

**DEPARTMENT OF ADMINISTRATION
HEARINGS DIVISION**

**RULES OF PRACTICE
NRS 233B.050**

1. EVIDENCE PACKETS

1.1 Make sure that all evidence packets contain a comprehensive index and separately numbered pages. See NAC 616C.297.

1.2 All submissions must be 2-hole punched at the top and if they are over 25 pages, they must be secured with “ACCO”-type fasteners. Please refer to the Appeals Office “Notice of Appeal and Order to Appear.”

1.3 Do not file evidence packets containing any double-sided copies.

1.4 You must review all documentation and sign the certification required by NRS 239B.030 and NRS 616C.310 regarding redaction of personal identifying information particularly Social Security Numbers.

1.5 Evidence packets or documents containing personal identifying information, specifically Social Security Numbers will be rejected by the Appeals Officer.

2. DOCUMENTS TRANSMITTED BY FACSIMILE

2.1 Filing of a document occurs when the original is received by and is in the actual physical custody of the Hearings Division.

2.2 Documents may not be filed by facsimile except as provided in NAC 616C.291.

2.3 Do not send documents by facsimile that exceeds 15 pages without prior approval of the Appeals Officer’s assistant.

3. CERTIFICATES OF MAILING

3.1 Check your certificate of mailings before you submit any document. It must include all parties including all attorneys (including the office submitting the document), the Claimant, all insurers, administrators and employers who have appeared in the matter.

3.2 Make sure that the certificate of mailing reflects the correct designation of the document (i.e. Decision and Order, Motion for Stay, etc.) and contain a current and accurate mailing address.

3.3 If your mailing address has changed, make sure that the Appeals Office is notified in writing.

3.4 If the document is to be served by the Appeals Office, make sure that you do not sign the Certificate of Mailing.

4. APPEALS OFFICER DESIGNATION

4.1 Check your document to make sure that you have listed the correct Appeals Officer, Appeals Officer's initials at the end of the case number and Appeals Officer's signature.

4.2 Make sure that you have included all appeal numbers that pertain to the case that the appeal numbers are correct and that the Appeals Officer's name is fully listed and correctly spelled.

5. CAPTIONS AND PARTY DESIGNATION

5.1 Check your captions and party designation in all correspondence and pleadings to ensure that you have identified the correct party. This is particularly true of appeals from a determination of the Division of Industrial Relations.

5.2 The Appeals Office docket the appeal using the name of the party that requested the hearing so be aware that this could be the Claimant, insurer or administrator.

5.3 While you must use the caption used by the Appeals Office for all Pleadings filed following the initial Notice of Hearing, you may also reference other parties on the first page of the pleading.

6. TRANSMITTAL LETTERS

6.1 Make sure that when you transmit a proposed Decision and Order or a request for the Appeals Officer to sign a subpoena, these documents are accompanied by a cover letter demonstrating that all concerned parties have been copied on the letter and enclosure.

7. APPEAL RIGHTS

7.1 Any document submitted to the Appeals Officer that closes a pending matter, whether by order or stipulation, must contain appropriate appeal rights.

7.2 Do not include appeal rights on Interim Orders or any orders that do not constitute a final disposition of the matter (such as an order allowing counsel to withdraw from a matter).

7.3 Appeal rights must be placed on the same page as the order and Appeals Officer's signature.

8. DOCUMENTS THAT ARE NOT FULLY EXECUTED

8.1 Make sure that all parties designated as signatories on a document have in fact signed the original document.

8.2 If the document is not fully executed it will be returned to your office for completion. This does not include copies of documents that are provided to the Appeals Office in order to keep the Appeals Officer advised of the progress of the case.

9. TELEPHONE STATUS CHECKS

9.1 The Appeals Officers schedule Telephone Status Checks or requests for Status Letters in particular cases in order to ensure that the case is proceeding to completion in a timely manner.

9.2 It is very important that all counsel respond to the Telephone Status Checks on the date and at the time it is scheduled or submits the Status Letter on or before the requested date.

9.3 If the parties do not respond, this may result in the scheduling of an In Court Status Check whereby the Appeals Officers will require the attorneys to personally appear.

10. INTERPRETERS AND COURT REPORTERS

10.1 NAC 616C.2755 requires the Appeals Office to schedule an interpreter for those parties who require assistance in interpreting the English language. This request must be in writing and must be received by the Appeals Office no later than 10 days before the hearing. If the request is not received within a timely manner, the Appeals Office may not be able to schedule the interpreter.

10.2 If a matter is scheduled on the stacked calendar and your client requires the assistance of the interpreter, please contact the designated Appeals Officer's assistant to ascertain whether the request may be accommodated. This will depend upon how many cases are scheduled that day on the stacked calendar.

10.3 When a case is settled or continued, counsel must notify the Appeals Office no later than 24 business hours prior to the scheduled hearing (this includes cancellations for hearings scheduled on Mondays).

10.4 If the request to cancel an interpreter or to remove a case from the calendar is not received in a timely manner, the Appeals Officer may assess the cancellation fee for the interpreter and/or court reporter pursuant to NRS 616D.065.

10.5 Assessment of these costs may be made, at the discretion of the Appeals Officer, if the Appeals Officer finds that “the costs were incurred because the attorney or representative of a party caused a continuance or delay in a scheduled hearing by his failure, without good cause, to comply with an order of the Appeals Officer or a regulation adopted pursuant to chapters 616A to 616D, or Chapter 617 of NRS.”

10.6 If you call or send a facsimile to an Appeals Officer secretary at least 24 hours prior to the scheduled hearing to remove the case from the calendar and the secretary is not available at the time the telephone call or facsimile is received, your request will be deemed received at the time the call or facsimile is received.

11. FAX REQUESTS FOR HEARING BEFORE THE APPEALS OFFICER

11.1 If you file a Request for Hearing Before the Appeals Officer by facsimile, please include a cover letter with the original Request stating that the appeal was filed by facsimile (including the name of the appealing party and the date of the facsimile). This will prevent the Appeals Office from docketing duplicate appeals for the same Request.

12. STIPULATIONS TO BYPASS THE HEARING OFFICER

12.1 If all Parties agree to bypass the Hearing Officer, counsel must include in their request:

- a) a request that the case bypass the Hearing Officer,
- b) a statement that attorneys for all Parties agree to bypass the Hearing Officer,
- c) the pending Hearing Officer case number(s),

12.2 The request to bypass must be filed with the Hearing Officer assigned to the case. This request may be filed via letter, facsimile or e-mail by sending the request to the Hearing Officer’s assistant.

12.3 The Hearing Officer will prepare an Order Transferring the matter to the Appeals Officer.

12.4 The matter will be assigned according to the Rules for Assignment of Cases to the Appeals Officer.

13. STIPULATIONS TO BYPASS THE HEARING OFFICER AND REQUESTS TO CONSOLIDATE APPEALS

13.1 If all Parties agree to bypass the Hearing Officer and consolidate the bypassed appeal with a pending Appeals Officer appeal, counsel must include in their request:

- a) a request that the case bypass the Hearing Officer,
- b) a statement that attorneys for all Parties agree to bypass the Hearing Officer,
- c) the pending Hearing Officer case number(s),
- d) a request that the matters be consolidated with a pending Appeal,
- e) the name of the Appeals Officer to whom the matter will be assigned, and
- f) the pending Appeal Case Number(s).

13.2 The Request to Bypass shall be filed with the Hearing Officer assigned to the case. This request may be filed via letter, facsimile or e-mail by sending the request to the Hearing Officer's assistant.

13.3 The Hearing Officer will prepare an Order Transferring the matter to the Appeals Officer assigned to the pending appeal.

13.4 The Appeals Officer will schedule the matter for hearing.

14. ENCLOSURES AND ORDERS

14.1 Please check to ensure that you have included any enclosures as stated in your correspondence. Remember that all motions must include proposed alternate orders. See NAC 616C.312.

14.2 Failure to include the appropriate orders will delay a decision on the pending motion as the Appeals Office does not prepare these orders.

14.3 A party or counsel who voluntarily withdraws or dismisses an appeal must forward an appropriate order for the Appeals Officer's signature.

15. COMMUNICATION WITH THE APPEALS OFFICE

15.1 Any communication with the Appeals Office that is by email, letter or facsimile must demonstrate that all concerned parties have been copied on the communication.

15.2 When you respond to an e-mail from counsel or the Appeals Office, please make sure that you send your transmission with "Reply to All" so that all parties, counsel and the Appeals Office knows that everyone has received the communication.

15.3 This is particularly important when the Appeals Office sends proposed dates to reschedule a hearing. Failure to do so when removing a case from the stacked calendar or submitting a stipulation to continue a hearing may result in the case remaining on the calendar.

16. REQUESTS/STIPULATIONS FOR CONTINUANCES OF TIME CERTAIN HEARINGS

16.1 A Motion for Continuance must be filed (if service is by mail) at least 8 days prior to the scheduled hearing date unless an Order Shortening Time accompanies the Motion. See NAC 616C.312 and NAC 616C.318.

16.2 In order to expedite a ruling on a Motion for Continuance, counsel filing the Motion must include an Affidavit stating that all interested counsel and/or parties have been contacted regarding the Motion and whether counsel and/or the parties agree with or object to the Motion.

16.3 A written stipulation to continue a hearing must be filed not less than 5 days prior to the scheduled hearing and state why good cause exists to continue the hearing. See NAC 616C.318. A request or stipulation to continue a matter is not effective until approved by the Appeals Officer assigned to hear the matter.

17. REMOVAL OF CASES FROM THE STACKED CALENDAR

17.1 Paragraph 8 of the “Notice of Appeal and Order to Appear” issued by the Las Vegas Appeals Office after a request for hearing is filed requires a written agreement of all parties to the proceeding to remove a case from the stacked calendar and must be received by the Appeals Officer two (2) days prior to the scheduled hearing.

17.2 This agreement may be sent via letter, facsimile or e-mail.

18. PETITIONS FOR JUDICIAL REVIEW

18.1 The Appeals Office will not prepare a record on appeal unless the party who files the Petition for Judicial Review serves the Appeals Office with a file-stamped copy of the Petition that contains the District Court case number and department assignment.

19. ASSIGNMENT OF CASES TO APPEALS OFFICERS

19.1 New appeals will be assigned on a rotational basis to ensure an equal caseload among the Appeals Officers. New appeals from a party with a pending appeal will be assigned to the Appeals Officer assigned to the pending appeal.

19.2 The Division will maintain a conflict list for each Appeals Officer. Appeals Officers with known potential conflicts as defined in NAC 616C.2694 shall notify the Division of such conflicts.

19.3 In cases where an Appeals Officer has a listed conflict, the appeal will be assigned to the next Appeals Officer in rotation. Conflicts which are unknown by the Appeals Officer at the time of case assignment may be raised on the record, sua sponte, or by a Motion to Recuse filed by a party.

20. FEES FOR COPIES, FAXES, TRANSCRIPTS, AND DIGITAL RECORDINGS.

20.1 Fees for copies of documents more than 10 pages are charged to the party requesting the copies at 25 cents per page. This includes ROA's. When a party requests copies we will advise them of the cost per page. If they request the copies we will count the number of pages and advise the party of the total cost. We will collect the payment before making the copies.

20.2 We do NOT provide copies of AO transcripts at our copy fee of 25 cents per page. Requests for transcripts must be referred to the court reporting service we use.

20.3 When a party to a pending hearing or appeal elects to fax documents to the HO or AO, without pre-approval, in lieu of, or in addition to delivering the documents by mail or otherwise, the fees for faxes are charged to the party sending the fax at 25 cents per page. Our billing clerk in the Las Vegas Office will bill the party sending the fax for the cost upon receipt of the billing information from the person receiving the fax.

20.4 Parties requesting digital recordings of the AO's hearing in the case will be charged at the hourly rate we bill for LSII's. We have calculated the time to find and download the recording, then transmit the recording, at 1 hour. This totals \$45. Any party to a case can make an appointment with the AO's assistant to listen to the recording in our office at no cost.

21. PREHEARING CONFERENCE

21.1 Pursuant to **NAC 616C.277**, **counsel shall conduct a prehearing conference outside the presence of the Appeals Officer and then submit the attached Docketing Statement no later than 30 days before the scheduled stack hearing date.** Counsel for the appealing party shall be responsible for completion of the Docketing Statement. In order to provide the most accurate information, counsel for the appealing party must contact (by phone, email or mail) all other counsel or unrepresented parties and obtain the information required by the Docketing Statement. Exceptions may be made by the Appeals Officer for appeals that will be consolidated to existing appeals.

21.2 Matters that are removed from the stacked calendar by mutual agreement of the parties will thereafter proceed pursuant to Status Checks and will not be re-calendared for

hearing until the Docketing Statement has been submitted and all counsel and/or the parties state that the matter is ready to proceed to hearing. The Appeals Office will then provide counsel and the parties with the earliest available dates. If the parties disagree as to whether a matter is ready for hearing either party may request a telephone conference or in-court status check to address the disagreement. Once the parties have scheduled a hearing, matters will only be continued pursuant to a Motion to Continue or upon a demonstration of exigent circumstances.