

OVERVIEW

EDCR 2024 REVISIONS

1. Changes to EDCR Part I: These changes (1) add construction defect cases as a case type; (2) clarify the court's divisions, as well as the duties of the chief, presiding judges, and executives/administrators.
2. Changes to EDCR 1.44: These changes allow the chief judge to assign a judge to preside over civil commitments.
3. Addition of EDCR 1.66, Changes to EDCR 1.62, 1.92, 2.49, 2.51, and 2.68: These changes accommodate Medical Malpractice Court.
4. Changes to EDCR 1.90: Many departments already extend the trial date past the 9 months of the "original" trial date, so this rule change allows for that extension, but not further than an additional 9 months.
5. Changes to EDCR 2.14: These changes ensure consistency between the local rules and the Foreclosure Mediation Rules.
6. Changes to EDCR 2.34 & 5.402: Under EDCR 5.101(b), family law matters are no longer subject to EDCR Part II. EDCR 2.40 specifically required a party filing a motion to compel further answers or responses to written discovery to include in full the interrogatory or request and the answer or answers thereto in the body of the motion. This rule change serves to place the parties and the court on equal footing and notice regarding the exact nature of the discovery dispute instead of vague generalities. Without this rule, motions would often recite that the discovery was attached to the motion and the parties were disputing about marital waste, for instance, but the movant did not identify the exact discovery request or response that was deficient. As changed, Rule 5.402(g) incorporates the requirement from EDCR 2.40. Second, EDCR 5.402 as amended in 2022 allowed parties to "meet and confer" regarding discovery disputes via email. Email exchanges seldom exhibited the kind of problem solving required of the dispute resolution process that is designed to be an alternative to court intervention. *Nevada Power v. Monsanto*, 151 F.R.D. 118, 120 (D. Nev. 1993). Email exchanges were generally exhibitions of positional warfare with few attempts to resolve the dispute. As amended, Rule 5.402(d) makes clear that an email exchange is not sufficient. Third, counsel involved in discovery disputes often engaged in a dispute resolution conference either as an exercise to "check the box" so they could file a motion without disclosing to the other side their entire position. Thus, counsel would first understand the movant's position only after the motion was filed. By requiring counsel to discuss disputed issues with the same level of detail and legal support as is contained in their briefing before the court, the court will enforce the true design of Rules 2.34 and 5.402—for counsel to police their own discovery activity

without court intervention. *Cardoza v. Bloomin' Brands, Inc.*, 141 F. Supp. 3d 1137, 1145 (D. Nev. 2015). The amendments to both EDCR 2.34 and 5.402 make clear that counsel have an obligation to discuss disputed issues with the same level of detail and legal support as is contained in their briefing before the court. *Guerrero v. Wharton*, No. 16-cv-01667 (D. Nev. Jan. 22, 2018). Finally, the rules were amended to codify specificity requirements first articulated in writing in *Albourn v. Koe, M.D., et al.*, Discovery Commissioner Opinion #10 (November 2001)—that the affidavit must detail the who, what, when, where, and why of the dispute resolution conference.

7. Changes to EDCR 2.35(a): Practitioners used read the language of the rule to allow filing stipulations or motions to extend 21 days before the close of discovery and try to re-open deadlines that have already passed. The language was clarified so that the 21-day filing deadline is before the earliest discovery deadline that the parties seek to extend.
8. Changes to EDCR IV: Changes to several probate rules; some to reflect current practices, others for functionality and clarification.
9. Changes to EDCR 5.208: Changes made to clarify that the District Court judges have authority to order something that is different from the recommendations of a hearing master, short of a clearly erroneous finding.
10. Changes to EDCR 7.70: The changes help resolve the limitations of EDCR 7.70, which were too confining and did not provide the judge or the attorneys with an effective means of selection.
11. Addition of EDCR Part IX: Addition of rules to address eviction appeals and lower court appeals that are non-criminal.