

THE NEVADA SHORT TRIAL PROGRAM

BY COMMISSIONER CHRIS A. BEECROFT, JR., ESQ.

History of the Short Trial Program

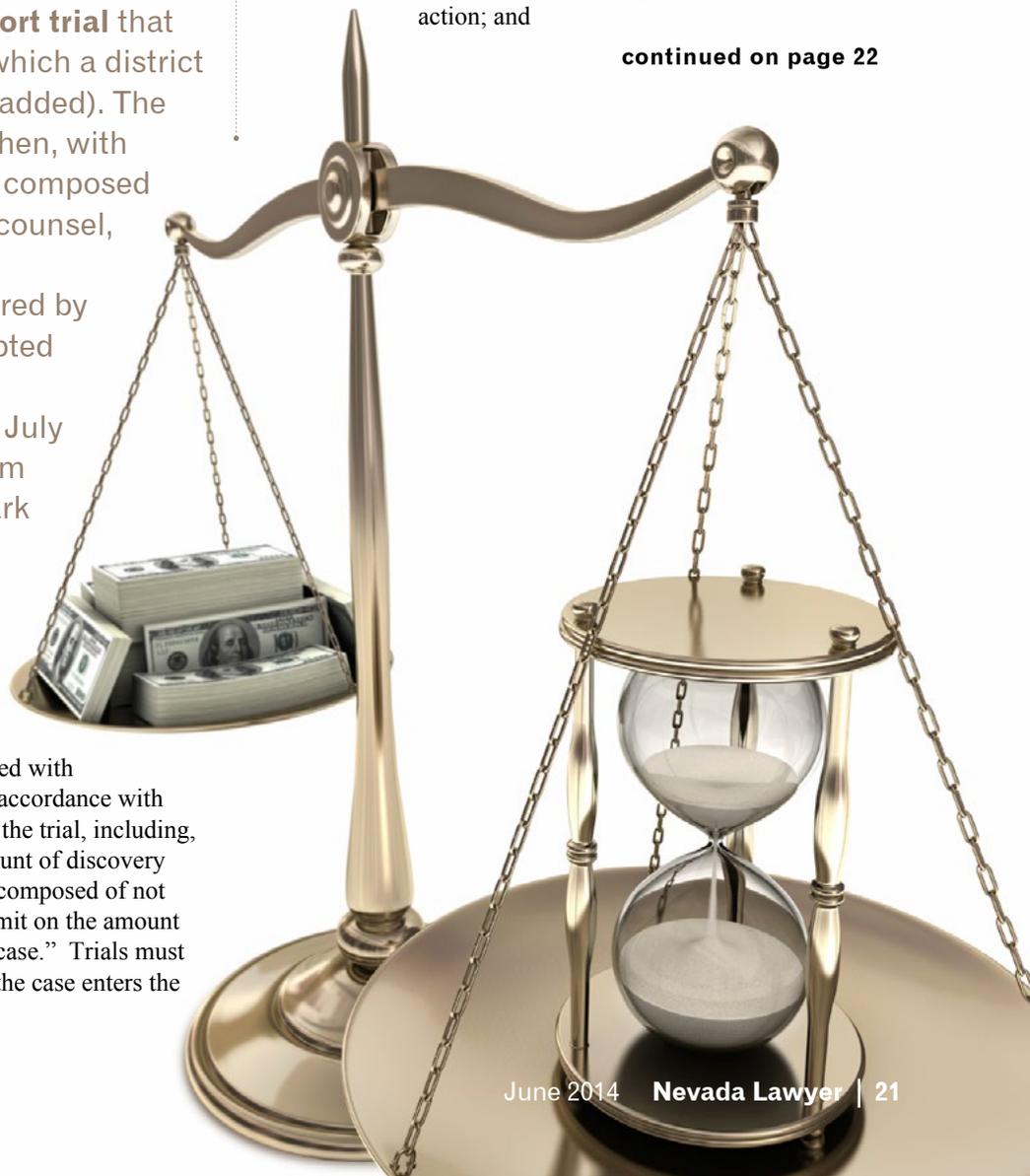
NRS 38.258 was amended and enacted into law effective October 1, 1999. The amendment enabled the Nevada Supreme Court to adopt rules and procedures that "...authorize the use of settlement conferences and other alternative methods of resolving disputes, including, without limitation, mediation **and a short trial** that are available in the county in which a district court is located..." (emphasis added). The Supreme Court did just that when, with the assistance of a committee composed of defense counsel, plaintiffs' counsel, insurance representatives and members of the judiciary, chaired by William C. Turner, Esq., it adopted the Nevada Short Trial Rules (NSTR) in ADKT 310, effective July 7, 2000. The Short Trial Program (STP) was implemented in Clark County in January 2002, and is administered by the Clark County Alternative Dispute Resolution (ADR) Office.

As defined in NRS 38.250, a 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." Trials must be scheduled no later than 240 days after the case enters the program. Trial dates are firm settings.

"The purpose of the short trial program is to expedite civil jury trials through procedures designed to control the length of the trial, including, without limitation, restrictions on discovery, the use of smaller juries and time limits for presentation of evidence." NSTR 1(a). More specifically, the STP was intended to be available in three distinct instances:

1. In lieu of non-binding mandatory arbitration or voluntary mediation;
2. After mandatory arbitration or voluntary mediation that did not result in a binding disposition of the action; and

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3. At any other time during or following non-binding arbitration or mediation, if the parties agree that it would assist in resolving the dispute.

See NRS 38.258(1).

While the initial STP was implemented as an ADR mechanism, the Supreme Court expanded the applicability of the short trial rules to most civil trials, and it is now its own separate and distinct trial format.

The STP does not utilize existing elected District Court judges to oversee trials, although such judges can certainly utilize the short trial format for any civil case tried. Rather, the STP utilizes pro tempore judges who are active members of the State Bar of Nevada, have the equivalent of 10 years of civil trial experience (or are retired jurists) and fulfill a minimum number of continuing legal education credits per year. Pro tempore judges are selected for a particular trial from an approved panel by the parties' attorneys or by random selection.

In 2005, the Nevada Supreme Court made sweeping changes to the STP, the most significant of which was to make the program mandatory for all cases that were not resolved by mandatory arbitration or voluntary mediation. These changes became effective January 1, 2005, for all civil cases filed after that date. Of course, the parties can opt out of the STP by timely filing a demand for removal and paying an opt-out fee, and parties may still stipulate any civil case into the program.

Costs and Benefits

The cost savings and benefits of the STP, both to the litigants, their attorneys and the Clark County taxpayers, have been enormous. As the statistics will evidence (see sidebar), every single short trial tried in the STP has concluded in one day or under one day, with an average length of seven hours. The program uses otherwise empty courtrooms to keep costs down. Parties can utilize expert written reports in lieu of live testimony, thereby saving thousands of dollars in expert witness fees. According to the Eighth Judicial District Court, the average length of similar trials on the regular track is 2.5 days, and the cost per day for of judge and staff salaries, and institutional expenses, is approximately \$2,500; thus the typical trial costs \$6,250. Since STP trials cost virtually nothing and conclude in no more than a day, the program has saved judges 2,350 judicial days and the taxpayers almost \$6 million.

Praise and Endorsements

The STP has received strong support and praise from everyone who has encountered the program – attorneys, pro tempore and district court judges, jurors, the court system and the media.

Defending and prosecuting attorneys have both observed that by permitting admission of documents into evidence without live witnesses, the program has saved tens of thousands of dollars in expert witness fees and custodian of record costs. Moreover, one-day trials save a tremendous amount of time and expense, and smaller juries take less time and expense to reach a verdict than the larger traditional juries. Attorneys also found that, with courtroom trials steadily declining, the STP provides an excellent resource for training and developing young lawyers, and it is a useful tool with which attorneys may hone their trial skills and techniques, including the use of new courtroom technologies. Most importantly, the STP provides access to justice to litigants involved in cases of lesser value. District court judges likewise praise the STP, saying that diverting cases of lesser value from their dockets alleviates their case burden and allows greater judicial resources to be devoted to the resolution of cases of greater importance.

Juror questionnaires indicate that jurors are also pleased with the STP format. Many were so satisfied with the one-day trial that they said that they would be willing to serve again. Others found that with the smaller size of the jury, consensus was easier to reach. Some commented that, because they received the evidentiary booklets before the trial, they were completely familiar with the evidence long before they entered the deliberation room.

The program has performed so well at the district court level that the Nevada Supreme Court amended the Justice Court Rules of Civil Procedure to require that the short trial format be used in justice courts for all civil matters filed on or after July 1, 2005, in which a jury has been requested. The Second Judicial District Court in Washoe County has also adopted and implemented the STP. Additionally, the Federal District Court in Nevada adopted its own short trial program effective March 11, 2013, for certain federal civil cases, virtually copying the Nevada short trial rules.

Finally, the STP has received national recognition and acclaim. In 2004, the program received the Achievement Award from the National Association of Counties “in recognition of an innovative program which contributes to and enhances county government in the United States.” In 2006, the STP was honored by the Pioneer Institute for Public Policy Research of Boston, Massachusetts, as the Better Government Competition Award Winner “in recognition of an innovative and concrete program to improve the quality and cost-effectiveness of government services.”

STP Rules and Forms packets are available at the ADR Office; the rules and forms are also on-line at www.clarkcountycourts.us/ejdc/courts-and-judges/adr/adr.html.

STP STATISTICS

Here are some overall statistics from the Clark County STP that put the success of the program into perspective:

From 7/01/02 through 12/31/13:

- 4,650 cases entered the STP.
- 623 cases were stipulated into the STP.
- 4,027 cases entered the STP from unresolved arbitration/ mediation (beginning 1/01/05).
- 940 trials occurred, each lasting one day or less (seven-hour average).
- 3,263 cases settled before trial (overall a 70 percent rate of settlement).
- Almost \$6 million savings to Clark County taxpayers.
- Untold savings to litigants!



CHRIS A. BEECROFT, JR. received his undergraduate degree from UNLV and his J.D. from the McGeorge School of Law. Beecroft was in private practice for 26 years, specializing in personal injury (plaintiff and defense), civil and business litigation, bankruptcy and real estate and all forms of ADR (arbitration, mediation, early and late neutral evaluations). Beecroft joined the ADR Office in 2000, and became the ADR Commissioner in 2001, and administrator of the Short Trial Program in 2002. In 2008, Beecroft was appointed Family Court Discovery Commissioner, and in August 2012, he was appointed Discovery Commissioner for certain departments within the Eighth Judicial District Court.