

IN THE DISTRICT COURT OF TETON COUNTY, WYOMING
NINTH JUDICIAL DISTRICT

THE STATE OF WYOMING,)	
)	Criminal Action No.
Plaintiff,)	
)	SCHEDULING ORDER
vs.)	(CRIMINAL)
)	
*)	
)	
Defendant.)	

IT IS ORDERED:

1. TRIAL. That trial of the within matter be and the same is hereby scheduled in the District Courtroom of the * County Courthouse, *, Wyoming, on the * day of *, 2015 at the hour of *.m. Three (3) days have been set aside for the trial of this matter. Counsel are reminded that the last day of trial is not a full trial day for purposes of presenting evidence. The Court will manage the trial with the objective of concluding the evidence by mid-morning on the last day of trial, therefore allowing time for closing instructions and arguments and submitting the case to the jury for their deliberations at or near the lunch hour. If the trial of this matter requires more than three days to try, counsel shall notify the Court as soon as possible. This case is stacked no. ____ for trial on that date.

2. PRETRIAL CONFERENCE. A pretrial conference shall be held in the District Courtroom of the * County Courthouse, *, Wyoming, on the * day of *, 2015 at *.m. Any and all motions filed shall be heard at the time of the pretrial conference. One (1) hour is set aside for the pretrial conference in its entirety. If more than one hour is required for the pretrial conference, counsel shall notify the Court as soon as possible. The Defendant shall personally appear at the pretrial conference and at such times as the pretrial conference may be continued.

3. MOTIONS. **Check scheduling, is there enough time for M/Suppress?

A. Any motions to suppress that can reasonably be anticipated shall be filed within forty-five (45) days from the date of this Order. The motion will be heard at the pretrial conference. One hour will be set aside for the pretrial. If more than one hour is needed for the motion hearing, counsel shall inform the Court as soon as possible and request additional time.

B. At least thirty (30) days prior to the initial pretrial conference counsel shall file all reasonably anticipated motions, including motions *in limine*. Generally, rulings on pretrial motions *in limine* are optional and tentative. Because such motions are asking the court to rule on motions without the benefit of the larger factual picture that develops at trial (they are out of context), the court may reserve ruling until trial subject to a renewed motion at trial. Pretrial rulings on motions *in limine* are therefore not to be expected unless their necessity is demonstrated by compelling reasons. If the court grants a motion *in limine*, the Court retains discretion to reconsider the ruling upon motion at trial.

Pretrial motions *in limine*, in order for the Court to consider them, shall meet the following requirements:

i. The movant opposing admission of the evidence shall move *in limine* to exclude certain evidence.

ii. The movant shall state they have reason to believe that the responding party possesses the evidence and will offer or mention the evidence at trial.

iii. The movant shall briefly but specifically state the ground on which the evidence is inadmissible.

iv. The movant shall explain why an ordinary trial objection would be inadequate protection for the movant and why an advance ruling by the Court is required.

v. The movant shall present legal argument in favor of the motion.

All motions *in limine* shall include citation to and discussion of the relevant Wyoming Rule of Evidence and any applicable Wyoming law.

vi. The response shall indicate whether the responding party intends to offer or refer to the objected-to evidence. If the responding party expects to offer or refer to such evidence, they shall identify why the evidence is relevant and admissible and shall present legal argument in favor of their position. If the responding party does not expect to offer or refer to such objected-to evidence, they shall indicate their non-objection to the motion *in limine*.

C. Although the parties should feel free to request oral argument on any motion and to give reasons why they believe argument would be helpful to the Court in reaching a decision, they are on notice that the Court may rule on any motion without a hearing as permitted by W.R.C.P. 6. Therefore, the parties are reminded that they should take full advantage of the opportunity to fully brief the issues in their motions, responses, and replies. The written materials

should direct the Court to the relevant law and evidentiary support for the motion or opposition thereto. The Court appreciates concise briefing and often finds that less is more. Where extensive briefing cannot be avoided, concise summaries are helpful.

D. Notwithstanding W.R.C.P. 6(c), **any reply briefs, supplemental memoranda or rebuttal affidavits shall be filed not less than one (1) week prior to hearing.** Late submissions may not be considered by the Court.

E. If a reply brief is filed, counsel are directed to Wyo. R. App. P. 7.03 (as amended in May 2015), which the Court finds to be useful and appropriate for trial briefs. A reply brief shall be narrowly tailored and is limited to such new issues and arguments raised in the response brief. Counsel should not use the reply brief to repeat arguments and analysis appearing in their opening brief. Failure to comply with this requirement may result in the Court disregarding the reply brief.

F. Pretrial motions will be addressed at the initial pretrial conference unless separately scheduled. The Court will consider at that time all dispositive motions, general pretrial motions, and any motions *in limine* that are ripe for decision, disposition of which the Court believes would contribute to efficiency in the pretrial and trial process. As noted above, it is anticipated that the Court's ultimate decision on most motions *in limine* will be deferred until trial. Parties should be prepared to argue any pending motions. However, oral argument on pretrial motions will be at the discretion of the Court. If, due to the number or complexity of motions that will be argued at the initial pretrial, counsel anticipate a separate motions hearing or a longer hearing for the initial pretrial conference is required, they shall move the Court as soon as possible and at least thirty (30) days before the initial pretrial conference, stating good cause and suggesting the time required for the hearing.

4. **EXHIBITS.** Not later than *, 2015 the parties shall file and serve an appropriate pleading listing any exhibits intended for use in the case on the form prescribed by the Court and furnish copies of the same exhibits to opposing counsel, or if not feasible, to make the same available for inspection. Unless written objection is filed and served not later than ten (10) days from the date of filing of same exhibit lists, all exhibits which have been noticed will be admissible if relevant. Large numbers of exhibits are not to be lumped under one number or letter. If the exhibits are to be introduced individually at the trial, they are to be listed individually on the

exhibit form. The failure to mark exhibits and furnish copies to opposing counsel before the pretrial conference may result in any such exhibits being inadmissible at the trial.

5. WITNESSES. Not later than *, 2015 the parties shall file and serve an appropriate pleading listing any witnesses they intend to use at the trial, by name and address, along with a summary of the testimony of each.

6. JURY INSTRUCTIONS. Proposed jury instructions shall be filed prior to the pretrial conference and in accordance with Rule 403 of the Uniform Rules for the District Courts of the State of Wyoming provided, however, that “clean copy” instructions without citation need not be submitted. The submission of proposed instructions shall be as follows:

a. Each party shall file with the Clerk of Court a set of proposed instructions, Plaintiff's numbered and Defendant's lettered, as appropriate, with citation. The parties shall include a cover sheet which contains an index of the instructions by letter or number and the pattern jury instruction number if applicable or other authority, as well as a brief title for each instruction. Each party may submit a proposed instruction setting forth a brief (not more than 3 or 4 sentences) instruction of the parties' contentions in a non-argumentative manner for the Court to consider reading to the entire jury panel before beginning the voir dire examination. The Court reserves the right to decide whether such contention instructions will be given at that time. Each party shall submit a proposed instruction setting forth the burdens of proof of each of the parties, and a proposed verdict form with any special interrogatories. Each party shall provide a copy of the requested instructions to the Court at P.O. Box 1036, Jackson, WY 83001.

b. Counsel shall email to the Court at chammond@courts.state.wy.us, their jury instructions in a Word format.

7. PLEA BARGAIN. Counsel shall advise the Court no later than the pretrial conference of any plea bargain agreements. If a plea agreement is reached, it shall be reduced to writing and presented to the Court prior to or at the pretrial conference. The pretrial conference will then be converted to a change-of-plea hearing and will remain as scheduled. Following the pretrial conference no plea bargain agreements shall be accepted and the Defendant shall be tried as charged.

DATED this * day of *, 2015.

Timothy C. Day
District Judge