

Wyoming Circuit Court Judges' Benchbook

Name: Kevin D. Taheri

Judicial District: Seventh

County of Circuit Court: Natrona County

GENERAL COURTROOM PRACTICE TIPS

Motions Practice

- Q. Do you require submitted motions include a proposed order?
- A. It is not required if there is going to be a hearing as I will have the prevailing party at the hearing prepare the order. If it is stipulated to, or something that is proposed to be done without a hearing, such as a default, a proposed order should be presented.
- Q. Do you appreciate courtesy copies of briefs being delivered to you prior to hearing a motion?
- A. Yes.

Scheduling Conferences

- Q. Do you have scheduling conferences? If so, how are scheduling conferences set and used in your court? Are they conducted by you? When done by telephone, are the attorneys responsible for setting up a conference call or does your office have enough lines to allow attorneys to call in?
- A. In criminal jury trials we have a docket call eight days prior to determine who is going to trial and who has reached agreements. Defendants and attorneys must attend the docket call. Then we have a case status conference a few days before the jury trials. In civil trials we have them when there are attorneys on both sides. Otherwise we just have them if requested. There are enough phone lines for up to two parties to call in. People can also attend by video. Each attorney must make a request in advance if they wish to call in and/or appear by video.

Q. What do you expect from the attorney at the scheduling conference?

A. In the civil case I am just making sure there is agreement on the deadlines for discovery/motions and the trial setting. In the criminal cases we list off the jurors that will be called for jury selection and address any other issues that the attorney's think should be dealt with ahead of time.

Pretrials

Q. Do you have final pretrial conferences?

A. Only in the criminal jury trials as described above. Otherwise it will only be upon request.

Q. In your view, what is the purpose of the pretrial conference?

A. To deal with pretrial issues that need heard outside of the jury's presence as those can cause delays.

Q. Do you have a specific format for pretrial memorandums?

A. In civil cases, a pretrial memorandum must be filed 14 days prior to trial and include a list and description of exhibits, list of witnesses, and proposed jury instructions. The requirements are outlined in more detail in the case management order. Pretrial memorandums are not needed in criminal cases.

JURY TRIAL PRACTICE

Jury Selection

Q. How is voir dire conducted in your courtroom?

A. In criminal cases of the jurors called I will seat 14 of them in order to form a seating chart, with seven in row 1 and seven in row 2. Then each side, after questioning, uses four peremptory challenges and that gets us to six. It's the same in civil trials but it's only 12 jurors in the seating chart and each side can strike 3, getting us down to 6. If one is struck for cause they will be replaced in the chart with the next juror listed.

Q. Do you allow or encourage the use of jury questionnaires? If so, what is the due date for questionnaires?

A. I have not had that requested and will consider it if requested. Otherwise, each prospective juror already fills out a questionnaire prepared by the court and given to the parties before trial.

Jury Instructions

Q. When do you require requested jury instructions to be submitted?

A. Usually a few days prior to trial and I will inform the parties at docket call in a criminal case. In civil cases it is 14 days prior to trial per the case management order.

Q. What form do you prefer requested jury instructions to take (e.g. do you prefer jury instructions accompanied by supporting cases, in electronic form, etc.)?

A. I prefer a cited copy and an uncited copy in electronic form.

Q. What is your view of the Wyoming Pattern Jury Instructions?

A. I generally follow the patterns but sometimes I will reword them a little bit.

Q. Do you have a set of stock jury instructions that you use?

A. Yes, I have a set of seven that I start with as opening instructions. Then there are several standard instructions that are given in every case before deliberation. These all come from the patterns.

Trial Procedure

Q. What is your preferred trial schedule (e.g. 9 a.m. – 5 p.m. with an hour for lunch, 8 a.m. – 2 p.m. with no lunch, etc.)?

A. 8:30-5 with a ten minute morning and afternoon break and an approximately 1 hour lunch.

Q. What are your preferences with respect to motions in Limine and other trial related motions?

A. In the case of a jury trial if a motion can be resolved prior to trial I would prefer to hear that prior to trial. So the motion should be filed with a request for setting.

Q. What are your preferences and/or procedures related to witness scheduling?

A. I generally leave it to the parties to be ready to call their witnesses in the order they wish as the trial progresses. If there is some special issue requiring a witness to be called out of order just alert me as soon as you know of the issue and we will try to accommodate that.

Q. What are your preferences with respect to trial exhibits? Do you allow/require the use of exhibit notebooks for the court and jurors?

A. I allow the use of exhibit notebooks but I do not require it. I would prefer exhibits be marked ahead of time with exhibit stickers to the extent possible.

Q. Do you allow "speaking objections" in jury trials?

A. No. The objection should be briefly stated preferably with a citation to a rule. If further explanation is needed ask to approach the bench.

Q. Do you allow or encourage the use of jury instructions?

A. Yes.

Bench Trial Practice

- Q. What are the major differences in procedures in your courtroom between bench trials and jury trials?
- A. I run them the same.

CRIMINAL MATTERS

- Q. Do you allow initial appearance to be entered by written filing?
- A. Yes.
- Q. How do you handle requests for continuance on preliminary hearings, arraignments and trials?
- A. I will grant them absent objection if there is a reasonable reason. If there is an objection I will typically set a hearing. I may require a speedy trial/hearing waiver in criminal cases. In civil cases we need to complete the case within certain deadlines so I will keep that in mind when deciding on those continuance motions.
- Q. Do you allow attorneys to file written agreements on bond conditions?
- A. Yes.

Q. Do you have video arraignments of jail inmates? If so, where do you want counsel during the video appearance?

A. Yes and counsel should stay at their table and speak into the microphone.

Q. What special considerations occur at sentencing (participation in a deferral program, supervised probation, treatment, etc.)?

A. Probation is always considered and a finding needs to be made if it is appropriate. I will typically consider a sentence that combines punishment but also efforts at rehabilitation. This may include supervised probation and possibly a treatment court. Deferrals will be considered where appropriate.

Q. Do you allow plea agreements in writing? If so, under what circumstances or types of cases?

A. Yes pretty much in all cases. If I have a question as to whether the agreement should be accepted I would then set a hearing.

Citations

Q. Do you appoint the Public Defender if there is a possibility of jail sentence?

A. If they are income eligible and want one then yes.

Q. Do you accept credit card payments?

A. We do accept them online.

Juveniles

Q. Do juveniles appear at a separate time than adults?

A. Usually unless they are arrested and brought to circuit court for charges. Citations and summons for juveniles are at 3:30 on Wednesday of each week.

Q. Do you insist juveniles appear with a parent/guardian?

A. They need a parent/guardian or an attorney.

CIVIL MATTERS

Q. Does the court prepare the orders, or should the attorney prepare the order?

A. The prevailing attorney will prepare the orders in standard civil cases that have an attorney. For protection orders I prepare the order. In the case of self represented litigants I prepare the order.

Family Violence/Stalking Protection Hearing

Q. Do you encourage attorneys in these matters?

A. I would always encourage participants to get attorneys. Unfortunately attorneys can be cost prohibitive for a lot of individuals in these hearings so we try to make them run as smoothly as we can for the self-represented litigants.

Small Claims

Q. Do you think it is effective for attorneys to appear in small claims matters?

A. Yes. It is always best to have an attorney in legal matters, it's just a question of cost. So, as with protection orders, we do all we can to make sure self-represented litigants are properly heard.

THOUGHTS ON COURTROOM PROTOCOL

Q. Is lack of civility a recurring problem in your courtroom? What steps do you take to improve civility in your courtroom?

A. I have not had any issue with a lack of civility in the courtroom so far. Occasionally I have to remind parties to address the Court and not each other when making arguments.

Q. What do you expect of lawyers (and their staff) in your courtroom? Clients? Witnesses?

A. I expect lawyers and their staff to be respectful and professional with everyone they interact with in the courtroom. As for clients and witnesses they need to respect of the courtroom.

Q. Do you impose limitations on courtroom movement (approaching witness, podium, etc.)?

A. I have not had the need to impose those types of limitations.

Q. What kind of lawyer conduct is unacceptable in your courtroom?

A. Lawyers need to be respectful and professional with everyone they deal with. I realize cases can get emotional but that will never be an excuse to act in an unprofessional manner with a witness or another lawyer.

OTHER MISCELLANEOUS ISSUES

Q. What are your opinions regarding courtroom attire?

A. Lawyers should dress in a business professional manner. Self represented litigants and witnesses can pretty much wear what they wish within reason. Hats do need to be removed however.

Q. Do you allow children in your courtroom?

A. Yes. If they get loud their parents can take them to the conference room.

Q. Do you allow cell phones in your courtroom?

A. Attorneys can. Everyone else needs to get permission ahead of time, typically I will grant permission if it is a self-represented litigant and they have evidence on their phone.

Q. What, if anything, do you do to enforce promptness in your courtroom?

A. I have not had an issue with this so far. Sometimes there have been scheduling issues and if that comes up I typically call the attorney from the Courtroom.

Specialty Courts

Q. Do you have a specialty court (drug court, DUI court, juvenile court)? If so, please describe.

A. Yes, I am the Judge for the Natrona County Adult Drug Court. This is a form of intensive supervised probation that focuses on substance abuse treatment.

Q. What are the criteria for entrance in the program?

A. They have to be high risk and in high need of treatment for drugs and/or alcohol as determined by a screening process that includes an ASI. There are some limitations on crimes of violence that may render a person ineligible.

Q. What is the judge's role in the program?

A. The Judge is assigned to run weekly court sessions, sanction and termination hearings. The Judge also has an obligation to ensure that the program is in compliance with certain standards that have been set.

Q. Can an attorney petition for his/her client to participate in the program?

A. Yes. They would contact the Natrona County Adult Drug Court office and ask that their client be assessed.

Q. Must there be an adjudication or can there be participation from a form of deferral?

A. A deferral can be accepted.