

***IN THE SUPREME COURT, STATE OF WYOMING***

*April Term, A.D. 2010*

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*In the Matter of Amendments to* )  
*Rules 16, 26, 50, 54, and 77 of the* )  
*Wyoming Rules of Civil Procedure* )

**ORDER ADOPTING AMENDMENTS TO RULES 16, 26, 50, 54, AND 77  
OF THE WYOMING RULES OF CIVIL PROCEDURE**

The Permanent Rules Advisory Committee, Civil Division, has recommended amendments to Rules 16, 26, 50, and 54 of the Wyoming Rules of Civil Procedure. In addition, the Board of Judicial Policy and Administration has recommended amendments to Rule 77 of the Wyoming Rules of Civil Procedure. This Court, having carefully reviewed the proposed amendments, finds that the proposed amendments should be adopted. It is, therefore,

**ORDERED** that the amendments to Rules 16, 26, 50, 54, and 77 of the Wyoming Rules of Civil Procedure, attached hereto, be and hereby are adopted by the Court to be effective July 1, 2010; and it is further

**ORDERED** that this order and the rule amendments be published in the advance sheets of the Pacific Reporter; the rule amendments be published in the Wyoming Court Rules Volume; and this order and the rule amendments be made available online at the Wyoming Judicial Branch's website, <http://www.courts.state.wy.us>. The amendments shall thereafter be spread at length upon the journal of this Court.

**DATED** this 21<sup>st</sup> day of April, 2010.

**BY THE COURT:**

**BARTON R. VOIGT**  
Chief Justice

## Wyoming Rules of Civil Procedure

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### Rule 16. Pretrial conferences; scheduling; management.

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(b) *Scheduling and planning.* - The judge, or a court commissioner when authorized by the Uniform Rules for the District Courts, may, after consulting with the attorneys for the parties and any unrepresented parties, by a scheduling conference, telephone, mail or other suitable means, enter a scheduling order that limits the time:

- (1) To join other parties and to amend the pleadings;
- (2) To file and hear motions; and
- (3) To complete discovery.

The scheduling order also may include:

(4) ~~The date or dates for conferences before trial, a final pretrial conference, and trial~~  
Modifications of the times for disclosures under Rules 26(a) and 26(e)(1) and of the extent of discovery to be permitted;

(5) ~~The extent of discovery to be permitted; and~~ Provisions for disclosure or discovery of electronically stored information;

(6) Any agreements the parties reach for asserting claims of privilege or of protection as trial-preparation material after production;

(7) The date or dates for conferences before trial, a final pretrial conference, and trial; and

(8) Any other matters appropriate in the circumstances of the case.

A schedule shall not be modified except by leave of the judge or a court commissioner upon a showing of good cause.

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### Rule 26. General provisions governing discovery; duty of disclosure.

(a) *Required disclosures; methods to discover additional matter.* -

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(2) Disclosure of expert testimony.

(A) In addition to the disclosures required by paragraph (1) or (1.1), a party shall disclose to other parties the identity of any person who may be used at trial to present evidence under Rules 702, 703, or 705 of the Wyoming Rules of Evidence.

(B) Except as otherwise stipulated or directed by the court, this disclosure shall, with respect to a witness who is retained or specially employed to provide expert testimony in the case or whose duties as an employee of the party regularly involve giving expert testimony, be accompanied by a written report prepared and signed by the witness or disclosure signed by counsel for the party. The report or disclosure shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years; the compensation to be paid for the study and testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

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(d) *Sequence and timing of discovery.* - Except in categories of proceedings exempted from initial disclosure under Rule 26(a)(1)(E), or when authorized under these rules or by order or agreement of the parties, a party may not seek discovery from any source before the period for initial disclosures has expired and that party has provided the disclosures required under Rule 26(a)(1), unless otherwise ordered by the court. Unless the court upon motion, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence, and the fact that a party is conducting discovery, whether by deposition or otherwise, does not operate to delay any other party's discovery.

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**Rule 50. Judgment as a matter of law in jury trials; alternative motion for new trial; conditional rulings.**

(a) *Judgment as a matter of law.* -

~~(1) If during a trial by jury a party has been fully heard on an issue and there is no legally sufficient evidentiary basis for a reasonable jury to find for that party on that issue, the court may determine the issue against that party and may grant a motion for judgment as a matter of law against that party with respect to a claim or defense that cannot under the controlling law be maintained or defeated without a favorable finding on that issue.~~

~~(2) Motions for judgment as a matter of law may be made at any time before submission of the case to the jury. Such a motion shall specify the judgment sought and the law and the facts on which the moving party is entitled to the judgment.~~

(1) In General. If a party has been fully heard on an issue during a jury trial and the court finds that a reasonable jury would not have a legally sufficient evidentiary basis to find for the party on that issue, the court may:

(A) Resolve the issue against a party; and

(B) Grant a motion for judgment as a matter of law against the party on a claim or defense that, under the controlling law, can be maintained or defeated only with a favorable finding on that issue.

(2) Motion. A motion for judgment as a matter of law may be made at any time before the case is submitted to the jury. The motion must specify the judgment sought and the law and facts that entitle the movant to the judgment.

(b) *Renewing ~~the motion for judgment~~ after trial; alternative motion for a new trial.* -

~~If, for any reason, the court does not grant a motion for judgment as a matter of law made at the close of all the evidence, under subdivision (a), the court is considered to have submitted the action to the jury subject to the court's later deciding the legal questions raised by the motion. ¶The movant may renew its request for judgment as a matter of law by filing a motion no later than 10 days after the entry of judgment or, if the motion addresses a jury issue not decided by a verdict, no later than 10 days after the jury was discharged. and The movant may alternatively request a new trial or join a motion for a new trial under Rule 59; and a motion to set aside or otherwise nullify a verdict or for a new trial shall be deemed to include a renewed motion for judgment as a matter of law as an alternative. In ruling on a renewed motion, the court may:~~

- (1) If a verdict was returned:
  - (A) Allow the judgment to stand,
  - (B) Order a new trial, or
  - (C) Direct entry of judgment as a matter of law; or
- (2) If no verdict was returned:
  - (A) Order a new trial, or
  - (B) Direct entry of judgment as a matter of law.

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**Rule 54. Judgment; costs.**

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- (d) Costs; Attorney's Fees.

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- (2) Attorney's Fees.

(A) When allowed by law, claims for attorney's fees and related nontaxable expenses shall be made by motion unless the substantive law governing the action provides for the recovery of such fees as an element of damages to be proved at trial.

(B) Unless otherwise provided by statute or order of the court, the motion must be filed and served no later than ~~14~~ 20 days after entry of judgment; must specify the judgment and the statute, rule, or other grounds entitling the moving party to the award; and must state the amount or provide a fair estimate of the amount sought. If directed by the court, the motion shall also disclose the terms of any agreement with respect to fees to be paid for the services for which claim is made.

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**Rule 77. District courts and clerks.**

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(d) *Service of orders or judgments.* -- Immediately upon the entry of an order or judgment the clerk shall ~~mail~~ provide and serve a copy thereof ~~in the manner provided in Rule 5(b)~~ to every party who is not in default for failure to appear. ~~Unless the order or judgment is prepared by the court, the copies necessary for such mailing shall be furnished to the clerk by the prevailing party, and~~ The clerk shall make a note in the docket the date of service and the parties served of the mailing on the docket. Service by the clerk may be accomplished by mail, hand delivery, clerk's boxes, or electronic means. The clerk shall provide envelopes and postage for the mailings. If service is accomplished by electronic means, this rule supersedes the requirements of W.S. § 5-3-210 to attach the seal of the court to all writs and orders. Any party may in addition serve a notice of such entry in the manner provided in Rule 5(b) for the service of papers. Lack of notice of the entry by the clerk does not affect the time to appeal or relieve or authorize the court to relieve a party for failure to appeal within the time allowed, except as permitted by the Wyoming Rules of Appellate Procedure.

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