

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

**OCTOBER TERM, A.D. 1992**

In the Matter of the Adoption of the  
Uniform Rules for District Courts of  
the State of Wyoming

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IN THE SUPREME COURT  
STATE OF WYOMING  
FILED

MAR 16 1993

JERRILL D. CARTER, CLERK

**ORDER ADOPTING THE UNIFORM RULES FOR DISTRICT COURTS OF THE  
STATE OF WYOMING**

The Honorable Nicholas Kalokathis, First Judicial District, on behalf of the Wyoming district judges, having submitted to the court a copy of the Uniform Rules for District Courts of the State of Wyoming, and the Permanent Rules Committee--Civil and Criminal Divisions having reviewed the proposed rules as submitted and having made their recommendations to the court, and it appearing advisable that the court approve the same; it is therefore

**ORDERED** by this court that the Uniform Rules for District Courts of the State of Wyoming, attached hereto, be hereby adopted; that said rules be published in the advance sheets of the Pacific Reporter and in the Wyoming Reporter; that said rules shall become effective 60 days after publication in the advance sheets of the Pacific Reporter and shall be spread at length upon the journal of this court; and shall thereupon abrogate any existing uniform district court rules. It is further

**ORDERED** that Judge Kalokathis and the members of the Permanent Rules Committee--Civil and Criminal Divisions, be commended for the excellence of their work and that sincere appreciation be extended to each.

Dated this 16<sup>th</sup> day of March, 1993.

BY THE COURT:

  
Richard J. Macy  
Chief Justice

UNIFORM RULES FOR THE DISTRICT COURTS  
OF THE STATE OF WYOMING

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**UNIFORM RULES FOR THE DISTRICT COURTS  
OF THE STATE OF WYOMING**

**Rule 100. Title.**

These rules may be known and cited as the Uniform Rules for District Courts of the State of Wyoming. (U.R.D.C.)

**Rule 101. Appearances.**

(a) Any person may appear, prosecute or defend any action pro se. Partnerships and sole proprietorships may appear through the owners.

(b) Corporations and unincorporated associations (other than partnerships and individual proprietorships) may appear only through an attorney licensed to practice in Wyoming.

(c) An active member of the Wyoming State Bar shall attend all hearings of any party represented by counsel. Unless excused by the court (after notice to all other counsel) the attorney shall attend all hearings on behalf of the attorney's client.

(d) All counsel and pro se parties shall appear promptly at court settings.

**Rule 102. Appearances and withdrawal of counsel.**

(a) An attorney appears in a case: by attending any proceeding as counsel for any party; by permitting the attorney's name to appear on any pleadings or motions; or, by a written appearance. An appearing attorney shall be considered as representing the party or parties for whom the attorney appears for all purposes.

(b) All pleadings shall contain the name, address, and telephone number of counsel or, if pro se, the party. All notices shall be mailed to the address provided. Each party or counsel shall give notice in writing of any change of address to the clerk and other parties.

(c) Counsel will not be permitted to withdraw from a case except upon court order. Except in the case of extraordinary circumstances, the court shall condition withdrawal of counsel upon the substitution of other counsel by written appearance. In the alternative, the court shall allow withdrawal upon a statement submitted by the client acknowledging the withdrawal of counsel for the client, and stating a desire to proceed pro se.

**Rule 103. Wyoming business address.**

Those attorneys appearing before the district courts, even though admitted to the Wyoming State Bar, shall be required to provide to the clerk of court a Wyoming business address of record. Association with resident Wyoming counsel is not required, but will serve to fulfill this requirement. Service of all papers may be made at either the Wyoming business address of record or upon the out-of-state business address of a nonresident attorney.

**Rule 104. Admission pro hac vice.**

All non-resident attorneys, except those non-residents who already have been admitted to practice in the State of Wyoming, must seek admission pro hac vice upon a motion made by a resident member of the Wyoming State Bar in order to appear in any matter in a Wyoming trial court.

Unless otherwise ordered, a motion to appear pro hac vice shall be granted only if the applicant associates with an active resident member of the bar who shall participate in the preparation and trial of the case to the extent required by the court. The applicant must also be a member in good standing of the bar of another state.

An attorney who applies for admission pro hac vice consents to the exercise of disciplinary jurisdiction by that court over any alleged misconduct which occurs during the progress of the case in which the attorney so admitted participates. Prior to the filing of any pleadings or other documents, there shall be filed in the clerk's office an entry of appearance by an active resident member of the bar with whom the applicant has become associated. The clerk of court shall not accept any documents for filing from the non-resident attorney until resident counsel has filed an entry of appearance. The resident member of the bar shall move the applicant's admission at the commencement of the first hearing to be held before the court. The resident attorney shall sign the first pleading filed and shall continue in the case unless another resident counsel is substituted. The resident attorney shall be present in court during all proceedings in connection with the case, unless excused, and shall have full authority to act for and on behalf of the client in all matters, including pretrial conferences, as well as trial or any other hearings. Any notice, pleading or other paper shall be served upon all counsel of record, including resident counsel, whenever possible, but it shall be sufficient for purposes of notice if service of any motion, pleading, order, notice, or any other paper is served only upon resident counsel, who shall assume responsibility for advising the non-resident associate of any such service. If the court so orders

or the parties stipulate, service of any notice, pleading, or other paper may be made directly upon the non-resident associate counsel at the out-of-state business address of the associate counsel.

**Rule 201. Continuances.**

Cases will not be continued upon stipulation of counsel. Continuances will be granted only for good cause shown in writing.

**Rule 202. Time limits.**

Except as may be permitted by the Wyoming Rules of Civil Procedure and the Wyoming Rules of Criminal Procedure, time limits permitted or required by rules or court order may not be extended or modified by agreement of counsel, but only by order.

**Rule 203. Default; dismissal for lack of prosecution.**

(a) Entry of default in accordance with Rule 55(a), W.R.C.P., must be made in all default matters. Defaults may be heard by the court at any convenient time. If no request for hearing is made within 90 days after service of process upon the defendant, the case may be dismissed by the court. Upon application to the court before the expiration of 90 days, and showing good cause, the time may be extended.

(b) Cases on file for 90 days without service on the defendant will be dismissed by the court. Upon application to the court before the expiration of 90 days, and showing good cause, the time may be extended.

(c) Cases on the docket in which no substantial and bona fide action of record towards disposition has been taken for 90 days are subject to dismissal for lack of prosecution.

(d) Dismissal with prejudice shall be in conformity with the Wyoming Rules of Civil Procedure.

**Rule 301. Facsimile transmission.**

Facsimile transmission, as set forth in Rule 5(e), W.R.C.P., is available in criminal matters.

**Rule 302. Proof of service.**

Except as may be otherwise provided in the Wyoming Rules of Civil Procedure, the Wyoming Rules of Criminal Procedure, or by

order of court, proof of service of every document to be served may be made: (1) by an acknowledgement of service, signed by the attorney for a party or signed and acknowledged by the party; or, (2) by an affidavit of the person making service; or, (3) by a certificate of service appended to the paper to be filed and signed by the attorney for the party making service; or, (4) by entry upon the appearance docket showing service under Rule 5(b), W.R.C.P. The proof shall be filed with the court promptly and in any event before action is to be taken on the matter by the court.

**Rule 303. Official court files.**

(a) Files may be removed from the clerk's office only under the following circumstances:

- (1) For use of the court; or
- (2) By any member of the Wyoming State Bar for a period not exceeding five days at any one time; or
- (3) By bonded abstractors for a period not to exceed five days at any one time; or
- (4) By anyone upon written order of the court.

(b) All files shall be returned to the clerk's office for use by the judge two working days before any hearing.

(c) The clerk may deny the privilege of removing files to anyone violating this rule.

(d) No worker's compensation, water irrigation or drainage district file shall be removed from the office of the clerk, except by a judge.

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**Rule 304. Form of jury demands, orders, notices of motion and discovery requests.**

Counsel shall set forth on separate sheets of paper demands for jury trial, orders of the court and notices of motion. Counsel shall also set forth on separate sheets of paper each different type of discovery request, e.g., interrogatories, requests for production, admissions, when both served and answered.

**Rule 401. Captions on filed documents and discovery documents.**

(a) Every order, motion, petition, and all pleadings shall recite the case number and shall have a title which briefly states

its contents. For example, an order compelling discovery is to be titled, "Order Compelling Discovery," rather than "Order."

(b) Each different type of discovery request shall have a title which fairly describes the document being served or answered. For example, a request for production is to be titled, "Request for Production," and not merely titled "Discovery."

**Rule 402. Citation of statutes.**

Any complaint, petition, or motion requesting relief based upon a statute shall contain a citation to the statute.

**Rule 403. Format of briefs and jury instructions.**

(a) All briefs and jury instructions shall:

- (1) Be on 8½ by 11 inch, white paper;
- (2) Be printed with type not smaller than pica;
- (3) Be double spaced (except descriptions of real property and quotations); and
- (4) Be on one side of the paper.

(b) One copy of submitted instructions shall be free of citations.

**Rule 501. Taxation of costs.**

(a) *Civil cases.*

(1) Filing of Certificate of Costs. -- Within 20 days after entry of the final judgment allowing costs to the prevailing party, a certificate of costs shall be filed and copy served upon opposing counsel. The certificate shall be itemized. For witness fees, the certificate shall contain: (1) the name of the witness; (2) place of residence, or the place where subpoenaed, or the place to which the witness voluntarily traveled without a subpoena to attend; (3) the number of full days or half days the witness actually testified in court; (4) the number of days or half days the witness traveled to and from the place of trial; (5) the exact number of miles traveled; (6) the manner of travel, air, railroad, bus or private vehicle; and, (7) if common carrier transportation is used, the price of an economy fare.

(2) Objections to Certificate of Costs. -- If no objections are served within 10 days after service of the

certificate of costs, the costs shall be taxed as set forth in the certificate of costs. If objections are filed, the court shall consider the objections and tax costs. A hearing may be provided at the discretion of the court.

(3) Allowable Costs.

(A) Filing fees, jury demand fees, and fees for services of process. (W.S. 18-3-608 sets forth sheriff fees.)

(B) Witness fees.

(i) Witness fees are allowed at the rate of \$30.00 per day and \$15.00 per half day necessarily spent traveling to and from the proceeding and in attendance at the proceeding. Mileage is allowed at the rate of \$.23 per mile, not to exceed the costs of common carrier transportation rates.

(ii) Expert witness fees shall be allowed at the rate of \$25.00 per day or such other amount as the court may allow according to the circumstances of the case. If the amount allowed constitutes a higher hourly rate than \$25.00 per day, this higher amount is allowable only for the time that the expert witness actually testified. Time charged in preparation for providing testimony and/or standing by awaiting the call to give testimony is not allowable as costs, except at the rate of \$25.00 per day.

(C) Reporter fees. The \$45.00 fee is a taxable cost. Transcripts of proceedings, such as motion hearings, pretrial conferences, etc., prepared at the request of a party in anticipation of trial are not taxable as costs unless such matters become part of the record on appeal.

(D) Costs of depositions.

(i) Costs of depositions are taxable if reasonably necessary for the preparation of the case for trial. A deposition is deemed reasonably necessary if: (1) read to the jury as provided in Rule 32(a)(3), W.R.C.P.; or, (2) used at trial for impeachment concerning a material line of testimony (impeachment on a collateral issue does not fall within the scope of this rule); or, (3) necessarily, and not merely conveniently, used to refresh the recollection of a witness while on the stand; or, (4) was taken at the request of a non-

prevailing party. The foregoing are meant to provide guidelines, and are not exhaustive. The use of depositions for trial preparation alone does not justify the imposition of costs.

(ii) Reporters fees for depositions. Actual, ordinary reporting fees will be allowed. Extra costs for expediting transcripts or daily copy costs will not be allowed, except as authorized by an order entered prior to the date such costs are to be incurred. Reporters' travel, per diem expenses and appearance fees will not be taxed as costs.

(iii) Fees and expenses of counsel. Fees and expenses of counsel for traveling to and attending depositions are not taxable as costs.

(E) Copies of papers. Duplicating costs necessarily incurred for documents admitted into evidence shall be allowed. Duplication costs for documents for counsel's own use are not allowable.

(F) Exhibits received in evidence. The expense of preparing exhibits received in evidence, including 8x10 photographs (but not enlargements), videotapes, models, and other demonstrative evidence are allowable as taxable costs at the discretion of the court.

(4) Other Costs Not Enumerated. -- These rules do not preclude the award of other costs not enumerated herein if otherwise allowable under law; nor do they require the award of costs as they may be denied altogether if the court, through the exercise of its discretion, so determines. Moreover, to the extent that W.S. 1-14-125 limits costs, that statute is controlling. However, costs associated with the offer of judgment rule, i.e. Rule 68, W.R.C.P., must be awarded.

(5) Apportionment. -- All costs may be apportioned among some or all of the non-prevailing parties as the court may determine.

(b) *Criminal cases.*

(1) Allowable Costs.

(A) Non-expert witness fees as set forth in Rule 17(c)(1), W.R.Cr.P., are allowed: \$30.00 for each full day and \$15.00 for each half day necessarily spent traveling to and from the proceeding and in attendance at

the proceeding. Mileage is allowed as provided in Rule 501(a)(3)(B)(i), U.R.D.C.

(B) Expert witness fees are allowed as set forth in W.S. 1-14-102(b).

(C) The general standards as applicable to costs in civil cases will be applied, including witness fees, service fees, and fees for depositions when actually used.

(2) Assessment of Costs Upon Defendant. -- Payment of the costs of prosecution may be added to and made a part of the sentence in any felony case if the court determines that the defendant has an ability to pay or that a reasonable probability exists that the defendant will have an ability to pay.

#### **Rule 502. Audio-visual depositions.**

A party desiring to take the audio-visual deposition of any person shall give notice as required under Rule 30(b)(1), W.R.C.P. The notice shall state that the deposition will be recorded by audio-visual means as required under Rule 30(b)(4), W.R.C.P.

#### **Rule 503. Late settlement or mistrial.**

(a) When a civil case is settled too late for the clerk of court to advise the jury panel that the jurors should not appear on the date summoned, the court may order that any or all parties reimburse the proper fund for the fees and mileage paid to the jurors and bailiffs for their attendance.

(b) When a mistrial is caused by any party, the court may order that the party, or parties, reimburse the proper fund for fees and mileage paid to the witnesses, jurors, and bailiffs for their attendance.

#### **Rule 601. Discovery abuses.**

(a) *Directions not to answer.* -- Repeated directions to a witness not to answer questions calling for non-privileged answers are symptomatic that the deposition is not proceeding as it should. When direction is given to a witness not to answer, it should be made only on the ground of privilege.

Where a direction not to answer such a question is given and honored by the witness, either party may seek an immediate ruling as to the validity of such direction.

If a prompt ruling cannot be obtained, the direction not to answer made on grounds of privilege may stand and the deposition should continue until (1) a ruling is obtained or (2) the problem resolves itself, but a direction not to answer on any ground except privilege shall not stand and the witness shall answer.

If the validity of the direction not to answer is thereafter sustained, the witness' answer may be stricken. If the witness refuses to answer questions calling for non-privileged answers and the attorney giving such direction does not withdraw such direction, the court may require the attorney to pay all costs for retaking the deposition.

(b) *Suggestive deposition objections.* -- If the objection to a deposition question is one that can be obviated or removed if presented at the time, the proper objection is "objection to the form of the question." If the objection is on the ground of privilege, the privilege shall be stated and established. If the objection is on another ground, the objection is "objection" stating briefly the specific ground of objection. Objections in the presence of the witness which are used to suggest an answer to the witness are presumptively improper.

(c) *Conferences between deponent and defending attorney.* -- An attorney for a deponent shall not initiate a private conference with the deponent during the actual taking of deposition, except for the purpose of determining whether a privilege should be asserted.

(d) *Privilege.* -- Where a claim of privilege is asserted during a deposition and information is not provided on the basis of such assertion: the attorney asserting the privilege shall identify during the deposition the privilege being claimed. In addition to work product, the privileges set forth at W.S. 1-12-101, the privilege for psychologists at W.S. 33-27-103, and any other privilege recognized by law, including a claim that the information sought is proprietary and thereby should be protected, may be asserted and identified as the privilege being claimed.

#### **Rule 701. Juror interrogation.**

Court personnel and officers shall not express approval or disapproval of the verdict. After the verdict, the court may thank the jury for its service and may instruct the jury as follows:

"You have completed your duties and are discharged. Whether you talk to the attorneys or others is your own decision. It is proper for the attorneys to discuss the case with you and you may talk with them, but you need not. If anyone persists in discussing the case over your

objection or becomes critical of your service, please report it to me."

**Rule 801. Courtroom decorum.**

(a) The conduct, demeanor and dress of attorneys when present during any court proceeding shall reflect respect for the dignity and authority of the court, and the proceedings shall be maintained as an objective search for the applicable facts and the correct principles of law.

(b) The following suggestions are made assuming that these suggestions make rules unnecessary:

(1) Arguments, objections and remarks should be addressed to the court;

(2) Counsel should stand when addressed by the judge or when speaking to the judge;

(3) When examining a witness, counsel should stand at the lectern and not walk around the courtroom;

(4) Counsel should obtain permission before coming to the bench;

(5) No one should eat, drink or smoke in the courtroom and no one should sit on the tables.

(c) Counsel should instruct clients and witnesses as to appropriate demeanor and dress.

**Rule 802. Use of telephone conference calls.**

In a civil case, the court in its discretion, may use a telephone conference call for any proceeding. The court may require the parties to make reimbursements for any telephone charges incurred by the court. Such calls are available for criminal matters, if not inconsistent with those safeguards which attend all criminal matters.

**Rule 803. Use of recording equipment by counsel.**

Upon notice to the court and parties, audio recording equipment may be used to record the decision of the court. No recording may be disclosed without the consent of all parties and the court, nor used to impeach any official court record.

**Rule 804. Media access.**

Media access, as set forth in Rule 53, W.R.Cr.P., is available in civil cases governed by the Wyoming Rules of Civil Procedure.

**Rule 901. Sanctions.**

The following may be imposed for violation of these rules: reprimand, monetary sanctions, contempt, striking of briefs or pleadings, dismissal of proceedings, costs, attorney fees, or other sanctions.

**Rule 902. Cases under advisement.**

All civil matters taken under advisement by the court shall be decided with dispatch. A judge shall give priority over other court business to resolution of any matter subject of delay hereunder, and if necessary will call in another judge to assist.

**Rule 903. Disposition of exhibits.**

After time for appeal has expired, counsel shall retrieve all exhibits. Exhibits not retrieved by counsel within 60 days after the time for appeal has expired, shall be disposed of by the court reporter.

**Rule 904. Court reporting.**

Any party requesting the reporting of a particular matter by the official court reporter shall provide notice to the official court reporter at least five working days before the matter is set for hearing. The five day notice requirements can be waived by the court. The notice is not required for juvenile and criminal matters.

**Rule 905. Fees for court reporting.**

In all civil cases an appearance fee of forty-five dollars (\$45.00) shall be paid for each day, or any portion thereof, that evidence and testimony is received. This fee covers the reporting of all testimony or admissions made by either side, objections to the introduction of testimony, the ruling of the court thereon, and the exceptions taken thereto. The fee also covers the reporting of motions made within the trial proceeding, the hearing on objections to jury instructions and the reporting of the verdict. This fee does not cover special services such as voir dire, motion hearings outside of a trial proceeding, nor opening and closing statements.

**Rule 906. Time for transcribing certain criminal proceedings.**

Transcripts for arraignments, guilty pleas, and sentencing proceedings shall be transcribed within 60 days of such proceedings, but such period may be extended by order of the district court for good cause shown, provided that such extension does not conflict with any deadlines incident to an appeal should such be undertaken.