

TABLE OF CONTENTS

EIGHTH JUDICIAL DISTRICT COURT

BACKGROUND

OBJECTIVES

DETAIL OF FINDINGS

Clerk of Court

The Effects

Procedure

District Court

REPORT TO THE SUPREME COURT OF NEVADA

Hand

Online

Blackstone

Blackstone

Review of

SUMMARY OF RECOMMENDATIONS

MAY 15, 2007

1
2
3
4
5
6

DISTRICT COURT
TRUST ACCOUNT RECONCILIATION AND AUTOMATION UPDATE
May 15, 2007

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8
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BACKGROUND

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13
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On January 16, 2007, the Nevada Supreme Court issued an "Order Suspending Application of NRCPC 39 Governing the Deposit of Juror Fees in the Eighth Judicial District Court." The Order stated, in part, as follows:

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"...Both the Eighth Judicial District Court's Finance Department's report and the County Clerk's response to Chief Judge Hardcastle's petition highlight the need to modernize and reconcile the Clerk Trust Account....this court has determined that temporary suspension of the jury demand fee would assist the Eighth Judicial District Court's efforts to streamline its current business practices and automate the Clerk Trust Account....the Eighth Judicial District Court shall, on or before May 15, 2007, file a report with the clerk of this court detailing the effects of the suspension of the jury demand fee. The report must also include, at a minimum, specifics concerning the Eighth Judicial District Court's progress in reconciling the Clerk Trust Account and the new procedures implemented for fee collection and refunds.

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OBJECTIVES

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The objectives of our report are to file with the Supreme Court:

- The effects of the suspension of the jury demand deposit.
- Detail the new procedures implemented for fee collection and refunds.
- Specifics concerning the District Court's progress in reconciling the Trust Account.

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DETAIL OF FINDINGS

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Clerk of Court Transition

~~The County Clerk had supervised the Eighth Judicial District Court Clerk of Court function from the date that Eighth Judicial District Court was created in 1909 until January 15, 2007.~~ On Tuesday, January 16, 2007, this District's Clerk of Court function formally became the responsibility of the District Court Administrator as provided by Rule 1.50 of the Eighth Judicial Court Rules. In

1 anticipation of this transition, we prepared a task list (Attachment I) of those actions needed to insure
2 we had an orderly transition of this essential court function.

3 Recognizing that the Court faced uncharted territory, the Court requested Clark County Internal
4 Audit to provide auditors to accompany court staff during the first days of the Clerk of Court
5 integration and to observe all associated fiscal operations. A copy of a two page summary titled
6 "Clerk's Office Observation" prepared by Mr. Jeremiah Carroll II, Director of Clark County's Audit
7 Department, is enclosed (Attachment II). As noted in the first paragraph of that document --- "These
8 observations and procedures do not represent a complete examination of the clerk's office and should
9 not be construed as an audit of the clerk's office."

10 The memorandum predominantly highlights the lack of key internal financial controls, which existed
11 when the Court assumed control of the Clerk of Court responsibility. However, the memorandum
12 provides only one comment related to the trust fund as noted herein: "The trust funds are currently
13 tracked using a manual system that is unreliable and not reconciled. This process needs to be
14 automated so that the account can be reconciled on a monthly basis."
15
16

17 **The Effects of the Suspension of the Jury Demand Deposit.**

18 As noted earlier, the Nevada Supreme Court issued an order on January 16, 2007, suspending the
19 application of NRCP 39 governing deposit of juror fees in the Eighth Judicial District Court. The
20 impact of suspending the jury demand fees could be realized through a change in the number of jury
21 demand notices received on civil cases, the number of civil jury trials and the value to the court of the
22 staff relieved of the responsibility to account for the civil jury demand deposits.

23 Court records indicate that during 2006, civil jury demand fees were received on approximately
24 300 to 350 civil cases a month, or just over 1,000 cases a quarter, prior to the order suspending the
25 jury demand fee. During the first quarter of 2007, the court received approximately 1,300 civil jury
26 demand notices representing an estimated 30% increase in the number of such notices over the
27 prior quarter. Review of the demand notices indicates that 99% of those filed originated from lawyers
28 who now make the filing of the jury demand an automatic element of the procedure they follow in
29 litigating a civil case. Discussion by court staff with several law firms revealed that the law firms do
30 not view the filing of the demand deposit as increasing the chance of a civil case moving to a jury
31 trial.

32 Analyzing the civil trials during calendar year 2006, the District Court averaged 15 civil jury trials a
33 month. In contrast, during the first four months of 2007, the District Court averaged 11 civil jury trials
34 per month. One would not expect the suspension of the jury demand fee to impact the number of civil
35 jury trials occurring in the first quarter of 2007 since these cases were subject to NRCP 39
36 requirements at the time those cases were filed. Any impact of the NRCP 39's suspension in the
37 Eighth Judicial District Court on the number of jury trials will not be realized until the cases filed in

1 the first quarter of 2007 are trial ready.

2 In looking at the value of staff and the time required to manage the jury fee deposit process prior to
3 NRCP 39's suspension; on any given work day the equivalent of 2 to 3 financial office assistant clerks
4 were required to receipt the jury demand fee deposits and refund those deposits where a civil case was
5 resolved without the necessity of a jury trial. Accordingly, the suspension made the staff available for
6 other clerk of court financial tasks. In large measure, this staff, combined with District Court Finance
7 Division staff applied all available hours relieved through the suspension of NRCP 39's requirement
8 to the arduous task of reconciling the Clerk of Court Trust Fund. In later sections of this report, the
9 efforts of this group and the resulting avoidance of the potential loss of several million dollars of trust
10 fund deposits speaks volumes to the wisdom of the Nevada Supreme Court's decision.
11

12 **Procedures Used to Collect or Refund Jury Fees in Civil Jury Trial.**

13 We are using the same basic procedures that were in place when we integrated the Clerk of the Court
14 into District Court. All accounts are billed and collected in a timely manner at the conclusion of each
15 trial. A detailed listing of all billings and collections is kept by fiscal services showing the status of
16 all receivables and refunds.

17 **Recommendation:** No change is recommended for the post civil jury trial collection/refund of jury
18 fees procedure.

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1 **District Court's Progress in Reconciling and Automating the Trust Account**

2 *Scope of Trust Cases and Amounts on Deposit*

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4 Below is a summary of the number of trust fund payments on deposit by the Clerk of the Court by
5 year as of February 2007. The chart reveals that there are 10,352 total deposits with 7,913 of those or
6 76% resulting from the civil jury demand deposit and 2,439 other deposits.

7 **THE NUMBER OF JURY DEMAND PAYMENTS AND THE NUMBER OF**
8 **OTHER PAYMENTS AND THE TOTAL AMOUNT ON DEPOSIT BY YEAR**
9 **IN THE COURT CLERK CIVIL TRUST FUND**

Year	Jury	Other	Dollar Amt	Year	Jury	Other	Dollar Amt
Prior	8	13	\$17,076	1999	71	72	\$195,241
1990	0	2	\$155	2000	42	61	\$405,232
1991	1	6	\$4,870	2001	174	170	\$2,280,201
1992	4	14	\$6,913	2002	377	145	\$879,706
1993	4	53	\$75,109	2003	663	239	\$1,973,569
1994	18	22	\$68,123	2004	1335	436	\$3,703,409
1995	28	27	\$27,118	2005	2,414	483	\$5,464,769
1996	44	22	\$71,570	2006	2,613	532	\$7,190,179
1997	65	47	\$55,408	2007	3	59	\$592,213
1998	49	37	\$106,829	Total	7,913	2,439	\$23,117,690

10
11 ~~The total dollar amount of the Trust Fund from all deposits was \$23,117,690 with \$3,038,608 or 13%~~
12 ~~representing jury demand fees.~~ Please note that this listing was created in an Excel spreadsheet by
13 fiscal services staff from a 750 page Blackstone printout over the past 3 months. The Courts ability to
14 account for the trust fund deposits through creation of the excel spreadsheet report is directly related
15 to the suspension of NRCP 39. The staff time previously applied to receipting of the 300 to 350
16 monthly jury demand deposits, performing the research to identify civil cases resolved through non-
17 jury trial methods, and refunding those deposits, has now been redirected to automating the process
18 and researching irregularities identified later in this report. In our view, the best use of staff would be
19 to continue these efforts.

20
21 **Recommendation:** A. Court Financial staff should continue to update the trust fund account
22 spreadsheet as required by case research B. The refund of all jury demand fees currently on deposit.
23 C. Continued suspension of NRCP 39 for one year.
24
25

1 ***Hand Typed Trust Cards***

2 Each new case for which a trust deposit is accepted by the Clerk's Office, a four-part trust card is
3 required to be hand typed. Part I for the customer, Part II for the case file, Part III for fiscal services
4 and Part IV is the trust card filed by case number. These trust deposits are entered into the case
5 management system (Blackstone) on the same day that they are received. Additional deposits
6 received on existing cases will require the clerk to find the existing trust card so the additional deposit
7 amounts can be hand posted to the existing trust card, this process consumes a great deal of Clerk of
8 the Court finance division staff. The District Court has an opportunity to discontinue the trust cards
9 completely and record all trust deposits, disbursements and notations recording each action on the
10 trust account with the implementation of the new case management system (Odyssey) for all civil
11 cases.

12
13 **Recommendation:** Design the civil module of the new case management system to provide a record
14 for trust fund deposits, disbursements and trust notations at the case level.

15
16 ***Online Banking with Nevada State Bank***

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18 Online banking has been implemented and is a significant step forward for the Clerk of the Court.
19 Prior to online banking, it was difficult to get timely stop payments, bank statements, account activity
20 or balances. District Court has recently established a web browser-based suite of electronic services,
21 which allows us to effectively manage our Nevada State Bank Trust Accounts online. We have both
22 same day and previous day balance reporting. We can transfer funds between accounts, place stop
23 payments on individual checks or a range of checks, and have the ability to view electronic versions
24 of account statements. In addition, we have eliminated redundancy in imaging all balance reports and
25 documentation as Nevada State Bank is providing the images electronically. An additional feature we
26 have implemented relates to remote deposits. We now have the ability to post deposits on the same
27 day. Prior to online banking, deposits were collected by Loomis Fargo and posted to the trust
28 accounts the next day. This feature will facilitate daily reconciliation of the Trust Account.

29
30 **Recommendation:** Reconcile the Trust Fund accounts daily.

1 *Blackstone Trust Accounts with no Corresponding Trust Card*
2

3 There are two separate trust accounts and each has a separate bank account. One is for civil/criminal
4 trust deposits and one is for family trust deposits. The Blackstone case management system shows
5 10,352 Civil trust deposits but the hand typed trust cards show only 10,061. There are 291 civil trust
6 deposits showing in the case management system that do not have corresponding trust cards. For
7 Family Court, the case management system shows 444 trust deposits but the hand typed trust cards
8 show only 206, the number of trust deposits showing in the case management system that do not have
9 corresponding trust cards is 238. The case management system (Blackstone) **does not** reconcile to the
10 hand typed trust cards or to the bank.

11
12 **Recommendation:** Abolish the trust card system and rely on the new case management system to
13 manage and report on all trust fund accounts.
14

15 *Blackstone's Automated Detail Trust Report—Incorrect Balances*
16

17 This report prints all amounts for which there exists a balance owed to a depositor. It shows the
18 original amount deposited and by whom. It shows all additional deposits on this particular case and
19 any payments made by the Clerk of the Court to depositors on this case. While working the detail
20 trust listing report produced by Blackstone, we noticed that the balances for all cases that had partial
21 payments against the initial bond payment returned an incorrect amount on the report. We contacted
22 CMC (Blackstone vendor) and they corrected this programming error. Balancing all outstanding
23 accounts to the bank will ensure these reporting errors do not occur.
24

25 **Review of Proposed Escheatment to the State of Nevada by the Clark County Clerk.**

26 **Unclaimed property**

27 During the three months prior to District Court taking control of this account, the County Clerk issued
28 about 3,200 checks totaling over \$27,000,000. At the time District Court assumed responsibility for
29 the Clerk of the Court on January 16, 2007, separate and distinct from the 3,200 checks issued by the
30 County Clerk, there were over 526 checks identified on over 691 cases totaling \$5,194,168.59, which
31 had been identified by the County Clerk for escheatment to the State of Nevada as unclaimed property
32 (Attachment III).

33 A careful case-by-case review of the 526 checks revealed 386 of these checks totaling \$230,194.91

1 on the Nevada Secretary of State website shows that Casablanca Travel Service's business license was
2 revoked on 11/1/05. It lists Mark Duncan as an officer of the corporation. Several phone calls were
3 made to the former attorney representing the Casablanca Travel Services, Steve L. Sorenson of
4 Sorenson & Associates, were not returned. James McClendon signed for Casablanca Travel Services.
5 **It appears that the company may have been sold at some point.** This example illustrates our concerns
6 with the adequacy of prior controls on the trust account. **We do expect to find this situation repeated.**
7 As a result, fiscal prudence require us to examine all the work the County Clerk did in an attempt to
8 clean up this account as control of the account was being turned over to District Court.
9

10 ~~**Recommendation:** Continue researching each one of the 3,200 trust payments made by the County~~
11 ~~**Clerk during the three months prior to District Court taking control of this account.**~~
12

13 SUMMARY OF RECOMMENDATIONS

14 Based on the number of irregularities encountered in working with the Clerk of the Court trust
15 accounts over the past four months, District Court is making the following recommendations:

- 16 ■ No change is recommended for the post civil jury trial collection/refund of jury fees
17 procedure.
- 18 ■ A. Court Financial staff should continue to update the trust fund account spreadsheet as
19 required by case research B. The refund of all jury demand fees currently on deposit. C.
20 Continued suspension of NRCP 39 for one year.
- 21 ■ Design of the civil module of the new case management system provide a record for trust fund
22 deposits, disbursements and trust notations at the case level.
- 23 ■ Reconcile the Trust Fund accounts daily.
- 24 ■ Abolish the trust card system and rely on the new case management system to manage and
25 report on all trust fund accounts.
- 26 ■ No further action needed relative to the review of the County Clerk's list of items for
27 escheatment.
- 28 ■ Continue researching each one of the 3,200 trust payments made by the County Clerk during
29 the three months prior to District Court taking control of this account.

30 In closing, the Courts final recommendation relates to a request of the Clark County Manager. The
31 court is in the process of formally requesting our County Manager to assign Internal Audit to review
32 District Court's work and prepare an audit report of their findings.