

Wyoming Circuit Court Judges' Benchbook

Name: Susan K. Stipe

Judicial District: 2nd Judicial District

County of Circuit Court: Carbon County

GENERAL COURTROOM PRACTICE TIPS

Motions Practice

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

A. Yes.

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. I do have scheduling conferences in criminal cases. The scheduling conference is set at arraignment after a not guilty plea. The Defendant is told the date/time. The Defendant MUST APPEAR at the scheduling conference, unless his/her presence is waived by an attorney who will appear on the Defendant's behalf. At the scheduling conference it is expected that the matter will either be set for a Jury Trial, a Bench Trial, or I will be notified that the Parties have reached a resolution. If there is a resolution, I have enough time set aside at the scheduling conference to conduct a change of plea hearing. I have no problem vacating the scheduling conference and setting for a separate change of plea date/time if I am notified before the scheduling conference and can also set a later date/time for Change of Plea if

that is the preference of the Parties. To the extent possible, discovery should be completed prior to scheduling conference. I do require the filing of all motions which can be reasonably anticipated prior to scheduling conference to be filed before scheduling conference. If there are motions that need heard, particularly dispositive motions, the next step will be scheduling the trial date and a motions hearing. I do allow attorneys to appear telephonically at scheduling conference. If they wish to do so, they MUST notify the clerk of court BEFORE the scheduling conference and request to appear by phone (this can be accomplished by a phone call—I do not require the request to be in writing). They will then be given the time for the attorney to call in. Thus far, I have been able to handle the attorneys calling on to the Court phone system. The call in time frame begins at 4 and often the Court is speaking to the last attorney at around 4:45. If attorneys do not wish to wait on hold, I will call them back when I complete the cases with the attorneys sitting on hold.

In civil cases, one of the Clerks of Court usually conducts scheduling conferences with the Parties. If a more in depth conference is needed, either Party can request a scheduling conference with me in attendance to go over anticipated issues in the case. The Party requesting a scheduling conference with me is responsible for initiating a conference call with the Court if both Parties are represented.

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

A. I expect the attorneys to have discussed the case prior to scheduling conference and the attorneys to be prepared to tell me which direction the case is heading, alert me to any unusual issues in the case that will need to be addressed by the Court, and to advise the Court about what the next setting will need to be.

Pretrials

Q. Do you have final pretrial conferences?

A. No, but if a request is made by counsel I will schedule one.

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

A. To go over proposed jury instructions and to address any last minute issues prior to the jury arriving at the courthouse.

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

A. Yes, the pretrial order sets forth what information should be contained within the memorandum.

JURY TRIAL PRACTICE

Jury Selection

- Q. How is voir dire conducted in your courtroom?
- A. The attorneys conduct voir dire and must stay within the rules during their voir dire examination.
- Q. Do you allow or encourage the use of jury questionnaires? If so, what is the due date for questionnaires?
- A. I have never had a request for the use of a specific jury questionnaires—I would have to consider a request on a case-by-case basis. It is difficult to imagine a case within the Circuit Court’s jurisdiction that would require the use of a jury questionnaire. Of course, the panel fills out the usual questionnaire provided by the Court and those are submitted to counsel pre-trial.

Jury Instructions

- Q. When do you require requested jury instructions to be submitted?
- A. The timing is found in the order setting Jury Trial. Instructions are due approximately 1 week before Jury 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. A printed clean copy (no supporting cases or reference to pattern instructions), a printed “dirty” copy (with supporting cases and reference to pattern instructions), and a clean copy in electronic format. The instructions must comply with the requirements set forth in my order setting jury trial insofar as the text must be the same font and size. This is necessary so that it is possible to use jury instructions presented by both sides. Otherwise, it would be obvious to a jury that some instructions came from Plaintiff the other from Defense. Electronic versions help with this situation, but it is useful if everyone already has the same font/style of instruction to present. There is very little time to mess with retyping instructions during the trial and every minute of delay is a delay for each and every citizen who has been called to perform their civic duty of serving on the jury.
- Q. What is your view of the Wyoming Pattern Jury Instructions?
- A. They are an excellent resource and there should be very little variance from them necessary during a trial.
- Q. Do you have a set of stock jury instructions that you use?
- A. Yes, my first 4 instructions are used in every trial and come from the pattern instructions.

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. 8:30-12 with one break in the morning, then 1:30-5, with a 3 p.m. break. There are, unfortunately, many times that the trial runs beyond 5 p.m. due to the 1 day nature of the trial setting on misdemeanor cases.
- Q. What are your preferences with respect to motions in Limine and other trial related motions?
- A. Anything that can be reasonably anticipated prior to trial, should be reduced to writing and filed BEFORE the trial begins. I am willing to put together a last-minute hearing 2-3 days before trial when last minute things come up. It is preferred that everything is accomplished BEFORE the jury is in the building. A Motion in Limine is also preferred to a stated objection after the trial starts, if issues can be reasonably anticipated prior to trial.
- Q. What are your preferences and/or procedures related to witness scheduling?
- A. It is necessary that attorneys have their witnesses lined up close enough that there is no gap in the trial proceedings. Attorneys should be prepared with a different witness if there are scheduling problems that prevent a particular witness from being prepared to testify in the order anticipated. I don't require the attorneys to notify me of the order they are going to call their witnesses and it is definitely at the attorney's discretion how they will present their case; it is expected, however, that they will line their witnesses up in such a way as to prevent any delays (to the extent possible) in presentation of their case to the jury.
- 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. Trial exhibits can certainly be effectively given to the jury through exhibit notebooks. It is not required in this Court, though. The trials that occur here are usually not exhibit heavy and an exhibit notebook would not be necessary under the usual circumstances. I would certainly allow the use of an exhibit notebook if counsel prepared one. If there are numerous trial exhibits in any particular case, the use of exhibit notebooks is encouraged. Also, attorneys should discuss and stipulate to the entry of uncontroversial exhibits prior to trial and notify of the Court of their stipulations prior to the case beginning.
- Q. Do you allow "speaking objections" in jury trials?
- A. NO. I notify counsel prior to trial that these are improper and should not be used. If counsel does not appear to be able to control him/herself in the use of "speaking objections" they will be required to object at a bench conference which, of course, significantly delays and interrupts the proceedings. It is expected that counsel knows, and can cite to, the rule of evidence they are objecting under. That should be accomplished in 2-3 words (i.e. Objection—relevance). If more is required, counsel should request to approach the bench. This Courtroom has an excellent audio system and space is very limited...so improper arguments, even at a bench conference, are highly discouraged due to the likelihood of the jury hearing the argument. Of course, making a record is appropriate...but I often find that "speaking objections" are utilized when the attorney is unaware of the rule of evidence that they are objecting under, which makes it difficult to parse out what the objection is for the Court and presumably opposing counsel as well.

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

A. Jury instructions are encouraged.

Bench Trial Practice

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

A. There are no major differences in procedures between bench trials and jury trials. There is no use for a bench conference during a bench trial and the parties will be objecting from counsel table.

CRIMINAL MATTERS

Q. Do you allow initial appearance to be entered by written filing?

A. Attorneys can provide for initial appearances to be done by written filing. I do not allow *pro se* individuals to appear by written filings unless there are exceptional circumstances.

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

A. *Pro Se* defendants will usually be granted a two-week continuance of their arraignment date depending on the circumstances preventing their appearance. A continuance of the preliminary hearing is usually allowed when the State has no objection, but a waiver of speedy preliminary hearing will be required so it can be set outside the 10/20 day time frames. Trial continuances are on a case-by-case basis and require a showing that the opposite party will not be prejudiced by the continuance.

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

A. Yes, they can file written stipulations which I review and will agree to if they are reasonable.

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

A. I regularly conduct video arraignments with jail inmates. The attorney is given the choice of where they prefer to attend the proceedings. Generally, I find that the attorney will provide the greatest assistance to their client if they appear at the jail during the arraignment (this also assists the Court in knowing if the Defendant can properly hear and see the Court during arraignment). If an Attorney prefers to appear in the Courtroom, I have no problem with that. My preference is the attorney appear with their client at the jail, but I leave the determination to the attorney as to where they appear during arraignment.

- Q. What special considerations occur at sentencing (participation in a deferral program, supervised probation, treatment, etc.)?
- A. These considerations occur on a case-by-case basis. Supervised probation is sparingly used and reserved for cases that allow for a 1 year time period of probation.
- Q. Do you allow plea agreements in writing? If so, under what circumstances or types of cases?
- A. Yes, written pleas are appropriate under many different circumstances. The County Attorney's Office has the preferred format for the plea and the Judgment and Sentence. Many traffic cases with Defendants who live in other states are handled in this manner.

Citations

- Q. Do you appoint the Public Defender if there is a possibility of jail sentence?
- A. Yes, with a financial affidavit showing 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. In custody juveniles appear separately from adults. Juveniles cited into court appear at the same time as adults.
- 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 Court prepares small claims judgments and Protection Order documents. All other civil cases, including FED, the attorney should prepare the order in conformity with the Court's findings.

Family Violence/Stalking Protection Hearing

- Q. Do you encourage attorneys in these matters?
- A. When there is also a criminal case involved, the Respondent, at a minimum, should receive some sort of legal advice before proceeding. If an attorney enters an appearance, I will allow a continuance for the other side to be represented. Attorneys are welcome, but rarely appear in these types of cases.

Small Claims

- Q. Do you think it is effective for attorneys to appear in small claims matters?
- A. I believe that attorneys that diligently discuss the case with the opposing side, outside of Court, can really assist their clients in resolving these issues short of trial. Insofar, as an attorney representing their client at a small claims hearing, it is usually not necessary...but, I do believe that attorneys generally are helpful for their clients in getting to the legal issue instead of being wrapped up in the emotional aspect of the dispute.

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. Generally, I find that the legal community here is small and that the attorneys are, for the most part, very civil with each other. There are occasions when I have witnessed attorneys get heated during their arguments which doesn't lend anything to the proceedings. My approach, thus far, has been responsive, but I am working toward being proactive in correcting these problems when I see them occur.
- Q. What do you expect of lawyers (and their staff) in your courtroom? Clients? Witnesses?
- A. Attorneys and staff should always show professionalism in the Courtroom, whether I'm in the Courtroom or not. It is my expectation that attorneys will demonstrate professionalism while lay parties are in the courtroom with them. Clients and witnesses should also be instructed on proper Courtroom demeanor prior to being in the Courtroom.
- Q. Do you impose limitations on courtroom movement (approaching witness, podium, etc.)?
- A. Yes, the courtroom is very small and I believe it is important that the attorneys are familiar with the Uniform Rules for District Court, which are also adopted by the Circuit Courts. Every attorney should familiarize themselves with the rules and act accordingly.
- Q. What kind of lawyer conduct is unacceptable in your courtroom?
- A. Lawyer conduct that is disrespectful to anyone is unacceptable. I also find it disappointing to see lawyers who are not prepared or who are unfamiliar with proper courtroom conduct. On the other hand, it is wonderful to see lawyers doing great work on behalf on their clients and working respectfully with each other.

OTHER MISCELLANEOUS ISSUES

- Q. What are your opinions regarding courtroom attire?
- A. I have many opinions about this issue. I have not had a single attorney in this jurisdiction appear in anything other than exceptional courtroom attire. I daresay that the attorneys in this

Courtroom always dress above my expectations. It is much more difficult for the non-attorneys though. I have the expectation that non-lawyers will cover their body parts (nothing which shows too much skin), no hats, no shorts, and no tank tops. It would be wonderful if everyone came to Court with proper attire, but I have found that is too much for some that appear before me. I understand that many individuals have extremely limited budgets and may not have proper attire. It is my hope that they try their best to appear presentable. As for the lawyers, I haven't seen any problems with the attorneys here; they always dress appropriately.

Q. Do you allow children in your courtroom?

A. As a general rule, no. Of course, there are circumstances that have required a well-behaved child to remain the Courtroom.

Q. Do you allow cell phones in your courtroom?

A. Only the attorneys may have a cell phone in the Courtroom.

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

A. Lectures, or move the setting to a different day if promptness cannot be achieved. If it is a weather-related event, I will usually try and accommodate as long as I'm told of the situation beforehand. If a situation arises, it is much better handled upfront with a phone call to the clerk of court rather than not knowing what is happening.

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. N/A

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

A. N/A

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

A. N/A

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

A. N/A