

IN THE SUPREME COURT, STATE OF WYOMING

April Term, A.D. 2000

**In the Matter of the Adoption of)
an Amendment to Rule 38 of the)
Wyoming Rules of Civil Procedure)**

IN THE SUPREME COURT
STATE OF WYOMING
FILED

JUL 20 2000

JUDY PACHECO, CLERK

C. Thompson
by DEPUTY

**ORDER ADOPTING AMENDMENT TO RULE 38 OF
THE WYOMING RULES OF CIVIL PROCEDURE**

The Court, on its own motion, has determined that an amendment to Rule 38 of the Wyoming Rules of Civil Procedure is necessary as a result of legislation displacing the County Courts with Circuit Courts. It is, therefore,

ORDERED that the amendment to Rule 38 of the Wyoming Rules of Civil Procedure, a copy of which is attached hereto, is adopted and that the amendment shall be effective on the date this order is signed.

DATED this 20th day of July, 2000.

BY THE COURT:

William U. Hill

WILLIAM U. HILL

Justice

Rule 38. Jury trial of right.

(a) *Right preserved.* - Issues of law must be tried by the court, unless referred as hereinafter provided; and issues of fact arising in actions for the recovery of money only, or specific real or personal property, shall be tried by a jury unless a jury trial be waived, or a reference be ordered. All other issues of fact shall be tried by the court, subject to its power to order any issue to be tried by a jury, or referred.

(b) *Demand.*

(1) *By Whom; Filing.* - Any party may demand a trial by jury of any issue triable of right by a jury by (A) serving upon the other parties a demand therefor in writing at any time after the commencement of the action and not later than 10 days after service of the last pleading directed to such issue, and (B) filing the demand as required by Rule 5(d). Such demand may be indorsed upon a pleading of the party.

(2) *Jury Fees.*

A. All demands for trial by jury in district courts shall be accompanied by a deposit of \$50.00. The jury fees in cases where jury trials are demanded shall be paid to the clerk of the court, and paid by the clerk into the county treasury at the close of each month, and the clerk shall tax as costs in each such case, and in all other cases in which a jury trial is had, a jury fee of \$50.00, to be recovered of the unsuccessful party, as other costs, and in case the party making such deposit is successful, that party shall recover such deposit from the opposite party, as part of the costs in the case.

B. All demands for trial by jury in circuit courts shall be accompanied by a deposit of \$50.00. The jury fees in cases where jury trials are demanded shall be paid to the clerk of the court, and paid by the clerk to the State of Wyoming Treasurer at the close of each month, and the clerk shall tax as costs in each such case, and in all other cases in which a jury trial

is had, a jury fee of \$50.00, to be recovered of the unsuccessful party, as other costs, and in case the party making such deposit is successful, that party shall recover such deposit from the opposite party, as part of the costs in the case.

(c) *Specification of issues.* - In the demand a party may specify the issues which the party wishes so tried; otherwise the party shall be deemed to have demanded trial by jury for all the issues so triable. If the party has demanded trial by jury for only some of the issues, any other party within 10 days after service of the demand or such lesser time as the court may order, may serve a demand for trial by jury of any other or all of the issues of fact in the action.

(d) *Waiver.* - The failure of a party to serve and file a demand as required by this rule constitutes a waiver by the party of trial by jury. A demand for trial by jury made as herein provided may not be withdrawn without the consent of the parties.