

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE: AMENDMENT OF SUPREME COURT
RULE 44 REGARDING THE APPEARANCE
OF PERSONS IN THEIR OWN BEHALF

ADKT NO: 596

FILED

APR 15 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
CHIEF DEPUTY CLERK

PETITION

COMES NOW Katherine Stocks, the Director and State Court Administrator for the Administrative Office of the Courts (AOC), and petitions the Nevada Supreme Court on its administrative docket to consider the amendment of Supreme Court Rule (SCR) 44 governing the appearance of persons in their own behalf.

The proposed rule amendment is set forth in Exhibit A. In support of the petition, the petitioner asserts that the proffered amendment:

1. Revises what court employees are allowed to do, and prohibited from doing, when interacting and assisting self-represented litigants in order to expand opportunities for courts to properly afford self-represented litigants access to justice;
2. Allows appellate court staff, specifically those employed by the AOC, to provide additional and substantive assistance to the trial courts consistent with the needs and desires of those courts that were expressed during the strategic planning process; and
3. Provides a “safe harbor” provision for court support staff, appellate court staff, and court volunteers who comply with the provisions of the amended rule while performing their duties in good faith, so that those employees are not in violation of the rules of Nevada Supreme Court.

Accordingly, the petitioner requests that the Nevada Supreme Court place this matter on its administrative docket, hold such hearings as it deems necessary, and consider the amendment of SCR 44 regarding the appearance of persons in their own behalf as set forth in Exhibit A.

Respectfully submitted



Katherine Stocks

22-11926

EXHIBIT A

Rule 44. Person may appear ~~{in his own behalf}~~ without counsel.

1. Definitions:

(a) Court support staff refers to any trial court employee, county clerks and their deputies, law librarians and their assistants that are employed by a governmental entity, other than the Nevada appellate courts, and are not supervised by a licensed Nevada attorney.

(b) Appellate court staff refers to any employee of the State of Nevada employed by the appellate courts.

(c) A court volunteer is a person who volunteers to assist the court by providing information to the public. Before participating as a court volunteer, the individual must receive appropriate training and be approved to volunteer as required by the director of the administrative office of the courts.

(d) A member of the public includes a self-represented litigant who seeks information to file, pursue, or respond to a case, without the assistance of a licensed attorney.

~~{1.}~~ 2. ~~{Nothing in these rules shall be so construed as to prevent any person from appearing in his own behalf in any court in this state except the supreme court}~~ Except as otherwise provided by law, nothing in this rule can be construed to prevent a person from appearing on their own behalf.

~~{2.}~~ 3. ~~{Court employees, county clerks and their deputies, law librarians and their assistants, employed by a governmental entity and working within a governmental environment who are not supervised by a licensed Nevada attorney are authorized to do the following:}~~ In all circumstances court support staff, appellate court staff, and court volunteers must treat the public with respect and provide information in a fair and impartial manner. Court support staff, appellate court staff, and court volunteers must provide consistent information to all members of the public, including parties to an action. Court support staff, appellate court staff, and court volunteers must, to the extent reasonably appropriate and practicable:

(a) Encourage persons to obtain legal advice from a licensed ~~{Nevada}~~ attorney ~~{outside of the qualifying public entity}~~;

(b) Provide information about available pro bono, free or low-cost civil legal services, legal aid programs and lawyer referral services;

(c) Provide information about available forms, pleadings and instructions without providing advice or recommendations as to any specific course of action;

(d) Engage in oral communications to assist persons in the completion of blanks on forms;

(e) Provide orally or in writing definitions of legal terminology from widely accepted legal dictionaries or other dictionaries without advising whether a particular definition is applicable to the requesting person's situation;

(f) Provide orally or in writing citations, constitutions, statutes, administrative or court rules and case law without providing legal research as defined in subsection 3 of this rule or advising whether a particular provision is applicable to the requesting person's situation;

(g) Provide information on docketed cases;

(h) Provide general information about court process, procedure and practice;

(i) Provide information about mediation, parenting courses and courses for children of divorcing parents, *as well as information regarding existing child support guidelines and presumptive support amounts;*

(j) Provide orally or in writing information on local court rules and administrative orders;
and

(k) Provide general information about community resources.

4. Court support staff, appellate court staff, and court volunteers may:

(a) Check forms for completeness when offered for filing and explain instructions or define terms appearing in the forms;

(b) Assist a self-represented litigant by recording, verbatim, information provided by the litigant on approved forms if the litigant is unable to complete the form due to a disability or a language or literacy barrier;

(c) Provide information, as directed by the court, regarding local resources, services, and programs; and

(d) Assist a member of the public in obtaining publicly available records that are subject to the control of court.

~~{3-}~~ **5. No** Any person or entity described in subsection ~~{2}~~ 1 (a), (b), or (c) of this rule ~~{and}~~ that is not licensed to practice law ~~{in Nevada}~~ or supervised by a ~~{Nevada}~~ licensed attorney ~~{may do any of the following}~~ *may not:*

(a) Provide orally or in writing any interpretation by application of the following to specific facts: legal terminology, constitutional provisions, statutory provisions, administrative or court rules, and case law;

(b) Provide orally or in writing information that must be kept confidential by statute, administrative or court rule, or case law;

(c) ~~{Create}~~ *Provide* content on documents ~~{not provided}~~ *unless supplied* by self-represented litigants;

(d) Perform direct legal research for any litigant by applying the law to specific facts, expressing an opinion regarding the applicability of any constitutional provisions, statutes, administrative or court rules, or case law to the requesting person's particular circumstances; and

(e) Lead persons to believe that they are the legal representatives of anyone in any capacity or induce the public to rely on them for legal advice;

(f) Investigate the facts of a litigant's case; or

(g) represent a litigant in a court.

6. Appellate court staff, in assisting the chief justice to carry out their duties as the administrative head of the judicial branch, may:

(a) Provide guidance to trial courts regarding the application of legislation, laws, statutes, or court rules to a trial court's obligations, duties, practices, and procedures;

(b) Provide information and analysis to trial courts relating to the administration of justice and operation of the courts;

(c) Engage in judicial and court staff educational activities regarding topics related to the administration of justice;

(d) Provide guidance to trial courts regarding emergent situations in order to help maintain court operations and services;

(e) Create and maintain forms and guided interviews for use in the trial courts;

(f) Take actions necessary to implement, and ensure compliance with, the administrative orders and rules of the Nevada supreme court throughout the State; and

(g) Undertake other actions as directed by the chief justice to maintain and improve the administration of justice.

7. Court support staff, appellate court staff, and court volunteers who, while performing their duties in good faith, act in compliance with the provisions of this rule are not in violation of the rules of this court.

Query:

Rule 44. Person may appear in his own behalf.

1. Nothing in these rules shall be so construed as to prevent any person from appearing in his own behalf in any court in this state except the supreme court.

2. Court employees, county clerks and their deputies, law librarians and their assistants, employed by a governmental entity and working within a governmental environment who are not supervised by a licensed Nevada attorney are authorized to do the following:

(a) Encourage persons to obtain legal advice from a licensed Nevada attorney outside of the qualifying public entity;

(b) Provide information about available pro bono, free or low-cost civil legal services, legal aid programs and lawyer referral services;

(c) Provide information about available forms, pleadings and instructions without providing advice or recommendations as to any specific course of action;

(d) Engage in oral communications to assist persons in the completion of blanks on forms;

(e) Provide orally or in writing definitions of legal terminology from widely accepted legal dictionaries or other dictionaries without advising whether a particular definition is applicable to the requesting person's situation;

(f) Provide orally or in writing citations, constitutions, statutes, administrative or court rules and case law without providing legal research as defined in subsection 3 of this rule or advising whether a particular provision is applicable to the requesting person's situation;

(g) Provide information on docketed cases;

(h) Provide general information about court process, procedure and practice;

(i) Provide information about mediation, parenting courses and courses for children of divorcing parents;

(j) Provide orally or in writing information on local court rules and administrative orders; and

(k) Provide general information about community resources.

3. No person or entity described in subsection 2 of this rule and not licensed to practice law in Nevada or supervised by a Nevada licensed attorney may do any of the following:

(a) Provide orally or in writing any interpretation by application of the following to specific facts: legal terminology, constitutional provisions, statutory provisions, administrative or court rules, and case law;

(b) Provide orally or in writing information that must be kept confidential by statute, administrative or court rule, or case law;

(c) Create content on documents not provided by self-represented litigants;

(d) Perform direct legal research for any litigant by applying the law to specific facts, expressing an opinion regarding the applicability of any constitutional provisions, statutes, administrative or court rules, or case law to the requesting person's particular circumstances; and

(e) Lead persons to believe that they are the legal representatives of anyone in any capacity or induce the public to rely on them for legal advice.

[As amended; effective May 30, 2004.]

NEVADA CASES.

A trustee could not lawfully represent trusts in an action before the district court or on appeal to the supreme court. A trustee could not lawfully represent trusts in an action before the district court or on appeal to the supreme court because the trustee was not an active member of State Bar of Nevada (see [NRS 7.285](#) and [S.C.R. 77](#)). Although a person is entitled to represent himself in a district court (see [S.C.R. 44](#)), no rule or statute permits the person to represent any other person, company, trust or other entity in a district court or the supreme court. Therefore, where trusts refused to obtain counsel to represent them, the supreme court dismissed their appeals. *Salman v. Newell*, [110 Nev. 1333](#), 885 P.2d 607 (1994), cited, *Guerin v. Guerin*, [116 Nev. 210](#), at [214](#), 993 P.2d 1256 (2000), *In re Schaefer*, [117 Nev. 496](#), at [509](#), 25 P.3d 191 (2001), *In re Lerner*, [124 Nev. 1232](#), at [1237](#), 197 P.3d 1067 (2008)