

# Wyoming Circuit Court Judges' Benchbook

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Name: Michael Greer

Judicial District: Third

County of Circuit Court: Uinta

## GENERAL COURTROOM PRACTICE TIPS

### Motions Practice

Q. Do you require submitted motions include a proposed order?

A. Almost always

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 cases the parties conduct the conferences themselves, and I usually do not participate. The primary purpose is to provide the parties an opportunity to discuss the case fairly soon after arraignment rather than waiting until pretrial conference or trial.

In civil cases I set them if requested by a party.

We have sufficient phone lines for attorneys to call in.

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

A. I expect them to be prepared to discuss possible settlement and discovery, and to narrow the issues for trial.

#### **Pretrials**

Q. Do you have final pretrial conferences?

A. Always in criminal cases and usually in civil cases.

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

A. To finalize the issues for trial, the jury selection process, last minute motions, and to resolve every thing that shouldn't arise for the first time at trial. Trial dates will be discussed so counsel should bring their calendars.

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

A. Yes. I send out a pretrial order setting the pretrial and outlining the requirements of the pretrial memorandum.

## JURY TRIAL PRACTICE

### Jury Selection

Q. How is voir dire conducted in your courtroom?

A. For low profile, one day trials, a panel is seated in the jury box that equals the final number of jurors(6) plus the total number of peremptory challenges(8) for a total of 14. When a member is removed for cause, a replacement is seated. After the peremptory challenges are exercised, the remaining 6 constitute the jury. For higher profile, multiple day trials with alternates, the entire summoned panel is questioned and after all challenges are exercised the first 6 remaining are the jury and the next are the alternates.

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

A. They are rarely requested in circuit court but I allow them if requested. Deadlines would be set at the pretrial conference.

### Jury Instructions

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

A. 10 days prior to trial.

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 require them to be in WORD format, one set with citations and authority, and one 'clean' set without cites.

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

A. I use them extensively.

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

A. yes

#### **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. 9 to 5 with lunch and morning and afternoon breaks, as modified for the convenience of the jury.

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

A. They should be submitted 10 days prior to the pretrial and argued at the pretrial if possible. Motions submitted the morning of trial may not get argued.

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

A. I let the parties schedule their own witnesses, and they should notify the court and other party if they intend to call someone out of order. In convenience to the jury will be avoided

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 have my own checklist to keep track of what has been offered and admitted. I would allow and encourage use of juror exhibit notebooks in complicated cases

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

A. no

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

A. Yes, each juror should get their own copy for reference while I read them and to refer to during deliberations.

### **Bench Trial Practice**

- Q. What are the major differences in procedures in your courtroom between bench trials and jury trials?
- A. Bench trials are a bit less formal, and I would allow speaking objections.

### **CRIMINAL MATTERS**

- Q. Do you allow initial appearance to be entered by written filing?
- A. Yes, if entered by counsel.
- Q. How do you handle requests for continuance on preliminary hearings, arraignments and trials?
- A. I grant them liberally if speedy preliminary hearing or trial are not jeopardized. Opposing party's response should be included in the request.
- Q. Do you allow attorneys to file written agreements on bond conditions?
- A. Generally not

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

A. no

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

A. Everything is on the table.

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

A. Written plea agreements are not uncommon if traffic cases. I rarely allow them in other cases.

#### Citations

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

A. Yes, assuming the defendant qualifies financially.

Q. Do you accept credit card payments?

A. yes

### Juveniles

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

A. Typically no, unless we've scheduled them specially to avoid them missing school or to allow a parent to be present.

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

A. yes

### CIVIL MATTERS

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

A. Attorney for the prevailing party is usually directed to prepare it.

### Family Violence/Stalking Protection Hearing

Q. Do you encourage attorneys in these matters?

A. Yes, although often a party is financially unable to retain one, and the court has no funds to pay for them, so occasionally we rely on pro bono representation.

### Small Claims

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

A. Generally not, particularly if only one party is represented.

### 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. It's not recurring, but only occasional. I lead by example by being punctual and addressing everyone by appropriate title and with respect. I occasionally have to remind an attorney that their behavior is not helpful.

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

A. I expect them to be punctual, civil, professional and prepared. Emotional argument and theatrics are rarely helpful and usually counterproductive.

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

A. I expect a request to approach the bench or witness stand, and will often grant continuing permission when it appears expedient to do so. Otherwise, counsel are expected to remain at the podium when speaking and to rise when making an objection.

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

A. Being late, unprepared, disorganized, showboating, taking undue advantage of pro se litigants.

#### OTHER MISCELLANEOUS ISSUES

Q. What are your opinions regarding courtroom attire?

A. Coat and tie for men , business attire for women. I am more lenient for pro se litigants and witnesses as long as they are reasonably clean and modest.

Q. Do you allow children in your courtroom?

A. Yes, if they are not disruptive and the subject matter of the hearing is age appropriate. I encourage the schools to bring in classes to observe, and I love to answer their questions after court.

Q. Do you allow cell phones in your courtroom?

A. no

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

A. I warn attorneys once. Recurring tardiness could result in contempt and a fine.

### **Specialty Courts**

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

A. We have a Court Supervised Treatment Program, operated pursuant to WS 7-13-1601 et seq and the associated rules.

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

A. We accept only post-conviction clients only, because the first 6 weeks of treatment are jail-based. Most are repeat offenders with substance abuse as a contributor to their criminal behavior. A pre-admission assessment is conducted by the program's substance abuse providers to assess suitability for the program.

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

A. I monitor their progress through treatment and probation by seeing them regularly in court review hearings. Positive behavior and progress is promoted through the use of incentives and sanctions.

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

A. yes

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

A. Only after adjudication, as indicated above.