

Wyoming Judges' Benchbook

Name: F. Scott Peasley

Court: District

Judicial District: 8th

SCHEDULING CONFERENCES

Q. 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? If yes, how many lines are available?

A. Set by the Court, and conducted by myself and Judicial Assistant. Attorneys allowed to appear by phone, and they usually set up the conference call if there are more than 2 parties involved.

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

A. Depends on the nature of the case, but would expect them to know how long they need for discovery, dispositive motions, and trial. Would also expect them to know what dates are available to them for trial and pretrial.

Q. Do you use multiple scheduling conferences? Why?

A. Ordinarily no.

Q. Do you use court-directed discovery conferences?

A. No.

Q. What are your preferences regarding scheduling/discovery conference orders? Do you require that specific things be included in such orders?

A. There are specifics in our scheduling orders (generated by our office), including deadlines for discovery, witness and exhibit designations, dispositive motions/motions in limine, pretrial and trial dates. I would expect the attorneys to inform me of any other deadlines they deem necessary or appropriate.

PROTOCOL

Q. What are your thoughts on courtroom protocol?

A. I expect attorneys to be professional, dressed appropriately, and on time. Otherwise, protocol is what I consider to be fairly standard. Speak at the podium, explain objections, and make cogent arguments.

Q. What things do lawyers do that are particularly helpful?

A. Explain what you're looking for, know the facts, and give me the law as it applies to the facts.

Q. What things do lawyers do that are not helpful?

A. The lawyers I see are all well-prepared and I cannot think of any particular trait that I would characterize as unhelpful.

MOTIONS PRACTICE

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

A. I do not require it, but I do prefer it.

Q. Do you appreciate courtesy copies of briefs being delivered to your chambers prior to hearing on a motion? If so, how early would you like them?

A. Absolutely. It can be difficult to know that a motion is pending without a courtesy copy to the Court, particularly in other counties. The earlier the better to receive them.

Q. Do you schedule hearings on motions automatically upon receiving a request for setting, or do you prefer or require that counsel call to schedule hearings?

A. We schedule them automatically, but after checking on date availability with counsel.

Q. Under what circumstances do you decline to grant a request for oral argument?

A. Rare, but the circumstances might include deadlines approaching or because the relief requested is obviously right or wrong.

Q. Do you prefer that counsel provide copies of the relevant cases prior to a hearing?

A. Yes, I always appreciate receiving pertinent case law prior to a hearing, or even during a hearing.

Q. Is there anything about the way you handle requests for temporary restraining orders and preliminary injunctions that you think the bar should be aware of?

A. I rarely grant ex-parte restraining orders, and never without an affidavit. Preliminary injunctions require a hearing, and I would expect the attorneys to know the law applicable to such extraordinary relief and be prepared to put on evidence.

FINAL PRETRIAL CONFERENCE

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

A. Primarily to iron out any complications relative to witnesses, motions in limine, jury instructions (if applicable), and to be made aware of any discovery issues.

Q. Do you have a specific format for pretrial statements? If so, please provide a copy.

A. No.

Q. What steps do you take, if any, before the final pretrial conference to encourage settlement of the case? Do you require mediation?

A. I do not require mediation, but I do encourage it. I tend to avoid discussing settlement with the parties unless they ask me to do so.

JURY TRIAL PRACTICE

Jury Selection:

Q. How is voir dire conducted in your courtroom?

A. 31 panelists on one side, alternates on the other side. Voir dire is conducted using the 31, and if a panelist is excused for cause, an alternate is brought over to replace. Once the panel is passed for cause, preemptories are done in chambers.

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

A. We allow and encourage them.

Q. What is your due date for proposed jury questionnaires?

A. Clerk sends those out.

Q. What do you prefer in regard to the length of the jury questionnaire?

A. I have no preference.

Requested Jury Instructions:

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

A. Usually at least 5 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, etc.)?

A. I have the attorneys submit one set with case references, and one without.

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

A. I use them frequently, but not always.

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

A. For criminal cases yes (at least the first 6). No stock instructions for civil cases.

Q. Do you prefer to receive an electronic copy of requested jury instructions?

A. No.

Trial Procedures:

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

A. Usually 9 to 5 with an hour lunch.

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

A. I like to hear those as early as possible, but often at the pretrial conference.

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

A. No real preferences, I let the attorneys work that out but get involved if there is a scheduling conflict. I am usually open to taking witnesses out of order to accommodate schedules, but again rely on the attorneys to work through those issues as best they can.

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 usually do not allow use of exhibit notebooks for the jurors unless both sides agree, but I will for bench trials subject to any objections from the other attorney(s). I find they are helpful.

Q. Do you find the use of computer-assisted presentations (e.g. PowerPoint) effective and/or useful?

A. Use of computer-assisted presentations are very helpful, even with motion hearings.

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

A. No.

BENCH TRIAL PRACTICE

Q. What are the major differences in procedures in your courtroom between bench trials and jury trials?

A. Less formality, but other than the obvious ones, no major differences.

Q. Do you appreciate or require trial briefs or proposed findings of fact and conclusions of law from counsel? Do you prefer proposed findings of fact and conclusions of law be submitted before or after trial or both?

A. Depends on the nature of the case, but often I frequently ask attorneys to submit proposed findings and conclusions after trial. Either before or after is fine, but if I make a decision at the conclusion of a case, best if I have those before trial.

THOUGHTS ON EFFECTIVE ADVOCACY

Q. What makes an effective advocate in jury arguments?

A. An attorney who is well prepared. Know the facts. Know your witnesses.

Q. What makes an effective advocate in bench arguments?

A. Same as above.

Q. What are the most common mistakes made in argument?

A. Not understanding the type of relief that is available; failing to support argument with applicable law.

Q. What are some techniques that do, or do not, work effectively in the examination of witnesses?

A. Asking the same question numerous times does not work well. Forgetting to make an offer of proof. Stay on relevant topics, and make sure to lay proper foundation. That is the most common mistake I see.

CRIMINAL MATTERS

Q. How do you handle requests for continuance on pretrials, arraignments and trials?

A. I grant them rarely, and only for good cause.

Q. When may the issue of bail best be addressed in your courtroom?

A. At arraignment.

Q. What information do you want from counsel at the time of sentencing?

A. Whether the Defendant is in need of treatment; victim statements; recommendations for length of incarceration (if applicable), and recommendations for terms of probation.

Q. Are private pre-sentence evaluations useful or encouraged?

A. No.

Q. Do you have any standard sentences the bar should be advised about (i.e. DUI sentencings, acceptance of alcohol-related reckless)?

A. Nothing beyond what is required.

SPECIAL ISSUES FOR DOMESTIC CASES

Q. Are there any special issues that arise in your courtroom in domestic cases of which you would like the bar to be aware?

A. No.

Q. What do you want to have on temporary order issues?

A. Affidavits, specific explanations as to the status of things, and why temporary relief is necessary and appropriate.

Q. Do you have a policy on child interviews with respect to custody?

A. No policy, but follow the law. I expect counsel to discuss the way they want the child interviewed, and absent agreement the Court will conduct its own analysis to determine the best way to take the child's testimony (in court or in chambers and who is present during the questioning).

Q. When do you require guardians ad litem? What do you expect from a guardian ad litem?

A. When both sides request, or if the Court finds it's necessary. I expect the GAL to do his/her job to represent the best interests of the child, to conduct interviews as he/she deems necessary, and to advocate for the child.

DISCOVERY PRACTICES

Q. What is your approach to resolving discovery disputes?

A. I expect the attorneys to work to resolve their differences. Like most judges, I do not like to get involved in discovery disputes. Otherwise, I will hear issues on a case by case basis.

Q. What are your thoughts on imposing sanctions for discovery abuses?

A. I have no thoughts on this topic, but it does happen.

Q. Are you generally available to solve problems that arise during a deposition?

A. Yes, but do not like to do so.

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.

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

A. Be on time and professional.

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

A. Not really.

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

A. Just what you might expect. Be professional and stick to pretrial rulings.

OTHER MISCELLANEOUS ISSUES

Q. What are your opinions regarding courtroom dress?

A. The usual. Dress professionally.

Q. Do you allow children in your courtroom?

A. It depends, but generally no.

Q. Do you allow cell phones in your courtroom?

A. Only for attorneys, and they MUST be shut off during court.

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

A. I speak to any lawyer who is late, and expect it will not happen again.

CLERK'S/ADMINISTRATIVE ASSISTANT'S COMMENTS

Q. What do you expect of attorneys in their dealings with you?

A. No real expectations. Be professional and courteous.

Q. What do you expect of attorneys in regarding to scheduling hearings?

A. Go through my Judicial Assistant.

Q. What is your protocol for scheduling hearings?

A. Schedule through my Judicial Assistant.

Q. What can attorneys do to improve communications with you?

A. N/A.

Q. What would you like attorneys to keep in mind?

A. We have a busy docket, and scheduling can be difficult. Be patient.

Q. What size paper does your judge prefer or require for pleadings and briefs?

A. Whatever the rules require. Generally 8 ½ x 11 for everything now.