

Wyoming Circuit Court Judges' Benchbook

Name: Nathaniel Hibben

Judicial District: Eighth

County of Circuit Court: Goshen, Platte & Niobrara

GENERAL COURTROOM PRACTICE TIPS

Motions Practice

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

A. Yes. Please send a proposed order with your Motion.

Q. Do you appreciate courtesy copies of briefs being delivered to you prior to hearing a motion?

A. No. Courtesy copies of briefs are not necessary so long as the brief is filed.

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. Yes, in civil cases. Generally, we do not hold scheduling conferences in criminal cases. Civil case management conferences are set by the Court and generally occur about 30 days after the Answer is filed. I conduct the hearing. The attorneys are welcome to attend by phone, if needed; I do ask the attorney file a Motion requesting to appear by telephone.

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

A. Initial disclosures (Rule 5) should have been made. Please be prepared to identify whether expert witnesses will be retained, and whether you anticipate any dispositive motions, as well.

Pretrials

Q. Do you have final pretrial conferences?

A. Yes. In both criminal and civil cases, we hold pretrial conferences approximately two weeks before trial.

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

A. The pretrial conference identifies issues that the Court may need to be aware of or address. That includes discovery, pending motions, number of witnesses each party intends to call, and how the trial will proceed.

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

A. Yes. The Court's pretrial scheduling orders addresses these issues.

JURY TRIAL PRACTICE

Jury Selection

Q. How is voir dire conducted in your courtroom?

A. My scheduling orders and pretrial conferences address this in-depth. Generally, the attorneys question the panel for cause. Peremptory challenges are made in chambers.

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

A. Yes. The due date is listed on the questionnaires.

Jury Instructions

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

A. Generally, final jury instructions should be submitted three working days prior to trial. Proposed jury instructions (noting the pattern jury instruction number) should be listed in the pre-trial memorandum, as well.

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. Please submit jury instructions in Word format and clean, hard copies.

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

A. This Court using the Pattern Jury Instructions extensively for standard instructions.

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. 9:00 a.m. to 5:00 p.m., lunch break from noon to 1:00 p.m. and breaks as necessary.

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

A. Please submit prior to the final pretrial conference.

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

A. Each party should have their witnesses available. I do not want jurors waiting for witnesses to appear.

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. Generally, no.

Q. Do you allow “speaking objections” in jury trials?

A. No. Do not make a speaking objection. If needed, I’ll ask the attorneys to approach the bench (without the jury being able to hear) for further discussions.

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. Bench trials are less formal, and shorter.

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. Please submit such requests as far in advance as possible. Such requests are generally granted, so long as the Motion is reasonable and neither party suffers prejudice.

Q. Do you allow attorneys to file written agreements on bond conditions?

A. Yes, but I reserve the ability to set bond independent of the agreement.

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

A. No. We do, however, make extensive use of video for other purposes under W.R.C.P. 43.1.

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

A. I require a PSI before sentencing on a 3rd offense DUI. Supervised probation is relatively rare.

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

A. Yes, particularly if the Defendant resides out of state. I require the Defendant to sign all plea agreement in front of a notary.

Citations

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

A. Yes.

Q. Do you accept credit card payments?

A. Yes.

Juveniles

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

A. Occasionally.

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. The attorney should prepare most orders, unless stated otherwise by me.

Family Violence/Stalking Protection Hearing

Q. Do you encourage attorneys in these matters?

A. Yes.

Small Claims

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

A. Yes.

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. No, it is not a recurring problem in my courtroom.

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

A. Be prepared. Behave professionally.

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

A. Please do not “pace” around the podium. I am stricter about this in a jury trial than in a bench trial. Please ask to approach, as well.

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

A. Unprofessional conduct is not permitted. Fortunately, this is exceedingly rare.

OTHER MISCELLANEOUS ISSUES

Q. What are your opinions regarding courtroom attire?

A. Please remove hats and dress in a manner that shows respect for the situation and court.

Q. Do you allow children in your courtroom?

A. Yes, so long as they are not disruptive.

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 start on time, though am lenient with attorneys (particularly if I know the attorney is in another court or travelling from out-of-town).

Specialty Courts

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

A. No.

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

A. NA

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

A. NA

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

A. NA

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

A. NA

