the selection list with no more than two (2) names stricken.

(2) If both parties respond, the commissioner shall appoint an arbitrator from among those names not stricken.

(3) If only one party responds within the 10-day period, the commissioner shall appoint an arbitrator from among those names not stricken.

(4) If neither party responds within the 10-day period, the commissioner will appoint one of the 5 arbitrators.

(5) If there are more than 2 adverse parties, 2 additional arbitrators per each additional party shall be added to the list with the above method of selection and service to apply. For purposes of this rule, if several parties are represented by one attorney, they shall be considered as one party.

(D) If a request for exemption is filed and denied, the commissioner shall, within 5 days after the time has expired for filing an objection to the commissioner's denial of the request, or within 5 days after the district judge's decision on such an objection, serve the parties with identical lists of 5 arbitrators as provided in subsection (C) of this rule.

(E) Where an arbitrator is assigned to a case and additional parties subsequently appear in the action, the additional parties may object to the arbitrator assigned to the case within 10 days of the date of the party's appearance in the action. Objections must be in writing, state specific grounds, be served on all other appearing parties and filed with the commissioner, who will review the objections and render a decision. This decision may be appealed to the district judge to whom the case is assigned. The notice of appeal shall be filed with the commissioner within 10 days of the date of service of the commissioner's decision. The commissioner shall then notify the district judge of the appeal.

(F) If the selection process outlined above fails for any reason, including a recusal by the arbitrator, the commissioner shall repeat the process set forth in subdivision (C) of this rule to select an alternate arbitrator.

Rule 7. Qualifications of arbitrators.

(A) Each commissioner shall create and maintain a panel of arbitrators consisting of attorneys licensed to practice law in Nevada and a separate panel of non-attorney arbitrators. An application for appointment to the panel of arbitrators is filed with the admissions director of the State Bar of Nevada on a form approved by the supreme court, together with a \$150 application fee. The State Bar shall investigate the applicant's qualifications and fitness to serve as an arbitrator, including, but not limited to, verification of the applicant's educational background, employment history, professional licensure and any related disciplinary proceedings, and criminal history. The State Bar may charge applicants for the non-lawyer panel of arbitrators an appropriate fee to cover the expense of its investigation. No later than 90 days from the date of referral, the State Bar shall transmit to the supreme court a certificate concerning the applicant's qualifications and fitness, as follows:

- (1) Whether the applicant meets the minimum experience requirements of this rule;
- (2) Whether the applicant has been subject to disciplinary proceedings involving any license; if so, the nature and result of those proceedings;
- (3) Whether the applicant has a criminal history; if so, the details of that history;
- (4) Whether the applicant has ever been named as a defendant in any proceeding involving fraud, misappropriation of funds, misrepresentation or breach of fiduciary duty; if so, the nature and resolution of such proceedings; and
- (5) Whether the State Bar's investigation revealed any other matter pertinent to the applicant's qualifications or fitness; if so, the details of the matter and how it relates to the applicant's potential service as an arbitrator.

(B) Non-attorney arbitrators must: (i) be listed on the roster of approved arbitrators of the American Arbitration Association or a similar, reputable arbitration service, or (ii) have a Juris Doctorate degree and 8 years of work experience in their areas of expertise. Attorney arbitrators must be licensed to practice law in Nevada and shall have practiced law a minimum of 8 years in any jurisdiction.

(C) Arbitrators shall be required to complete an arbitrator training program in conjunction with their selection to the panel. The program completed must be one offered by the State Bar of Nevada specific to the court annexed arbitration program or, alternatively, a program that is approved for continuing legal education credits in Nevada for the same number of hours as the State Bar's program. The court may also require arbitrators to complete additional training sessions or classes.

(D) Arbitrators shall be sworn or affirmed to uphold these rules of the program, and the laws of the State of Nevada by any person authorized to administer the official oath under NRS 281.030(3).

(E) An arbitrator who would be disqualified for any reason that would disqualify a judge under the Nevada Code of Judicial Conduct shall immediately recuse himself/herself or be withdrawn as an arbitrator.

(F) Any issue concerning the participation or disqualification of a person on the panel of arbitrators shall be referred to the commissioner for a final determination.

Rule 8. Authority of arbitrators.

(A) Arbitrators hear cases admitted to the program and shall render awards in accordance with these rules. The powers of the arbitrators shall include, but not be limited to, the powers:

- (1) To administer oaths or affirmations to witnesses;

(2) To relax all applicable rules of evidence and procedure to effectuate a speedy and economical resolution of the case without sacrificing a party's right to a full and fair hearing on the merits.

(B) Any challenge to the authority or action of an arbitrator shall be filed with the commissioner and served upon the other parties and the arbitrator within 10 days of the date of the challenged decision or action. Any opposition to the challenge must be filed with the commissioner and served upon the other parties within 5 days of service of the challenge. The commissioner shall rule on the issue in due course. Judicial review of the ruling of the commissioner may be obtained by filing a petition for such review with the commissioner within 10 days of the date of service of the commissioner's ruling. The commissioner shall then notify the district judge to whom the case is assigned of the petition and may enter an appropriate stay pending review by the district judge. The district judge to whom the case is assigned shall have the non-reviewable power to uphold, overturn or modify the commissioner's ruling, including the power to stay any proceeding.

Rule 9. Stipulations and other documents.

During the course of arbitration proceedings commenced under these rules, no document other than the motions permitted by Rule 4 may be filed with the district court. All stipulations, motions and other documents relevant to the arbitration proceeding must be lodged with the arbitrator.

Rule 10. Restrictions on communications.

(A) Neither counsel nor parties may communicate directly with the arbitrator regarding the merits of the case, except in the presence of, or with reasonable notice to, all of the other parties.

(B) Unless otherwise agreed in writing by all parties, no offer or demand of settlement made by any party shall be disclosed to the arbitrator prior to the filing of an award.

Rule 11. Discovery.

(A) Within 30 days after the appointment of the arbitrator, the parties must meet with the arbitrator to confer, exchange documents, identify witnesses known to the parties which would otherwise be required pursuant to N.R.C.P. 16.1, and to formulate a discovery plan, if necessary. The conference may be held by telephone in the discretion of the arbitrator. The extent to which discovery is allowed, if at all, is in the discretion of the arbitrator, who must make every effort to ensure that the discovery, if any, is neither costly nor burdensome. Types of discovery shall be those permitted by the Nevada Rules of Civil Procedure, but may be modified in the discretion of the arbitrator to save time and expense.

(B) It is the obligation of the plaintiff to notify the arbitrator prior to the conference, if other parties have appeared in the action subsequent to the appointment of the arbitrator.

Rule 12. Scheduling of hearings; pre-hearing conferences.

(A) Except as otherwise provided by this rule, all arbitrations shall take place and all awards must be filed no later than 6 months from the date of the arbitrator's appointment. Arbitrators shall set the time and date of the hearing within this period.

(B) The arbitration hearing date may be advanced or continued by the arbitrator for good cause upon

written request from either party. The arbitrator may not grant a request for a continuance of the hearing beyond a period of 9 months from the date of the arbitrator's appointment without written permission from the commissioner. Any such request for permission for an extension beyond the 9-month period must be made in writing to the commissioner by the arbitrator. The commissioner may permit such an extension upon a showing of unusual circumstances. All arbitration hearings must take place within one year of the date on which the arbitrator is appointed.

(1) Arbitration hearings which take place in violation of this Rule may subject the parties, their counsel, and/or the arbitrator to sanctions which can include:

- (a) loss or reduction of the arbitrator's fee;
- (b) temporary suspension of the arbitrator from the panel;
- (c) monetary sanctions assessed against the parties or counsel.

(2) Additional, if the arbitration hearing does not take place within one year of the appointment of the arbitrator, the case may be subject to dismissal or entry of default.

(C) Consolidated actions shall be heard on the date assigned to the latest case involved, to be heard by the earliest appointed arbitrator.

(D) Arbitrators or the commissioner may, at their discretion, conduct pre-arbitration hearings or conferences. However, the pre-hearing conference required by Rule 11 must be conducted within 30 days from the date a case is assigned to an arbitrator.

(E) The arbitrator shall give immediate written notification to the commissioner of the arbitration date and any change thereof, any settlement or any change of counsel.

Rule 13. Pre-hearing statement.

(A) At least 10 days prior to the date of the arbitration hearing, each party shall furnish the arbitrator and serve upon all other parties a statement containing a final list of witnesses whom the party intends to call at the arbitration hearing, and a list of exhibits and documentary evidence anticipated to be introduced. The statement shall contain a brief description of the matters about which each witness will be called to testify. Each party shall, simultaneously with the submission of the final list of witnesses described above, make all exhibits and documentary evidence available for inspection and copying by other parties.

(B) A party failing to comply with this rule, or failing to comply with any discovery order, may not present at the arbitration hearing a witness or exhibit not previously furnished pursuant to this rule, except with the permission of the arbitrator upon a showing of unforeseen and unusual circumstance.

(C) Each party shall furnish to the arbitrator at least 10 days prior to the arbitration hearing copies of any pleadings and other documents contained in the court file which that party deems relevant.

Rule 14. Conduct of the hearing.

(A) The arbitrator shall have complete discretion over the conduct of the hearing.

(B) Any party may, at its own expense, cause the arbitration hearing to be reported.

Rule 15. Arbitration in the absence of a party.

An arbitration may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain a continuance. The arbitrator shall require that the party present submit such evidence as he or she may require for the making of an award, and may offer the absent party an opportunity to appear at a subsequent hearing, if such a hearing is deemed appropriate by the arbitrator.

Rule 16. Form and content of award.

(A) Awards shall be in writing and signed by the arbitrator.

(B) The arbitrator shall determine all issues raised by the pleadings in cases that are subject to arbitration under the program, including issues of comparative negligence, if any, damages, if any, and costs. The maximum award that can be rendered by the arbitrator is \$50,000 per plaintiff, exclusive of attorney's fees, interest and costs.

(C) Findings of fact and conclusions of law, or a written opinion stating the reasons for the arbitrator's decision, may be prepared at the discretion of the arbitrator.

(D) The offer of judgment provisions of N.R.C.P. 68 and NRS Chapter 17 apply to matters in the program.

(E) Attorney's fees awarded by the arbitrator may not exceed \$3,000, unless the compensation of an attorney is governed by an agreement between the parties allowing a greater award.

(F) After an award is made the arbitrator shall return all exhibits to the parties who offered them during the hearing.

Rule 17. Filing of award.

(A) Within 7 days after the conclusion of the arbitration hearing, or 30 days after the receipt of the final authorized memoranda of counsel, the arbitrator shall file the award with the commissioner, and also serve copies of the award on the attorneys of record, and on any unrepresented parties. Application must be made by the arbitrator to the commissioner for an extension of these time periods.

(B) Applications for attorney's fees, costs and/or interest pursuant to any statute or rule must be filed with the arbitrator and served on the other parties within 5 days after service of the award on the applicant; failure to make timely application shall act as a jurisdictional waiver of any right to fees, costs or interest. Responses to such applications must be filed with the arbitrator and served on the other parties within 5 days after service of the application on the responding party. Rulings on applications under this subsection must be filed with the commissioner by the arbitrator and served on all parties within 5 days after the deadline for responses to such applications.

(1) Applications for relief under this subsection do not toll the time periods specified in Rules 18 or 19.

(2) Decisions on applications for relief under this rule do not constitute amended awards and shall not be designated as such by the arbitrator.

(3) Any grant of fees, costs, and/or interest shall be included in any judgment on the arbitration award submitted by a prevailing party pursuant to Rule 19.

(C) No amended award shall be filed by the arbitrator, but for good cause the arbitrator may file with the commissioner and serve on the parties a request to amend the award, as long as such request is filed within 20 days from the date of service of the original award.

(1) If the commissioner decides an amended award is warranted, the commissioner will issue, file and serve such amended award.

(2) Upon the issuance of an amended arbitration award, the time for requesting a trial de novo pursuant to Rule 18 or notifying a prevailing party to enter judgment pursuant to Rule 19 will begin anew upon service on the parties. Any request for a trial de novo filed before an amended arbitration award is issued shall be rendered ineffective by the amended award.

(D) This rule does not authorize the use of an amended award to change the arbitrator's decision on the merits.

(E) Failure of the arbitrator to timely file the award or timely rule on an application for fees, costs and/or interest may subject the arbitrator to a forfeiture (waiver) of part or all of the arbitrator's fees. Repeated failure shall lead to the arbitrator's removal from the panel.

Rule 18. Request for trial de novo.

(A) Within 30 days after the arbitration award is served upon the parties, any party may file with the clerk of the court and serve on the other parties and the commissioner a written request for trial de novo of the action. Any party requesting a trial de novo must certify that all arbitrator fees and costs for such party have been paid or shall be paid within 30 days, or that an objection is pending and any balance of fees or costs shall be paid in accordance with subsection (C) of this rule.

(B) The 30-day filing requirement is jurisdictional; an untimely request for trial de novo shall not be considered by the district court.

(C) Any party who has failed to pay the arbitrator's bill in accordance with this rule shall be deemed to have waived the right to a trial de novo; if a timely objection to the arbitrator's bill has been filed with the commissioner pursuant to Nevada Arbitration Rules 23 and/or 24, a party shall have 10 days from the date of service of the commissioner's decision in which to pay any remaining balance owing on said bill. No such objection shall toll the 30-day filing requirement of subsection (B) of this rule.

(D) Any party to the action is entitled to the benefit of a timely filed request for trial de novo. Subject to Rule 22, the case shall proceed in the district court as to all parties in the action unless otherwise stipulated by all appearing parties in the arbitration. In judicial districts that are required to provide a short trial program under the Nevada Short Trial Rules, the trial de novo shall proceed in accordance with the Nevada Short Trial Rules, unless a party timely filed a demand for removal from the short trial program as provided in N.S.T.R. 5.

(E) After the filing and service of the written request for trial de novo, the case shall be set for trial upon compliance with applicable court rules. In judicial districts that are required to provide a short trial program under the Nevada Short Trial Rules, the case shall be set for trial as provided in those rules, unless a party timely filed a demand for removal from the short trial program as provided in N.S.T.R. 5.

(F) If the district court strikes, denies, or dismisses a request for trial de novo for any reason, the court shall explain its reasons in writing and shall enter a final judgment in accordance with the arbitration award. A judgment entered pursuant to this rule shall have the same force and effect as a final judgment of the court in a civil action, and may be appealed in the same manner. Review on appeal, however, is limited to the order striking, denying, or dismissing the trial de novo request and/or a written interlocutory order disposing of a portion of the action.

(G) A motion to strike a request for trial de novo may not be filed more than 30 days after service of the request for trial de novo.

Rule 19. Judgment on award.

(A) Upon notification to the prevailing party by the commissioner that no party has filed a written request for trial de novo within 30 days after service of the award on the parties, the prevailing party shall submit to the commissioner a form of final judgment in accordance with the arbitration award, including any grant of fees, costs and/or interest, which judgment shall then be submitted for signature to the district judge to whom the case was assigned; the judgment must then be filed with the clerk.

(B) A judgment entered pursuant to this rule shall have the same force and effect as a final judgment of the court in a civil action, but may not be appealed. Except that an appeal may be taken from the judgment if the district court entered a written interlocutory order disposing of a portion of the action. Review on appeal, however, is limited to the interlocutory order and no issues determined by the arbitration will be considered.

(C) Although clerical mistakes in judgments and errors therein arising from oversight or omission may be corrected by the court at any time on its own initiative or on the motion of any party, no other amendment of or relief from a judgment entered pursuant to this rule shall be allowed.

Rule 20. Procedures at trial de novo.

(A) Evidence. If a trial de novo is requested, the arbitration award shall be admitted as evidence in the trial de novo, and all discovery obtained during the course of the arbitration proceedings shall be admissible in the trial de novo, subject to all applicable rules of civil procedure and evidence.

(B) Attorney fees; costs; interest.

(1) The prevailing party at the trial de novo is entitled to all recoverable fees, costs, and interest pursuant to statute or N.R.C.P. 68.

(2) Exclusive of any award of fees and costs under subsection (1), a party is entitled to a separate award of attorney's fees and costs as set forth in (a) and (b) below.

(a) Awards of \$20,000 or less. Where the arbitration award is \$20,000 or less, and the party requesting the trial de novo fails to obtain a judgment that exceeds the arbitration award by at least 20 percent of the award, the non-requesting party is entitled to its attorney's fees and costs associated with the proceedings following the request for trial de novo. Conversely, if the requesting party fails to obtain a judgment that reduces by at least 20 percent the amount for which that party is liable under the arbitration award, the non-requesting party is entitled to its attorney's fees and costs associated with the proceedings following the request for trial de novo.

(b) Awards over \$20,000. Where the arbitration award is more than \$20,000, and the party requesting the trial de novo fails to obtain a judgment that exceeds the arbitration award by at least 10 percent of the award, the non-requesting party is entitled to its attorney's fees and costs associated with the proceedings following the request for trial de novo. Conversely, if the requesting party fails to obtain a judgment that reduces by at least 10 percent the amount for which that party is liable under the arbitration award, the non-requesting party is entitled to its attorney's fees and costs associated with the proceedings following the request for trial de novo.

(3) In comparing the arbitration award and the judgment, the court shall not include costs, attorney's fees, and interest with respect to the amount of the award or judgment. If multiple parties are involved in the action, the court shall consider each party's respective award and judgment in making its comparison between the award and judgment.

Rule 21. Scheduling of trial de novo.

(A) In judicial districts required to provide a short trial program under the Nevada Short Trial Rules, a trial de novo shall be processed as provided in those rules, unless a party timely filed a demand for removal from the short trial program as provided in N.S.T.R. 5. Cases that are removed from the short trial program will not be given preference on the trial calendar of the district court simply because those cases were subject to arbitration proceedings pursuant to these rules. Trials de novo in cases removed from the short trial program will be processed in the ordinary course of the district court's business.

(B) In judicial districts that do not provide a short trial program, cases requiring a trial de novo will not be given preference on the trial calendar of the district court simply because those cases were subject to arbitration proceedings pursuant to these rules. Trials de novo will be processed in the ordinary course of the district court's business.

Rule 22. Sanctions.

(A) The failure of a party or an attorney to either prosecute or defend a case in good faith during the arbitration proceedings shall constitute a waiver of the right to a trial de novo.

(B) If, during the proceedings in the trial de novo, the district court determines that a party or attorney engaged in conduct designed to obstruct, delay or otherwise adversely affect the arbitration proceedings, it may impose, in its discretion, any sanction authorized by N.R.C.P. 11 or N.R.C.P. 37.

Rule 23. Costs.

(A) The arbitrator is entitled to recover the costs, not to exceed \$250, that the arbitrator reasonably incurs in processing and deciding an action. Costs recoverable by the arbitrator are limited to:

1. Reasonable costs for telecopies;
2. Reasonable costs for photocopies;
3. Reasonable costs for long distance telephone calls;

4. Reasonable costs for postage;
5. Reasonable costs for travel and lodging; and
6. Reasonable costs for secretarial services.

(B) To recover such costs, the arbitrator must submit to the parties an itemized bill of costs within 15 days of the date that the arbitrator serves the award in an action; within 15 days of notice of removal of the case from the program by resolution or exemption; or within 15 days of notice of change of arbitrator, whichever date is earliest.

(C) Costs must be borne equally by the parties to the arbitration, and must be paid to the arbitrator within 10 days of the date that the arbitrator serves the bill reflecting the arbitrator's costs. If any party fails to pay that party's portion of the arbitrator's costs within the time prescribed in this subsection, the district court shall, after giving appropriate notice and opportunity to be heard, enter a judgment and a writ of execution against the delinquent party for the amount owed by that party to the arbitrator, plus any costs and attorney's fees incurred by the arbitrator in the collection of the costs. If one of the parties to the arbitration is an indigent person who was exempted pursuant to NRS 12.015 from paying a filing fee, the arbitrator may not collect costs from any party to the arbitration.

(D) All disputes regarding the propriety of an item of costs must be filed with the commissioner within 5 days of the date that the arbitrator serves the bill reflecting the arbitrator's costs, and resolved by the commissioner.

(E) For purposes of this rule, if several parties are represented by one attorney, they shall be considered as one party.

Rule 24. Fees for arbitrators.

(A) Arbitrators appointed to hear cases pursuant to these rules are entitled to be compensated at the rate of \$ 100 per hour to a maximum of \$1,000 per case unless otherwise authorized by the commissioner for good cause shown. If required by the arbitrator, each party to the arbitration shall submit, within 30 days of request by the arbitrator, a sum of up to \$ 250 as an advance toward the arbitrator's fees and costs. If a party fails to pay the required advance, the party may be subject to sanctions, including an award dismissing the complaint or entry of the non-complying party's default.

(B) To recover any fee, the arbitrator must submit to the parties an itemized bill reflecting the time spent on a case within 15 days of the date that the arbitrator serves an award in an action; within 15 days of notice of removal of the case from the program by resolution or exemption; or within 15 days of notice of change of arbitrator, whichever date is earliest. If the parties have paid an advance toward the arbitrator's fees and costs, the arbitrator shall indicate this advance on the itemized bill and shall return to the parties any portion of the advance that is over the amount on the itemized bill.

(C) The fee of the arbitrator must be paid equally by the parties to the arbitration, and must be paid to the arbitrator within 10 days of the date that the arbitrator serves the bill reflecting the fee. If any party fails to pay that party's portion of the arbitrator's fee within the time prescribed in this subdivision, the

district court shall, after giving appropriate notice and opportunity to be heard, enter a judgment and a writ of execution against the delinquent party for the amount owed by that party to the arbitrator, plus any costs and attorney's fees incurred by the arbitrator in the collection of the fee. If one of the parties to the arbitration is an indigent person who was exempted pursuant to NRS 12.015 from paying a filing fee, the arbitrator may not collect a fee from any party to the arbitration.

(D) All disputes regarding the fee of the arbitrator must be filed with the commissioner within 5 days of the date that the arbitrator serves the bill reflecting the arbitrator's fee, and resolved by the commissioner.

(E) For purposes of this rule, if several parties are represented by one attorney, they shall be considered one party.

Nevada Mediation Rules

Current through Rules received through August 15, 2008

Rule 1. The court annexed mediation program.

(A) The Court Annexed Mediation Program (the program) is an alternative to the Court Annexed Arbitration Program and is intended to provide parties a prompt, equitable and inexpensive method of dispute resolution for matters otherwise mandated into the arbitration program.

(B) These rules may be known and cited as the Nevada Mediation Rules, or abbreviated N.M.R.

Rule 2. Matters entering the mediation program.

Any matter that is otherwise subject to the Court Annexed Arbitration Program may be voluntarily placed into the Mediation Program. Participation in the Mediation Program shall be by mutual consent of the parties pursuant to written stipulation. The stipulation must be filed with the commissioner within 15 days after the filing of an answer by the first answering defendant. For good cause shown, an appropriate case may be placed into the program upon the filing of an untimely stipulation; however, such filing may subject the parties to sanctions by the commissioner.

Rule 3. Assignment to mediator.

(A) Parties may stipulate to use a private mediator who is not on the panel of mediators assigned to the program, or who is on the panel but who has agreed to serve on a private basis. The private mediator must possess the qualifications as stated in Rule 4 and must present a résumé demonstrating said qualifications to the commissioner prior to serving as mediator. Such stipulation must be made and filed with the commissioner no later than the date set for the return of the mediator selection list. The stipulation must include an affidavit that is signed and verified by the mediator expressing his or her willingness to comply with the timetables set forth in these rules. Failure to file a timely stipulation shall not preclude the use of a private mediator, but may subject the dilatory parties to sanctions by the commissioner.

(B) Any and all fees or expenses related to the use of a private mediator shall be borne by the parties equally.

(C) Unless the parties have stipulated to a mediator pursuant to subdivision (A), the commissioner shall serve the two adverse appearing parties with identical lists of 3 mediators selected at random from the panel of mediators assigned to the program.

(1) Thereafter the parties shall, within 10 days, file with the commissioner either a private mediator stipulation and affidavit or each party shall file the selection list with no more than one name stricken.

(2) If both parties respond, the commissioner shall appoint a mediator from among those names not stricken.

(3) If only one party responds within the 10-day period, the commissioner shall appoint a mediator from among those names not stricken.

(4) If neither party responds within the 10-day period, the commissioner shall appoint one of the 3 mediators.

(5) If there are more than 2 adverse parties, one additional mediator per each additional party shall be added to the list with the above method of selection and service to apply. For purposes of this rule, if several parties are represented by one attorney, they shall be considered as one party.

(D) If the selection process outlined above fails for any reason, including a recusal by the mediator, the commissioner shall repeat the process set forth in subdivision (C) of this rule to select an alternate mediator.

Rule 4. Qualifications of mediators.

(A) Each commissioner shall create and maintain a panel of mediators consisting of attorneys licensed to practice law in Nevada and a separate panel of non-attorney mediators.

(B) Mediators must have the equivalent of at least 10 years of civil experience as a practicing attorney or judge or must have the equivalent of at least 5 years' experience as a mediator or must be a senior judge or justice.

(C) The panel of mediators shall be selected by a committee composed of the Chief Judge or the Chief Judge's designee, the commissioner and a representative of the Alternative Dispute Resolution (ADR) Committee of the State Bar of Nevada.

(D) Each mediator who desires to remain on the panel shall fulfill at least 3 hours of accredited continuing educational activity in mediation annually and provide proof thereof to the commissioner. Failure to do so may constitute grounds for temporary suspension or removal from the panel.

Rule 5. Stipulations and other documents.

During the course of mediation proceedings commenced under these rules, no documents may be filed with the district court. All stipulations and other documents relevant to the mediation proceeding must be lodged with the mediator.

Rule 6. Scheduling of mediation proceedings.

All mediation proceedings shall take place no later than 60 days from the date of the mediator's appointment.

Rule 7. Conduct of the mediation proceedings.

The mediator shall have complete discretion over the conduct of the proceeding. The parties present at mediation must have authority to resolve the matter.

Rule 8. Report to the commissioner.

Within 5 days after the conclusion of the mediation proceedings, the mediator shall file with the commissioner and serve copies on the attorneys of record and on any unrepresented parties, a report advising whether the matter was resolved, an impasse has been declared, or that no agreement was reached, or that the matter has been continued, and whether all requisite parties with authority to resolve the matter were present. The report will be similar to the settlement conference report submitted by settlement judges in the appellate settlement program under N.R.A.P. 16(g), and shall not disclose any matters discussed at the mediation proceedings.

Rule 9. Matters not resolved in mediation.

All matters not resolved in the program shall forthwith enter the short trial program set forth in the Nevada Short Trial Rules.

Rule 10. Fees and costs for mediators.

(A) Mediators shall be entitled to remuneration of up to \$1,000 per case, unless otherwise authorized by the commissioner for good cause shown.

(B) Mediators are entitled to recover the costs, not to exceed \$250, that the mediator reasonably incurs. Costs recoverable by the mediator are limited to:

- (1) Reasonable costs for facsimiles;
- (2) Reasonable costs for photocopies;
- (3) Reasonable costs for long distance telephone calls;
- (4) Reasonable costs for postage;
- (5) Reasonable costs for travel and lodging; and
- (6) Reasonable costs for secretarial services.

(C) Fees and costs of the mediator are paid equally by the parties unless otherwise stipulated.

(D) If required by the mediator, each party to a case within the program shall deposit with the mediator, within 15 days of request by the mediator, a sum of up to \$250 as an advance toward the mediator's fees and costs. If any party fails to pay their portion of the mediator's fees and costs within the time prescribed in this subsection, the district court shall, after giving appropriate notice and opportunity to be heard, enter a judgment and a writ of execution against the delinquent party for the amount owed by the party to the mediator, together with any fees and costs incurred by the mediator in the collection of the fees and costs.

(E) If one of the parties to the mediation is an indigent person who was exempted under NRS 12.015 from paying a filing fee, the mediator may not collect a fee or costs from any party to the mediation.

Rule 11. Confidentiality; immunity of mediators.

(A) Each party involved in a mediation proceeding pursuant to these rules has a privilege to refuse to disclose, and to prevent any person present at the proceeding from disclosing, communications made during the proceeding. All oral or written communications in a mediation proceeding, other than an executed settlement agreement, shall be confidential and inadmissible as evidence in any subsequent legal proceeding, unless all parties agree otherwise.

(B) Mediators in the program shall be afforded the statutory immunity provided by NRS 48.109 and also shall be afforded the same statutory immunity as arbitrators pursuant to N.R.S. 38.229 and 38.253.

Agricultural Loan Mediation Program

Current through May 2008.

NAC 561.010 Definitions.

As used in NAC 561.010 to 561.170, inclusive, unless the context otherwise requires, the words and terms defined in NAC 561.020 to 561.080, inclusive, have the meanings ascribed to them in those sections.

NAC 561.020 "Agricultural debt" defined.

"Agricultural debt" means money a borrower owes to a creditor which is secured by:

1. Personal property used in or relating to the operation of a farm or ranch; or
2. A parcel of land which is:
 - (a) More than 20 acres;
 - (b) Not located in an incorporated city, including Carson City; and
 - (c) Used in farming or ranching operations by the owner or operator during the 3 years immediately preceding a request for mediation.

The term includes a debt secured by wasteland lying within or contiguous to and in common ownership with a parcel of land described in this subsection.

NAC 561.030 "Borrower" defined.

"Borrower" means a person who derives more than 60 percent of his total gross income from his operation of a farm or ranch and owes a single agricultural debt of more than \$50,000 to one creditor.

NAC 561.040 "Creditor" defined.

"Creditor" means a person to whom a borrower owes a single agricultural debt of more than \$50,000. The term includes a judgment creditor with a judgment of more than \$50,000 against a borrower.

NAC 561.050 "Department" defined.

"Department" means the State Department of Agriculture.

NAC 561.055 "Director" defined.

"Director" means the Director of the Department or his designee.

NAC 561.070 "Mediation" defined.

"Mediation" means a process by which a creditor and borrower explore realistic alternatives for the resolution of an agricultural debt.

NAC 561.080 "Mediator" defined.

"Mediator" means the Director or his designee.

NAC 561.090 Request for mediation.

1. The Department will prescribe a form to be used by a creditor or borrower to request mediation. The form will include, but will not be limited to:

- (a) A brief description of the mediation process;
- (b) A statement that the creditor must have a person present during mediation who has the authority to negotiate and enter into an agreement on behalf of the creditor; and
- (c) A statement that the borrower and the spouse of the borrower, if he is married, must attend the mediation.

2. A creditor or borrower may file a request for mediation with the Department if they agree to mediate an agricultural debt. The request must be on the form prescribed by the Department and be accompanied by:

- (a) An affidavit executed by the borrower which states that the debt is an agricultural debt made by him;
- (b) A filing fee of \$25;
- (c) The name, address and telephone number of the creditor and borrower;
- (d) The name, address and title of each person who will attend the mediation, if known;
- (e) The name, address and telephone number of the resident agent of the creditor; and

(f) A statement of the location of the property which is the security for the agricultural debt. If the property is under the control of a third person, the form must state the name, address and telephone number of the third person, if known.

NAC 561.100 Notice of time and place of mediation.

The Department will notify the creditor and borrower in writing of the time and place of the mediation. The mediation will be scheduled to begin within 60 days after the date the notice is sent. The notice will include:

1. The time and location of the mediation;
2. The name of the parties involved in the mediation;
3. The name of the mediator;
4. A brief description of the mediation process;
5. A statement that the creditor must have a person present during mediation who has the authority to negotiate and enter into an agreement on behalf of the creditor;
6. The information the Department requires the parties to bring to the initial mediation;
7. A statement that the borrower and the spouse of the borrower, if he is married, must attend the mediation; and
8. A statement that the creditor and borrower must agree upon a period during which the mediation will be concluded.

NAC 561.110 Notice of intent to attend mediation; agreement for period of mediation; notification of other creditors.

1. The creditor and borrower shall:

(a) Within 10 days after the Director mails the notice of the time and place of the mediation, notify the Department in writing of their intent to attend the mediation.

(b) Within 21 days after the Director mails the notice of the time and place of the mediation, notify the Department in writing of the period during which they agree to conduct the mediation.

2. The borrower shall provide the Department with the name, address and telephone number of any creditor who is not a party to the mediation and to whom he owes an agricultural debt within 10 days after he receives the notice of the time and place for the mediation. The Director will notify such a creditor in writing of the mediation within 7 working days after he receives the name and address of the creditor from the borrower. The creditor must notify the Director in writing within 10 days after he receives the notice if he wants to become a party to the mediation.

NAC 561.120 Action to enforce debt precluded during mediation; excusing and concluding mediation.

1. A creditor who agrees to the mediation of an agricultural debt may not file an action to enforce the agricultural debt until he receives notice in writing from the Department that the mediation is excused or concluded.
2. The mediator or Department may excuse a creditor from mediation:
 - (a) If there is an immediate danger that the property which secures the agricultural debt may be harmed or dissipated;
 - (b) If the borrower notifies the Department that he does not intend to mediate his agricultural debt;
 - (c) If there is a proceeding brought by or against the borrower as a result of his bankruptcy or insolvency; or
 - (d) For good cause.
3. The mediator or Department may conclude the mediation if the creditor or borrower fails to:
 - (a) Make a good faith effort to resolve the agricultural debt;
 - (b) Notify the Department in writing of his intent to attend the mediation within 21 days after he receives the notice of the time and place of the mediation from the Director;
 - (c) Provide information or documentation requested by the Department or mediator; or
 - (d) Attend the mediation.
4. The Department will notify a creditor and borrower in writing when mediation is excused or concluded.

NAC 561.130 Duties of mediator; attendance at mediation; payment of fee to Department.

1. The mediator will take testimony and establish a record of the mediation.
2. The creditor must have a person present at the mediation who has the authority to negotiate and enter into an agreement on behalf of the creditor.
3. The borrower and the spouse of the borrower, if he is married, must attend the mediation.
4. The creditor and borrower may have legal counsel present at the mediation.
5. Each creditor and the borrower shall pay the Department \$25 for each hour or fraction thereof of mediation.

NAC 561.140 Agreement for resolution of debt; request for further mediation.

1. If the creditor and borrower reach an agreement for the resolution of the agricultural debt, the mediator, creditor and borrower must agree upon a person to draft the agreement. The creditor and the borrower must sign the agreement.

2. If the creditor and borrower do not reach an agreement on or before the date on which they have agreed to conclude the mediation, they may request further mediation or that the mediation be concluded. A request for further mediation:

(a) Must be made by the creditor and the borrower; and

(b) Extends the mediation for 30 days. Thereafter, the creditor and borrower may request further extensions for periods not to exceed 30 days.

NAC 561.150 Confidentiality; applicability of chapter 241 of NRS.

Information and documents filed with or obtained by the mediator or the Department are confidential. The provisions of chapter 241 of NRS do not apply to any mediation of an agricultural debt.

NAC 561.160 Training of mediators.

1. The Director and the Department will provide the initial training for a mediator. The initial training must inform a mediator that he does not have a duty to advise a creditor or debtor about the law and include at least 32 hours of instruction on:

(a) The mediation process;

(b) The skills required by a mediator; and

(c) Issues relating to financing agricultural projects.

2. A person who successfully completes the initial training for a mediator is qualified to serve as a mediator. The Department may provide supplemental training for mediators.

NAC 561.170 Department to provide notice of mediation process.

The Department will notify financial institutions which make agricultural loans and persons who are likely to request an agricultural loan of the mediation process authorized pursuant to NAC 561.010 to 561.170, inclusive.