UNIFORM RULES FOR DISTRICT COURTS OF THE STATE OF WYOMING

Editor's notes. — These rules were published on April 9, 1993, and became effective on June 8, 1993, as called for in the court order adopting the rules.

Cross references. — As to authority of Supreme Court to adopt, modify and repeal rules and forms governing pleading, practice and procedure in all courts, see §§ 5-2-114 through 5-2-118. As to district courts generally, see chapter 3 of title 5.

Rule 100. Title.

These rules may be known and cited as the Uniform Rules for District Courts of the State of Wyoming. (U.R.D.C.)

Rule 101. Appearances.

(a) Any person may appear, prosecute or defend any action pro se. Partnerships and sole proprietorships may appear through the owners.

(b) Corporations and unincorporated associations (other than partnerships and individual proprietorships) may appear only through an attorney licensed to practice in Wyoming.

(c) An active member of the Wyoming State Bar shall attend all hearings of any party represented by counsel. Unless excused by the court (after notice to all other counsel) the attorney shall attend all hearings on behalf of the attorney's client.

(d) All counsel and pro se parties shall appear promptly at court settings.

State need not appear at implied consent hearing. — The department of revenue and taxation is not required to appear either personally or through an attorney in an implied consent driver's license suspension hearing. It may submit its case by certified record on the refusal form given to the licensee at the time of his arrest. Drake v. State, 751 P.2d 1319, 1988 Wyo. LEXIS 35 (Wyo. 1988).

The presence of an attorney representing the state is not required at implied consent hearings to support the license suspension of one arrested and charged with driving while under the influence, who refused to submit to chemical sobriety testing. The certified arrest documentation alone is sufficient to support a license suspension. Hooten v. Department of Revenue & Taxation, 751 P.2d 1323, 1988 Wyo. LEXIS 34 (Wyo. 1988).

Rule 102. Appearance and Withdrawal of Counsel.

(a)(1) An attorney appears in a case:

(A) By attending any proceeding as counsel for any party;

(B) By permitting the attorney's name to appear on any pleadings or motions, except that an attorney who assisted in the preparation of a pleading and whose name appears on the pleading as having done so shall not be deemed to have entered an appearance in the matter; or

(C) By a written appearance. Except in a criminal case, a written entry of appearance may be limited, by its terms, to a particular proceeding or matter.

(2) Except as otherwise limited by a written entry of appearance, an appearing attorney shall be considered as representing the party or parties for whom the attorney appears for all purposes.

(b) All pleadings shall contain the name, address and telephone number of counsel or, if pro se, the party. All notices shall be mailed to the address provided. Each party or counsel shall give notice in writing of any change of address to the clerk and other parties.

(c) Counsel will not be permitted to withdraw from a case except upon court order. Except in the case of extraordinary circumstances, the court shall condition withdrawal of counsel upon the substitution of other counsel by written appearance. In the alternative, the court shall allow withdrawal upon a statement submitted by the client acknowledging the withdrawal of counsel for the client, and stating a desire to proceed pro se. An attorney who has entered a limited entry of appearance shall be deemed to have withdrawn when the attorney has fulfilled the duties of the limited entry of appearance.

History:

Amended January 8, 2002, effective April 1, 2002.

Court abuses discretion by proceeding without attorney. — The district court abused its discretion when it permitted the husband's attorney to withdraw at a divorce proceeding which was not attended by the husband, and then immediately proceeded with the trial in the absence of the husband. The husband was entitled to have a new trial, after being given reasonable notice of the trial setting, so that he could appear and defend through his attorney or pro se. Honan v. Honan, 809 P.2d 783, 1991 Wyo. LEXIS 52 (Wyo. 1991).

Circumstances permitting withdrawal. — District court did not commit reversible error in allowing a husband's counsel to withdraw eight business days before trial because counsel's request to withdraw was based on specific facts that showed the husband's failure to cooperate and his obstruction of an orderly progression of a divorce action. Byrd v. Mahaffey, 2003 WY 137, 78 P.3d 671, 2003 Wyo. LEXIS 167 (Wyo. 2003).

Appearance for all purposes. — Since provision for special appearance to contest jurisdiction no longer exists under Wyoming Rules of Civil Procedure, once respondent's attorney filed written appearance he appeared for all purposes and could not withdraw with-

out court approval, and since respondent was still represented, service of notice upon that attorney was proper. CRB v. Department of Family Servs., 974 P.2d 931, 1999 Wyo. LEXIS 23 (Wyo. 1999).

Rule 103. [Repealed].

[Repealed November 15, 2007, effective July 1, 2008.]

Editor's notes. — This rule pertained to attorneys providing the clerk of the district court with a Wyoming business address.

Rule 104. Admission Pro Hac Vice.

(a) Definitions.

(1) "Applicant" means a member of the bar of any state, district or territory of the United Stated applying for admission pro hac vice.

(2) "Local counsel" means an active member of the Wyoming State Bar.

(3) "Rule 8" means Rule 8 of the Rules Governing the Wyoming State bar and the Authorized Practice of Law.

(b) Members of the bar of any other state, district or territory of the United States may apply for admission pro hac vice. An active member of the Wyoming State Bar, in compliance with Rule 8, must move a Wyoming trial court to allow the applicant to appear in a specific matter in a Wyoming trial court.

(c) Unless otherwise ordered, a motion to appear pro hac vice may be granted only if the applicant complies with Rule 8 and associates with local counsel, who must participate in the preparation and trial of the case to the extent required by the court. The applicant must also be a member in good standing of the bar of another jurisdiction.

(d) Applicants consent to the exercise of disciplinary jurisdiction by the court over any alleged misconduct which occurs during the progress of the case in which the attorney so admitted participates.

(e) Prior to filing any pleadings or other documents, an entry of appearance and certificate of compliance with Rule 8 must be filed in the clerk's office by local counsel.

(f) Local counsel will perform the following duties:

(1) move the applicant's admission at the commencement of the first hearing to be held before the court;

(2) sign the first pleading filed and continue in the case unless another local counsel is substituted;

(3) be present in court during all proceedings in connection with the case, unless excused, and have full authority to act for and on behalf of the client in all matters, including pretrial conferences, as well as trial or any other hearings.

(g) Any notice, pleading or other paper must be served upon all counsel of record, including local counsel, whenever possible, but it will be sufficient for purposes of notice if service of any motion, pleading, order, notice, or any other paper is served only upon local counsel, who will assume responsibility for advising the applicant of any such service. If the court orders or the parties stipulate, service of any notice, pleading, or other paper may be made directly upon the applicant at the business address of the applicant.

(h) For each case in which they are admitted or seek admission pro hac vice, and pursuant to Rule 8, applicants must follow the procedures set out in Rule 8(c).

History:
Amended October 28, 2004, effective March 1, 2005; Amended effective May 13, 2014.

The 2004 amendment rewrote the rule, in large part to require that admission pro hac vice will only be granted upon compliance with Rule 11 of the Rules Providing for the Organization and Government of the Bar Association and Attorneys at Law of the State of Wyoming.

Rule 105. Assignment of Cases from the District Court to the Circuit Court.

Where cases are assigned by a district court, to a circuit court, in accordance with W.S. § 5-3-112(a)(iii) and (iv), the parties shall give notice to the district court of their decision not to consent to such assignments within 10 days of the date of entry of the order assigning the case to a circuit court.

History:
Adopted June 30, 2000, effective July 1, 2000.

Rule 106. [Repealed].

[Repealed December 16, 2008, effective December 16, 2008.]

Editor's notes. This rule, pertaining to attorney guardians ad litem, was repealed by order of the court dated December 16, 2008, effective immediately.

Rule 107. Court Security.

(a) The district courts have the inherent authority to ensure that adequate courtroom security measures are in place. Every district court, following consultation with the sheriff, the local county court security management committee, and other interested stakeholders, shall determine appropriate security measures needed to protect courtrooms and court personnel. In devising appropriate security measures, the Wyoming Court Security Commission's Court Security Standards shall be consulted. The court may conduct appropriate proceedings and enter appropriate orders to ensure that adequate security measures are in place.

(b) Wyo.Stat.Ann. § 18-3-604 requires the Sheriff "shall attend all courts of record in his county." In consultation with the presiding judge, the sheriff shall provide a sufficient number of deputies to maintain order in the courtroom at all times. The rules and orders of the court pertaining to conduct in the courtroom shall be enforced by him or them.

History:
Added and effective June 17, 2014.

Editor's notes. — The Court Order adopting Rule 1.07 stated as follows:

"The Board of Judicial Policy and Administration has recommended that the Wyoming Supreme Court adopt Rule 107 of the Uniform Rules for District Courts of the State of Wyoming. The Court, having carefully reviewed the proposed rule, finds that the proposed rule on court security should be adopted. In doing so, this Court recognizes that the courts, to fulfill their constitutional duties and properly administer justice, must operate in a safe and secure environment. To that end, this Court finds that the courts of this state have the inherent authority, and the duty, to ensure that appropriate courtroom security measures are in place to guarantee the continuing viability of the courts. *Board of County Comm'rs v. Nineteenth Judicial Dist.*, 895 P.2d 545 (Colo. 1995); *People ex rel. Sullivan v. Swihart*, 897 P.2d 822, 824 (Colo. 1995); *Epps v. Commonwealth*, 626 S.E.2d 912 (Va. Ct. App. 2006); *State v. Wadsworth*, 991 P.2d 80 (Wash. 2000); *Halverson v. Hardcastle*, 163 P.3d 428, 440-41 (Nev. 2007).

"Despite such authority, the courts must operate within a governmental structure that balances the powers of the three branches. Under that structure, the existing statutes provide that county authorities are responsible for courthouse facilities and manpower to ensure the security of courtrooms. *See* Wyo. Stat. Ann. § 18-2-103 ('Each county shall provide and maintain a suitable courthouse….'); Wyo. Stat. Ann. § 18-3-604 ('The county sheriff or his deputy … shall attend all courts of record in his county.')"

Rule 201. Continuances.

Cases will not be continued upon stipulation of counsel. Continuances will be granted only for good cause shown in writing.

Trial court has discretion to grant or deny continuance. — Craver v. Craver, 601 P.2d 999, 1979 Wyo. LEXIS 476 (Wyo. 1979).

Continuance denied when problem fault of moving party. — The trial court may deny a continuance if the problem which gives rise to the request for a continuance is the fault of the party moving for the continuance. Craver v. Craver, 601 P.2d 999, 1979 Wyo. LEXIS 476 (Wyo. 1979).

A court will deny a continuance where the problem which gives rise to the request is the fault of the movant. Sharp v. Sharp, 671 P.2d 317, 1983 Wyo. LEXIS 381 (Wyo. 1983).

Trial court properly denied a husband's request for a continuance because his counsel's late withdrawal was due to the husband's failure to cooperate and his obstruction of an orderly progression of a divorce action. Byrd v. Mahaffey, 2003 WY 137, 78 P.3d 671, 2003 Wyo. LEXIS 167 (Wyo. 2003).

Such as when party discharges counsel. — It is not an abuse of discretion to deny a continuance to a party which has discharged its counsel. Bacon v. Carey Co., 669 P.2d 533, 1983 Wyo. LEXIS 361 (Wyo. 1983).

Denial of continuance not abuse of discretion. — See Stogner v. State, 674 P.2d 1298, 1984 Wyo. LEXIS 247 (Wyo. 1984).

The trial court did not abuse its discretion in denying defendant's motion for a continuance, because all of the information lead counsel gathered was available to the two remaining attorneys after he withdrew, and both of the remaining attorneys became involved in the case early on in the proceedings. Sincock v. State, 2003 WY 115, 76 P.3d 323, 2003 Wyo. LEXIS 135 (Wyo. 2003).

District court did not abuse its discretion by denying a husband's motion for a continuance under Wyo. R. Civ. P. 60(b), which was made during a hearing at which the husband requested more time for discovery, but after the stipulation had been entered, because the husband did not meet his burden of coming forward with the requisite level of clear and convincing evidence to sustain his claim; the husband's offer of proof did nothing to advance his claims of fraud and did not excuse his lack of evidence to support his personal opinion that his wife had defrauded him during their divorce concerning an athletic club. Richard v. Richard, 2007 WY 180, 170 P.3d 612, 2007 Wyo. LEXIS 192 (Wyo. 2007).

Five-days' notice of trial was per se unreasonable where the short period of time prevented the party from having the testimony of his expert witness and presenting his case on the merits, and it was an abuse of discretion to refuse a continuance. Urich v. Fox, 687 P.2d 893, 1984 Wyo. LEXIS 336 (Wyo. 1984).

Law reviews. — For case note, "Criminal Procedure — The Right to a Speedy Trial — Has the Wyoming Supreme Court Correctly Applied the Balancing Test? Harvey v. State, 774 P.2d 87 (Wyo. 1989)," see XXV Land & Water L. Rev. 267 (1990).

Rule 202. Time Limits.

Except as may be permitted by the Wyoming Rules of Civil Procedure and the Wyoming Rules of Criminal Procedure, time limits permitted or required by rules or court order may not be extended or modified by agreement of counsel, but only by order.

Cross references. — As to time, see Rule 6, W.R.C.P., and Rule 45, W.R. Cr. P.

Rule 203. Default; Dismissal for Lack of Prosecution.

(a) Entry of default in accordance with Rule 55(a), W.R.C.P., must be made in all default matters. Defaults may be heard by the court at any convenient time. If no request for hearing is made within 90 days after service of process upon the defendant, the case may be dismissed by the court. Upon application to the court before the expiration of 90 days, and showing good cause, the time may be extended.

(b) Cases on file for 90 days without service on the defendant will be dismissed by the court. Upon application to the court before the expiration of 90 days, and showing good cause, the time may be extended.

(c) Cases on the docket in which no substantial and bona fide action of record

towards disposition has been taken for 90 days are subject to dismissal for lack of prosecution.

(d) If payment for papers filed by electronic means pursuant to Wyoming Rule of Civil Procedure 5(e)(3)(A) is not received by the district court clerk within ten (10) days of the clerk's receipt of the electronic filing, the clerk may report that failure to the judge, who may strike the pleading or dismiss the case.

(e) Dismissal with prejudice shall be in conformity with the Wyoming Rules of Civil Procedure.

History:

Amended October 6, 2020, effective December 7, 2020.

Cross references. — As to dismissal of actions, see Rule 41, W.R.C.P.

I. GENERAL CONSIDERATION

Appropriateness of dismissal. — Complaint was inappropriately dismissed for improper service because (1) one individual defendant, by not questioning the court's personal jurisdiction when filing a motion to dismiss, waived any objection and submitted to the jurisdiction of the court; (2) questions of fact existed as to the validity of the service on out of state individual defendants, under Wyo. Stat. Ann. § 5-1-107 and Wyo. R. Civ. P. 4, and on a bank defendant under Wyo. Stat. Ann. § 17-28-104 and Wyo. R. Civ. P. 4. Lundahl v. Gregg, 2014 WY 110, 334 P.3d 558, 2014 Wyo. LEXIS 126 (Wyo. 2014).

Trial courts empowered to clear calendars of dormant cases. — Trial courts, acting on their own initiative or upon a motion of a party, are empowered to clear their calendars of cases that have remained dormant because of the inaction or dilatoriness of parties seeking relief. Gaudina v. Haberman, 644 P.2d 159, 1982 Wyo. LEXIS 329 (Wyo. 1982).

But rule not ground for dismissal of appeal from municipal court. — This rule may not be used as a ground for dismissal of an appeal from a municipal court to a district court. Wood v. Casper, 660 P.2d 1163, 1983 Wyo. LEXIS 302 (Wyo. 1983).

Remedy of involuntary dismissal rests within the sound discretion of the trial court. — Gaudina v. Haberman, 644 P.2d 159, 1982 Wyo. LEXIS 329 (Wyo. 1982).

And dismissal of file dormant for 16 months not abuse of discretion. — To allow a file to lie completely dormant from September 27, 1976 until January 13, 1978, being a term of approximately 16 months, is clearly a lack of diligent prosecution and the dismissal thereof does not involve an abuse of discretion. Johnson v. Board of Comm'rs, 588 P.2d 237, 1978 Wyo. LEXIS 253 (Wyo. 1978).

Law reviews. — For case note, "Criminal Procedure — The Elimination of Dismissals for Lack of Prosecution from Wyoming Intermediate Appeals. Wood v. City of Casper, 660 P.2d 1163 (Wyo. 1983)," see XIX Land and Water L. Rev. 301 (1984).

For case note, "Criminal Procedure — The Right to a Speedy Trial — Has the Wyoming Supreme Court Correctly Applied the Balancing Test? Harvey v. State, 774 P.2d 87 (Wyo. 1989)," see XXV Land & Water L. Rev. 267 (1990).

II. SPEEDY TRIAL

Editor's notes. — *All of the following annotations are taken from cases decided under former Rule 204 (Speedy trial).*

Applicability of rule. — This rule only applies to proceedings in district court; the time parameters apply only to the actions of the district court following the time from felony information to the date of trial. DeSpain v. State, 774 P.2d 77, 1989 Wyo. LEXIS 109 (Wyo. 1989).

Balancing test for determination of speedy-trial violation. — A determination that a speedy-trial violation has occurred is the result of a balancing test. The test requires a balancing of four factors: (1) length of delay; (2) reason for delay; (3) defendant's assertion of his right; and (4) prejudice to the defendant. Cook v. State, 631 P.2d 5, 1981 Wyo. LEXIS 358 (Wyo. 1981).

Strict reading of rule conflicts with balancing test. — A strict reading of the time limitations in this rule conflicts with the balancing test developed in law; because, under the balancing test, the length of time between the information and the trial is only one of several factors to be considered. Cook v. State, 631 P.2d 5, 1981 Wyo. LEXIS 358 (Wyo. 1981).

Five-days' notice of trial was per se unreasonable where the short period of time prevented the party from having the testimony of his expert witness and presenting his case on the merits, and it was an abuse of discretion to refuse a continuance. Urich v. Fox, 687 P.2d 893, 1984 Wyo. LEXIS 336 (Wyo. 1984).

Motion setting case beyond time limit gives notice to defendant to object. — When a case is set beyond the 90-day (now 120-day) limit, it is done so on the court's own motion in administering its docket. This provides adequate notice to the defendant, with time to object and opportunity to raise issues of possible prejudice. The failure by defense counsel to fulfill the duty to ensure that no speedy-

trial violation occurs within a reasonable time operates as a waiver of any objections. Cook v. State, 631 P.2d 5, 1981 Wyo. LEXIS 358 (Wyo. 1981).

Acceptable continuances for reasonable time for convenience of counsel are appropriate to extend the speedy trial time limitations within the continued responsibility of the trial court. DeSpain v. State, 774 P.2d 77, 1989 Wyo. LEXIS 109 (Wyo. 1989).

Long delay, not caused by defendant, unconstitutional. — A delay of over 1½ years between the filing of the criminal complaint and the subsequent trial violated defendant's constitutionally guaranteed right to a speedy trial, where none of the causes for the delay could be attributed to defendant. Harvey v. State, 774 P.2d 87, 1989 Wyo. LEXIS 111 (Wyo. 1989), reh'g denied, 1989 Wyo. LEXIS 151 (Wyo. June 12, 1989).

The defendant was denied the right to a speedy trial, where, of the 18 months taken to bring him to trial following the initial complaint, he was jointly responsible for three, or perhaps four, months of the delay, with a balance of at least 14 months for which the state offered no plausible explanation or justification. Phillips v. State, 774 P.2d 118, 1989 Wyo. LEXIS 110 (Wyo. 1989), reh'g denied, 1989 Wyo. LEXIS 152 (Wyo. June 12, 1989).

Defendant's constitutional right to speedy trial was not violated under the following facts: (1) although there was a sufficient unnecessary delay — six months — to trigger the applicable four-part balancing test, the delay was not outrageous; (2) while the prosecutor did not have a good reason for the delay — his indecision as to the constitutionality of the original charge, aggravated vehicular homicide —, at least his motives were legitimate; (3) the defendant preserved his speedy trial right by raising timely objections; but (4) the defendant could not prove prejudice, in that the testimony of his chief witness, who disappeared before trial, was stipulated to by the prosecution, and in that he was free on bond during the entire proceeding. Caton v. State, 709 P.2d 1260, 1985 Wyo. LEXIS 621 (Wyo. 1985).

Sixty-eight days from the return of the record to the district court, following appeal from dismissal of the charge, to trial was not unreasonable, and this period of time did not violate any rule regarding a speedy trial. Sodergren v. State, 715 P.2d 170, 1986 Wyo. LEXIS 485 (Wyo. 1986) (plurality opinion) .

The defendant's right to speedy trial was not violated where there was a 113-day delay between the initial trial date and a rescheduled trial date, and the delay was caused by the defendant's motion for a continuance following the prosecution's announcement of additional charges to be filed, the defendant made no complaint about the delay until relatively late in the 113-day period, and the defendant failed to show any prejudice to his defense caused by the delay. Whiteplume v. State, 841 P.2d 1332, 1992 Wyo. LEXIS 159 (Wyo. 1992).

Delay of 244 days not presumptively prejudicial. — A delay of 244 days between the filing of the complaint and the commencement of the trial was not presumptively prejudicial. Osborne v. State, 806 P.2d 272, 1991 Wyo. LEXIS 20 (Wyo. 1991).

Rule 301. Facsimile Transmission.

Facsimile transmission, as set forth in Rule 5(e), W.R.C.P., is available in criminal matters.

Rule 302. Proof of Service.

(a) Except as may be otherwise provided in the Wyoming Rules of Civil Procedure, the Wyoming Rules of Criminal Procedure, or by order of court, proof of service of every document to be served may be made:

(1) By an acknowledgement of service, signed by the attorney for a party or signed and acknowledged by the party;

(2) By an affidavit of the person making service;

(3) By a certificate of service appended to the paper to be filed and signed by the attorney for the party making service; or,

(4) By entry upon the appearance docket showing service under Rule 5(b), W.R.C.P.

(b) The proof shall be filed with the court promptly and in any event before action is to be taken on the matter by the court.

Cross references. — As to proof of service, see Rule 4, W.R.C.P., and Rule 49, W.R. Cr. P.

Rule 303. Removal of Files.

(a) Files may be removed from the clerk's office only under the following circumstances:

(1) For use of the court;

(2) By any member of the Wyoming State Bar for a period not exceeding five days at any one time;

(3) By bonded abstractors for a period not to exceed five days at any one time; or

(4) By anyone upon written order of the court.

(b) All files shall be returned to the clerk's office for use by the judge two working days before any hearing.

(c) The clerk may deny the privilege of removing files to anyone violating this rule.

(d) No worker's compensation, water irrigation or drainage district file shall be removed from the office of the clerk, except by a judge.

Rule 304. Form of Jury Demands, Orders, Notices of Motion and Discovery Requests.

Counsel shall set forth on separate sheets of paper demands for jury trial, orders of the court and notices of motion. Counsel shall also set forth on separate sheets of paper each different type of discovery request, *e.g.,* interrogatories, requests for production, and admissions, when both served and answered.

Rule 305. [Abrogated].

Editor's notes. — This rule, relating to fees charged for record checks, was abrogated by order of the Supreme Court, December 21, 2004, effective April 4, 2005. See now Rule 2, Rules for Fees and Costs for District Courts, this edition.

Rule 401. Captions on Filed Documents and Discovery Documents.

(a) Every order, motion and petition, and all pleadings, shall recite the case number and shall have a title which briefly states its contents. For example, an order compelling discovery is to be titled, "Order Compelling Discovery," rather than "Order."

(b) Each different type of discovery request shall have a title which fairly describes the document being served or answered. For example, a request for production is to be titled, "Request for Production," and not merely titled "Discovery."

Rule 402. Citation of Statutes.

Any complaint, petition or motion requesting relief based upon a statute shall contain a citation to the statute.

Rule 403. Format.

(a) All filed documents shall:

(1) Be on 8½ by 11 inch, white paper;

(2) If typewritten or printed, be 12-point font, or larger, and in black ink;

(3) Be on one side of the paper; and

(4) Be clearly legible.

(b) All briefs and jury instructions shall follow the above requirements and be double spaced (except descriptions of real property and quotations).

(c) One copy of submitted jury instructions shall be free of citations.

(d) Nothing in this rule shall prohibit the filing of documents or written instruments on different size paper or double sided when (1) the original of the document or written instrument is another size paper and/or double-sided and (2) the law requires the original document or written instrument be filed with the Court, as in the case of wills or other documents.

History:
Amended August 21, 2018, effective January 1, 2019.

Failure to object to instructions precludes judicial review of possible error in the refusal to give requested instructions; provided, however, that review of such may be had if plain error is present. Morris v. State, 644 P.2d 170, 1982 Wyo. LEXIS 325 (Wyo. 1982) (decided under prior law).

Evidence must support lesser-included offense instruction. — One of the conditions which must be satisfied before a lesser-included offense instruction is given is that the evidence must support the giving of the instruction. Stamper v. State, 662 P.2d 82, 1983 Wyo. LEXIS 301 (Wyo. 1983) (decided under prior law).

Rule 501. Taxation of Costs.

(a) *Civil cases.* —

(1) Filing of Certificate of Costs. — Within 20 days after entry of the final judgment allowing costs to the prevailing party, a certificate of costs shall be filed and copy served upon opposing counsel. The certificate shall be itemized. For witness fees, the certificate shall contain:

(A) The name of the witness;

(B) Place of residence, or the place where subpoenaed, or the place to which the witness voluntarily traveled without a subpoena to attend;

(C) The number of full days or half days the witness actually testified in court;

(D) The number of days or half days the witness traveled to and from the place of trial;

(E) The exact number of miles traveled;

(F) The manner of travel, air, railroad, bus or private vehicle; and,

(G) If common carrier transportation is used, the price of an economy fare.

(2) Objections to Certificate of Costs. — If no objections are served within 10 days after service of the certificate of costs, the costs shall be taxed as set forth in the certificate of costs. If objections are filed, the court shall consider the objections and tax costs. A hearing may be provided at the discretion of the court.

(3) Allowable Costs.

(A) Filing fees, jury demand fees and fees for services of process. (W.S. 18-3-608 sets forth sheriff fees.)

(B) Witness fees.

(i) Witness fees are allowed at the rate of $30.00 per day and $15.00 per half day necessarily spent traveling to and from the proceeding and in attendance at the proceeding. Mileage is allowed at the rate of $.23 per mile, not to exceed the costs of common carrier transportation rates.

(ii) Expert witness fees shall be allowed at the rate of $25.00 per day or such other amount as the court may allow according to the circumstances of the case. If the amount allowed constitutes a higher hourly rate than $25.00 per day, this higher amount is allowable only for the time that the expert witness actually testified. Time charged in preparation for providing testimony and/or standing by awaiting the call to give testimony is not allowable as costs, except at the rate of $25.00 per day.

(C) Reporter fees. The $45.00 fee is a taxable cost. Transcripts of proceedings, such as motion hearings, pretrial conferences, etc., prepared at the request of a party in anticipation of trial are not taxable as costs unless such matters become part of the record on appeal.

(D) Costs of depositions.

(i) Costs of depositions are taxable if reasonably necessary for the preparation of the case for trial. A deposition is deemed reasonably necessary if:

I. Read to the jury as provided in Rule 32(a)(3), W.R.C.P.;

II. Used at trial for impeachment concerning a material line of testimony (impeachment on a collateral issue does not fall within the scope of this rule);

III. Necessarily, and not merely conveniently, used to refresh the recollection of a witness while on the stand; or,

IV. Was taken at the request of a nonprevailing party.

The foregoing are meant to provide guidelines, and are not exhaustive. The use of depositions for trial preparation alone does not justify the imposition of costs.

(ii) Reporters fees for depositions. Actual, ordinary reporting fees will be allowed. Extra costs for expediting transcripts or daily copy costs will not be allowed, except as authorized by an order entered prior to the date such costs are to be incurred. Reporters' travel, per diem expenses and appearance fees will not be taxed as costs.

(iii) Fees and expenses of counsel. Fees and expenses of counsel for traveling to and attending depositions are not taxable as costs.

(E) Copies of papers. Duplicating costs necessarily incurred for documents admitted into evidence shall be allowed. Duplication costs for documents for counsel's own use are not allowable.

(F) Exhibits received in evidence. The expense of preparing exhibits received in evidence, including 8 by 11 photographs (but not enlargements) videotapes, models and other demonstrative evidence are allowable as taxable costs at the discretion of the court.

(4) Other Costs Not Enumerated. — These rules do not preclude the award of other costs not enumerated herein if otherwise allowable under law; nor do they require the award of costs as they may be denied altogether if the court, through the exercise of its discretion, so determines. Moreover, to the extent that W.S. 1-14-125 limits costs, that statute is controlling. However, costs associated with the offer of judgment rule, *i.e.* Rule 68, W.R.C.P., must be awarded.

(5) Apportionment. — All costs may be apportioned among some or all of the non-prevailing parties as the court may determine.

(b) *Criminal cases.* —

(1) Allowable Costs.

(A) Non-expert witness fees as set forth in Rule 17(c)(1), W.R.Cr.P., are allowed: $30.00 for each full day and $15.00 for each half day necessarily spent traveling to and from the proceeding and in attendance at the proceeding. Mileage is allowed as provided in subdivision (a)(3)(B)(i).

(B) Expert witness fees are allowed as set forth in W.S. 1-14-102(b).

(C) The general standards as applicable to costs in civil cases will be applied, including witness fees, service fees and fees for depositions when actually used.

(2) Assessment of Costs Upon Defendant. — Payment of the costs of prosecution may be added to and made a part of the sentence in any felony case if the court determines that the defendant has an ability to pay or that a reasonable probability exists that the defendant will have an ability to pay.

Applicability. — The parties' agreement to an allocation of costs is not subject to the provisions of this rule. Snyder v. Lovercheck, 99 P.2d 1079, 1999 Wyo. LEXIS 188 (Wyo. 1999).

Expert witness fees properly awarded. — The prevailing defendant was entitled to expert witness fees, notwithstanding that the defendant failed to set forth the number of full or half days the expert spent on the matter and price of economy airfare, since the use of hours instead of days goes to the computation of the amount of the costs and not to the propriety of the underlying claim, and the plaintiff offered no argument that the amount awarded for the expert was incorrectly calculated. Snyder v. Lovercheck, 2001 WY 64, 27 P.3d 695, 2001 Wyo. LEXIS 77 (Wyo. 2001).

Deposition expenses. — The prevailing defendants were entitled to recover discovery depositions taken by them where, beyond citing the four guidelines in the rule, under subdivision (a)(3)(D)(i) the plaintiff made no argument that the depositions were not otherwise reasonably necessary. Snyder v. Lovercheck, 2001 WY 64, 27 P.3d 695, 2001 Wyo. LEXIS 77 (Wyo. 2001).

District court erred in awarding costs incurred in a deposition because the record did not reflect any justification for an award of costs for the deposition beyond the bald assertion in the certificate of costs that the deposition was used at trial and the costs were actually and necessarily incurred. Given this dearth of justification, the district court failed to act reasonably in awarding those costs. Wilson v. Tyrrell, 2011 WY 7, 246 P.3d 265, 2011 Wyo. LEXIS 8 (Wyo. 2011).

The district court did not abuse its discretion in awarding deposition costs under subdivision (a)(3)(D)(i)(I-IV); the district court found that the costs of the depositions were reasonable and necessary in defending the action and were required for trial preparation, and defendants made use of the transcript of one of the depositions for impeachment during cross examination at trial. Gore v. Sherard, 2002 WY 114, 50 P.3d 705, 2002 Wyo. LEXIS 120 (Wyo. 2002).

Reporting fees. — The district court erred in awarding appearance fees for court reporters at depositions which is contrary to the mandatory language of subdivision (a)(3)(D)(ii). Gore v. Sherard, 2002 WY 114, 50 P.3d 705, 2002 Wyo. LEXIS 120 (Wyo. 2002).

Mediation costs. — Mediation costs are not an allowable cost under the rule, which provides that a cost not enumerated in the rule may be awarded if otherwise allowable under law; plaintiff cited to no Wyoming authority allowing an award of costs for mediation costs, and there was no error in the district court's ruling. Stocki v. Nunn, 2015 WY 75, 351 P.3d 911, 2015 Wyo. LEXIS 88 (Wyo. 2015).

Nominal damages. — In consolidated civil actions involving ownership disputes among neighboring landowners, the district court's award to appellees of $1,500 as nominal damages and to aid them in the cost of erecting a boundary fence was reversed because there were no findings of fact in the record from which it could be determined how much of the award was for nominal damages and how much was for fence construction. Bellis v. Kersey, 2010 WY 138, 241 P.3d 818, 2010 Wyo. LEXIS 147 (Wyo. 2010).

Agreement to pay attorney fees and costs. — Parties to an agreement are free to bargain for payment of costs, just as they can bargain for payment of attorney's fees, and the parties' agreement to an allocation of costs is not subject to the provisions of this rule. Dewey v. Wentland, 2002 WY 2, 38 P.3d 402, 2002 Wyo. LEXIS 2 (Wyo. 2002).

Rule 502. Audio-Visual Depositions.

A party desiring to take the audio-visual deposition of any person shall give notice as required under Rule 30(b)(1), W.R.C.P. The notice shall state that the deposition will be recorded by audio-visual means as required under Rule 30(b)(4), W.R.C.P.

Rule 503. Late Settlement or Mistrial.

(a) When a civil case is settled too late for the clerk of court to advise the jury panel that the jurors should not appear on the date summoned, the court may order that any or all parties reimburse the proper fund for the fees and mileage paid to the jurors and bailiffs for their attendance.

(b) When a mistrial is caused by any party, the court may order that the party, or parties, reimburse the proper fund for fees and mileage paid to the witnesses, jurors and bailiffs for their attendance.

Ordering payment of jury costs as a sanction for mistrial. — After plaintiff employee sustained personal injuries at work, he filed a co-employee liability action against defendants, the company's owner, the general construction superintendent, and the project superintendent; the first trial resulted in a mistrial due to certain comments made by plaintiff's counsel during opening statements about the project superintendent's change in

testimony. The trial court acted within its discretion by ordering plaintiff to pay jury costs as a sanction under this rule; because the change in testimony was sufficiently presented to the jury, the trial court did not abuse its discretion by refusing to order a default judgment as a sanction. Dollarhide v. Bancroft, 2010 WY 126, 239 P.3d 1168, 2010 Wyo. LEXIS 134 (Wyo. 2010).

Rule 601. Deposition Abuses.

(a) *Directions not to answer.* —

(1) Where a direction to a witness not to answer a deposition question is given pursuant to Rule 30(d)(1), W.R.C.P., and honored by the witness, any party may seek an immediate ruling as to the validity of such direction.

(2) If a prompt ruling cannot be obtained, the direction not to answer may stand and the deposition should continue until:

(A) A ruling is obtained; or

(B) The problem resolves itself;

but a direction not to answer on any ground not specified in Rule 30(d)(1), W.R.C.P., shall not stand and the witness shall answer.

(b) *Suggestive objections.* — If the objection to a deposition question is on the ground of privilege, the privilege shall be expressly stated and established as required by Rule 26(b)(5), W.R.C.P. If the objection is on another ground, the proper objection is "Objection" stating briefly the specific ground of objection. Objections in the presence of the witness which are used to suggest an answer to the witness are improper.

(c) *Conferences between deponent and attorney.* — An attorney for a deponent shall not initiate a private conference with the deponent during the actual taking of deposition, except for the purpose of determining whether a privilege should be asserted.

(d) *Claim of privilege.* — Where a claim of privilege is asserted during a deposition and information is not provided on the basis of such assertion, the attorney asserting the privilege shall identify during the deposition the privilege being claimed. In addition to work product, the privileges set forth at Wyo. Stat. § 1-12-101 (1977), the privilege for psychologists at Wyo. Stat. § 33-27-103 (1977), and any other privilege recognized by law, including a claim that the information sought is proprietary and thereby should be protected, may be asserted and identified as the privilege being claimed.

(e) This rule, and Rules 26(b)(5), 30(d)(1), and 30(d)(2), W.R.C.P., are equally applicable to all attorneys participating in depositions, whether such attorneys are appearing on behalf of a party or a non-party deponent.

History:
Amended January 11, 1995, effective April 11, 1995.

Editor's notes. — Section 33-27-103, referred to in subdivision (d), was repealed by Laws 1993, ch. 182, § 2.

Rule 701. Juror Interrogation.

Court personnel and officers shall not express approval or disapproval of the verdict. After the verdict, the court may thank the jury for its service and may instruct the jury as follows:

"You have completed your duties and are discharged. Whether you talk to the attorneys or others is your own decision. It is proper for the attorneys to discuss the case with you and you may talk with them, but you need not. If anyone persists in discussing the case over your objection or becomes critical of your service, please report it to me."

Editor's notes. — Most of the following anno-

tations are taken from cases decided under former Rule 701 (voir dire of jurors).

Purpose of voir dire is to inquire of the jurors as to their prejudices and biases which would interfere with their ability to decide the case fairly. Hopkinson v. State, 632 P.2d 79, 1981 Wyo. LEXIS 357 (Wyo. 1981), cert. denied, 455 U.S. 922, 102 S. Ct. 1280, 71 L. Ed. 2d 463, 1982 U.S. LEXIS 698 (U.S. 1982).

Voir dire to be conducted under supervision of trial judge. — Voir dire is to be conducted under the supervision and control of the trial judge, in whose judgment deference is given in determining the permissible bounds. Hopkinson v. State, 632 P.2d 79, 1981 Wyo. LEXIS 357 (Wyo. 1981), cert. denied, 455 U.S. 922, 102 S. Ct. 1280, 71 L. Ed. 2d 463, 1982 U.S. LEXIS 698 (U.S. 1982).

Questions as to child discipline and justification for taking human life properly refused. — In a murder case where the accused was a victim of abuse by the deceased, there was no abuse of discretion in the refusal of the trial court to permit the defendant to raise specific questions relating to child discipline with members of the jury panel, as such questions were not designed to reveal bias or prejudice but to obtain the reaction of potential jurors to the defendant's defense theory and to anticipated evidence, and there was no error in refusing permission to the defendant to question jurors about their attitudes with respect to justification for the taking of a human life. Jahnke v. State, 682 P.2d 991, 1984 Wyo. LEXIS 292 (Wyo. 1984), overruled, Vaughn v. State, 962 P.2d 149, 1998 Wyo. LEXIS 97 (Wyo. 1998).

Not examining bias waives claim of prejudice. — A failure to directly and plainly examine jurors with respect to a particular basis for bias or prejudice constitutes a waiver of a later claim of prejudice. If the jurors do not respond to the defendant's questions and the defendant has concerns about whether any of the jurors are prejudiced, he may challenge them for cause, as permitted under § 7-11-104. Hamburg v. State, 820 P.2d 523, 1991 Wyo. LEXIS 166 (Wyo. 1991), reh'g denied, 1991 Wyo. LEXIS 189 (Wyo. Dec. 4, 1991).

Law reviews. — For article, "The Greatest Lawyer in the World (The Maturing of Janice Walker)," see XIV Land & Water L. Rev. 135 (1979).

Rule 801. Standards of Professional Behavior.

As one of the learned professions, the practice of law is founded upon principles of fairness, decency, integrity and honor. Professionalism connotes adherence by attorneys in their relations with judges, colleagues, litigants, witnesses and the public to appropriate standards of behavior. The district courts of Wyoming, in furtherance of the inherent power and responsibility of courts to supervise proceedings before them, shall hold attorneys to the following standards of professional behavior:

(a) Standards of Behavior in Adjudicative Proceedings. —

(1) Attorneys shall at all times treat all persons involved in adjudicative proceedings, including litigants, witnesses, other counsel, court staff and judges with candor, courtesy and civility, and demonstrate personal honesty, fairness and integrity in all of their dealings.

(2) An attorney shall at all times be civil and courteous in communicating with all persons involved in the adjudicative process, whether orally or in writing.

(3) Attorneys shall at all times extend reasonable cooperation to opposing counsel. Attorneys shall not arbitrarily or unreasonably withhold consent to opposing counsel's requests for reasonable scheduling or logistical accommodations, nor shall they condition their cooperation on disproportionate or unreasonable demands.

(4) An attorney shall not use any form of discovery, or the scheduling of discovery, as a means of harassing opposing counsel or counsel's client and such conduct, in addition to representing a potential violation of the Wyoming Rules of Civil Procedure, shall be deemed a violation of professional standards.

(5) Attorneys shall be reasonably punctual in their communications with all persons involved in the adjudicative process and shall appear on time for all duly scheduled events involved in the adjudicative process, unless excused or detained by circumstances beyond their reasonable control. When an attorney, or an attorney's client, or a witness under the

reasonable control of an attorney, becomes unavailable for a duly scheduled event, then the attorney shall promptly notify opposing counsel and, where appropriate, court reporters, court personnel, and others involved in the event.

(6) Attorneys shall not initiate any ex-parte communication with a judicial officer concerning any matter pending before the judicial officer unless such communication is expressly authorized by (a) an applicable rule of procedure, (b) a written order issued by the judicial officer, or (c) an agreement between all counsel involved in the pending matter. This rule shall not apply to communications between attorneys and appropriate personnel of the court or tribunal concerning scheduling or ministerial matters.

(7) Attorneys shall confer with opposing counsel and shall endeavor in good faith to resolve disputes before seeking the Court's intervention. This requirement applies to the filing of motions generally, in addition to those matters that arise under the situations addressed by this rule.

(8) When the Court is required to intervene, the Court may render any or all of the following sanctions against an attorney who is found, after notice and opportunity to be heard, to have violated this rule:

(a) A formal reprimand;

(b) Monetary sanctions, including but not limited to the reasonable expenses, including attorney's fees, caused by the attorney's conduct; or

(c) Such other sanctions as the Court deems appropriate under the circumstances.

(b) Courtroom Decorum. — The conduct, demeanor and dress of attorneys when present during any court proceeding shall reflect respect for the dignity and authority of the Court, and the proceedings shall be maintained as an objective search for the applicable facts and the correct principles of law.

(1) Arguments, objections and remarks shall be addressed to the Court.

(2) Counsel shall stand when addressed by the Court or when speaking to the Court.

(3) When examining a witness, counsel shall stand at the lectern and not walk around the courtroom.

(4) Counsel shall request permission to approach the bench or the witness.

(5) Counsel shall instruct clients and witnesses as to appropriate demeanor and dress.

Comment. *Courts, litigants, and the public rightfully expect attorneys to adhere to a very high standard of professional behavior. Stated positively, such behavior is exemplified by candor, courtesy, civility, honesty, integrity and fairness in all aspects of an attorney's involvement in the adjudicative process. This conduct is too often overlooked by attorneys who view themselves solely as combatants rather than professionals entrusted with the fair and orderly administration of justice according to established rules of procedure and substantive law. Attorneys who engage in obnoxious, caustic, or rude behavior, or who use their professional position to demean, degrade, or harass others involved in the adjudicative process violate the standard of professional behavior. While it is impossible to define all conduct violating the standard of behavior enunciated by this rule, shouting, cursing, and the use of obnoxious gestures are each strong indicators of a violation. Personal attacks on opposing counsel are never appropriate.*

Attorneys must strive to uphold professional standards of behavior in order to avoid the loss of trust by the public in our system of justice. As a

self-policing profession, it is incumbent upon attorneys to demand adherence to professional standards of behavior, not only by themselves, but by other attorneys with whom they deal. Attorneys should emphasize adherence to these standards by those whom they employ or become associated with, including out-of-state counsel. As attorneys should always first attempt to resolve any differences between them on their own, not every violation of this rule warrants reporting it to the Court or tribunal. Nevertheless, attorneys should consider it part of their professional obligation to report serious or repeated violations of the standards of behavior to the controlling adjudicative authority. Further, judges or other adjudicative authorities should consider it part of their obligation to enforce violations of this rule, irrespective of how they became aware of the violation.

This rule should not be construed by attorneys as creating another avenue for filing unnecessary or inappropriate motions. Rather, it is expected that adherence to this rule will obviate a wide variety of motions that result in unnecessary demands upon the Court's time and resources. The mere fact that this rule has been adopted should provide incentive enough to eliminate the misconduct at which it is directed. Rarely should it be necessary for the Court to sanction an attorney for conduct in violation of this rule.

History:
Amended August 14, 2012, effective January 1, 2013; Amended effective May 13, 2014.

Rule 802. Use of Telephone Conference Calls.

In a civil case, the court in its discretion, may use a telephone conference call for any proceeding. The court may require the parties to make reimbursements for any telephone charges incurred by the court. Such calls are available for criminal matters, if not inconsistent with those safeguards which attend all criminal matters.

Rule 803. Use of Audio Recording Equipment.

Upon notice to the court and parties, audio recording equipment may be used to record the decision of the court. No recording may be disclosed without the consent of all parties and the court, nor used to impeach any official court record.

Rule 804. Media Access.

Media access, as set forth in Rule 53, W.R. Cr. P., is available in civil cases governed by the Wyoming Rules of Civil Procedure.

Rule 901. Sanctions.

The following may be imposed for violation of these rules:
(1) Reprimand;
(2) Monetary sanctions;
(3) Contempt;
(4) Striking of briefs or pleadings;
(5) Dismissal of proceedings;
(6) Costs;
(7) Attorney fees; or

(8) Other sanctions.

Nonappearance at pretrial conference, absent documented explanation, warrants dismissal. — In the absence of a documented explanation for nonappearance at a pretrial conference, as derived from a motion addressed to the district court to set aside the default as supported by affidavits, or some similar process affording evidence of the factual status, there is no basis for an appellate court to find an abuse of discretion and consequently to reverse a dismissal in favor of some less severe sanction. Travelers Ins. Co. v. Palmer, 714 P.2d 765, 1986 Wyo. LEXIS 495 (Wyo. 1986).

But dismissal without prejudice. — An order dismissing a complaint following the failure of counsel for plaintiff to attend a scheduled pretrial conference must be without prejudice. Travelers Ins. Co. v. Palmer, 714 P.2d 765, 1986 Wyo. LEXIS 495 (Wyo. 1986).

Fine for failure to settle action. — The district court had no power to impose a sanction consisting of an order for the plaintiff and defendant to each pay $2,500 to the clerk of court, for failure to timely settle a personal injury action. Bi-Rite Package v. District Court of Ninth Judicial Dist., 735 P.2d 709, 1987 Wyo. LEXIS 423 (Wyo. 1987).

Rule 902. Resolution of Civil Matters Taken Under Advisement.

All civil matters taken under advisement by the court shall be decided with dispatch. A judge shall give priority over other court business to resolution of any matter subject to delay hereunder, and if necessary will call in another judge to assist.

Delay in order. — District court's 13 month delay in Issuing the final order was not a basis for reversal in a child custody, visitation, and support case because reversal for inordinate delay only would have extended the proceeding and would not have served the purpose of expeditiously resolving the case. Castellow v. Pettengill, 2021 WY 88, 492 P.3d 894, 2021 Wyo. LEXIS 97 (Wyo. 2021).

Rule 903. Retrieval or Disposition of Exhibits.

(a) *Custody of Standard Exhibits.* — The court shall have safekeeping responsibilities for exhibits admitted at trial or hearing; however, at the conclusion of the trial or hearing, the court shall only retain standard exhibits. As used in this rule, standard exhibits include documents, photographs, and video or other electronically stored data on a disk or storage device–it does not include sensitive or bulky exhibits. The court shall not take custody or possession of physical evidence. Attorneys offering physical evidence at a trial or hearing must submit a photograph of the item to the court, which will retain the photograph as part of the record in lieu of the physical item. At the conclusion of the hearing or trial, physical evidence shall be returned to the custody of the party (attorney/law enforcement agency) who offered the item, and they shall be responsible for transporting and safekeeping the exhibit until the time to appeal has expired or any appeal taken has concluded. The party (attorney/law enforcement agency) in charge of the exhibit shall permit inspection of the exhibit by any party for purposes of preparing the record on appeal.

(b) *Sensitive and Bulky Exhibits.* — At all times sensitive or bulky exhibits such as money, drugs, and firearms shall remain in the custody of the party (attorney/law enforcement agency) producing them. If deemed appropriate by the court, some of these exhibits may be provided to the jury for examination during deliberation but shall be returned to the party (attorney/law enforcement agency) for safekeeping at the conclusion of jury's examination. A signed receipt identifying the exhibits returned is to be filed in the case. The party (attorney/law enforcement agency) to whom the exhibit is returned shall permit inspection of the exhibit by any party for purposes of preparing the record on appeal and shall be responsible for transporting and safekeeping the exhibit until the time to appeal has expired or any appeal taken has concluded.

(c) *Return of Standard Exhibits.* — Unless otherwise ordered, at the conclusion of the trial or hearing, standard exhibits in the custody of the court shall be retained until the time to appeal has expired or any appeal taken has concluded. Standard exhibits shall be returned to the party who introduced them into evidence. A signed receipt identifying the exhibits returned and/or destroyed is to be filed in the case. If the party fails to retrieve the exhibits within sixty (60) days after the time for appeal has expired, the court shall destroy or otherwise dispose of exhibit(s).

History:
Amended February 22, 2022, effective May 1, 2022.

Rule 904. Notice to Court Reporter.

Any party requesting the reporting of a particular matter by the official court reporter shall provide notice to the official court reporter at least three working days before the matter is set for hearing. The three-day notice requirements can be waived by the court. The notice is not required for juvenile and criminal matters.

History:
Amended December 31, 2001, effective April 1, 2002.

Transcripts not requested. — Divorce granted in favor of the wife was proper where neither party requested that the divorce proceeding be reported; thus, a transcript of the trial did not exist and the husband was not denied access to a transcript of the divorce proceeding. Welch v. Welch, 2003 WY 168, 81 P.3d 937, 2003 Wyo. LEXIS 205 (Wyo. 2003).

Rule 905. [Repealed].

[Repealed July 1, 2014, effective July 1, 2014.]

Editor's notes. — This rule pertained to fee court reporting.

Rule 906. Time for Transcribing Certain Criminal Proceedings.

Transcripts for arraignments, guilty pleas and sentencing proceedings shall be transcribed within 60 days of such proceedings, but such period may be extended by order of the district court for good cause shown, provided that such extension does not conflict with any deadlines incident to an appeal should such be undertaken.

Rule 907. Electronic Audio Record for Paternity Cases.

The district court in its discretion may comply with any requirements to report cases pursuant to Wyo. Stat. Ann. § 14-2-408 by providing an electronic audio record of the proceedings.

History:
Adopted October 28, 2003, effective January 1, 2004.

Rule 908. Rules for Court Reporters; Retention of Court Reporter Notes; Certification and Continuing Education of Official Court Reporter; Equipment and Supplies; Payment of Fees.

I. Court Reporter notes.

(a) All Official Court Reporters shall maintain or cause to be maintained a log of all electronic notes of any District Court proceeding that is reported by them. This log shall list the name of the case, date of the proceeding, and an assigned reference number.

(1) All notes as well as the log shall be maintained in the offices of the District Court, in a location known to the District Court Judge.

(2) All notes shall be considered the property of the District Court.

(b) All Official Court Reporters who perform their official duties with the use of an electronic writing device shall maintain a current copy of their "Personal Dictionary" in electronic format in the offices of the District Court, in a location known to the District Court Judge, and such electronic copy of the "Personal Dictionary" shall be considered the property of the District Court.

(c) Each District Court shall create an individual "emergency" contingency plan regarding the production of transcripts that shall be implemented upon the death or incapacitation of the Official Court Reporter. Such plan shall include, but need not be limited to:

(1) The location of the Official Court Reporter's Case Log.

(2) The location of the disks (or other storage device) of the reporter's electronic notes.

(3) The location of the hardware/software used by the reporter to produce transcripts, including the name of the software and phone number of the software vendor.

(4) A list naming at least two individuals who are capable of reading the reporter's notes, if available.

(d) Court reporters shall use a uniform backup system for electronic notes, audio recordings of proceedings, dictionary, and emergency "contingency" plan as recommended by the Wyoming Professional Court Reporter's Association, and shall ensure and certify that all files are backed up monthly. In addition to the foregoing, the District Court Judge may require his/her Official Court Reporter to take further precautions to protect court transcripts.

(e) All court transcripts are the work-product of the Official Court Reporter. Arrangements shall be made through the Official Court Reporter regarding purchase of any and all transcripts, even though the original is contained in a court file.

(f) Unless otherwise provided for by statute, court reporters shall follow the federal maximum per page transcript rates for expedited transcripts.

II. Certification and continuing education of official court reporter.

(a) All persons performing the duties of Official Court Reporter shall be certified. The reporter may obtain Wyoming certification by:

(1) Passing the Registered Professional Reporter examination administered by the National Court Reporters Association; or

(2) Passing the United States Court Reporter Association examination; or

(3) Passing a certification test from any other certifying state in which the requirements for certification are equivalent to the Registered Professional Reporter examination; or

(4) Having certification from the National Verbatim Reporters Association; or

(5) Serving in the capacity as a full-time Official Court Reporter in a Wyoming District Court for a minimum of one year immediately prior to the adoption of this rule.

(b) Any noncertified reporter hired hereafter shall be given two (2) years

from the date of hire in which to obtain certification per the requirements of (a)(1), (2), (3), or (4) of this Rule.

(c) All Official Court Reporters shall be required hereafter to earn three (3) continuing education units during each consecutive three (3) year period as per the National Court Reporters Association. (The record of continuing education units are to be held by the Wyoming Supreme Court.)

III. Equipment and supplies.

(a) All Official Court Reporters shall provide the equipment necessary to report and create transcripts of District Court proceedings. This equipment may include, but need not be limited to, voice writing and stenographic writing machines, computers for transcription, and printers.

(b) All Official Court Reporters shall provide the software necessary for the production of transcripts.

(c) The State shall provide for the Official Court Reporter's use those other items necessary to report and create transcripts of District Court proceedings. These items may include, but need not be limited to, stenograph paper, printer paper and toner.

IV. Payment of fees; multi-defendant proceedings.

(a) All Official Court Reporters shall submit transcript invoices on a standard form. The invoice form shall identify the title and number of the cause for which the transcript was required to be furnished, the nature of the proceedings transcribed, and the fee approved therefore.

(b) If the District Court conducts multi-defendant proceedings, such as arraignments, the Court Reporter shall be compensated by the District Court for one original transcript, and shall be compensated for copies of said transcript for each of the additional defendants' court files. If a court proceeding entails one defendant with multiple counts or cases, the Court Reporter shall be compensated by the District Court for one original transcript, and shall be compensated for copies of said transcript for each of the defendant's additional court files. The rates for original transcripts and copies shall be as set forth in paragraph (c) below.

(c) The reporter may charge three dollars and eighty-five cents ($3.85) per page of twenty-five (25) lines, for all transcripts, records and other papers required to be made and issued as the official reporter for hearings conducted after August 31, 2023. At no additional charge, the reporter shall include one (1) copy for the party ordering the original. The reporter may charge one dollar and twenty-five cents ($1.25) per page for each additional copy, and may require payment in advance.

Special Contracted Services (Court Reporter) for Criminal Transcripts per Wyoming § 5-3-404

Reporter: ______________________ **District:** ______________________

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I certify that the above transcripts were received by the court and are approved for payment per W.S. 5-3-407.

District Judge: ______________________ Date: ______________________

Note: In multiple defendant proceedings only bill for one original and the others at the statutory copy rate.

History:

Adopted June 23, 2009, effective September 1, 2009; amended December 21, 2012, effective January 1, 2013; amended May 24, 2022, effective August 1, 2022; amended July 26, 2023, effective September 1, 2023; amended March 27, 2024, effective April 1, 2024.

Rule 909. Compromise, Settlement, Discontinuance and Distribution of Action Involving Minor or Incompetent Person.

(a) No action to which a minor or incompetent person is a party or claim

belonging to a minor or incompetent person shall be compromised, settled or discontinued except after approval by the court pursuant to a petition presented by the conservator of the minor or incompetent person. The petition shall be filed in the court in which the action is pending or it may be filed in the conservatorship matter.

(i) The petition shall disclose the age and sex of the minor or incompetent person, the nature of the causes of action to be settled or compromised, the facts and circumstances out of which the causes of action arose, including the time, place and persons involved, the manner in which the compromise amount or other consideration was determined, including such additional information as may be required to enable the court to determine the fairness of the settlement or compromise, and, if a personal injury claim, the nature and extent of the injury with sufficient particularity to inform the court whether the injury is temporary or permanent. The conservator shall submit a succinct statement of the medical issues involved. The Court, on motion of any interested party, or on its own motion, may direct that reports of physicians or other similar experts that have been prepared shall be provided to the court. The court may also require the filing of experts' reports when none have previously been prepared or additional experts' reports if appropriate under the circumstances. Reports protected by an evidentiary privilege may be submitted in a sealed condition to be reviewed only by the court in camera, with notice of such submission to all parties.

(ii) When the minor or incompetent person is represented by an attorney, it shall be disclosed to the court by whom and the terms under which the attorney was employed; whether the attorney became involved in the petition at the instance of the party against whom the causes of action are asserted, directly or indirectly; whether the attorney stands in any relationship to that party; and whether the attorney has received or expects to receive any compensation, from whom, and the amount.

(iii) Upon the hearing of the petition, the representative compromising the claim on behalf of the minor or incompetent person shall be in attendance. The court, for good cause shown, may require that the minor or incompetent person shall be in attendance. The court may require the testimony of any appropriate expert, as well as the submission of other evidence relating to the petition.

(iv) A copy of the petition and all supporting documents filed in connection therewith shall be filed in the district court with a copy to all parties and to the judge who may either approve the settlement or compromise without hearing or calendar the matter for hearing.

(v) The court shall determine that the following have been carefully considered by the conservator:

(1) whether the proposed settlement was fairly and honestly negotiated;

(2) whether serious questions of law and fact exist, placing the ultimate outcome of the litigation in doubt;

(3) whether the value of an immediate recovery outweighs the mere possibility of future relief after protracted and expensive litigation; and

(4) the judgment of the parties that the settlement is fair and reasonable.

(b) When a compromise or settlement has been so approved by the court, or when a judgment has been entered upon a verdict or by agreement, the court, upon petition by the conservator or any party to the action, shall make an order approving or disapproving any agreement entered into by the conservator for the payment of counsel fees and other expenses out of the fund created by the compromise, settlement or judgment; or the court may make such order as it

deems proper fixing counsel fees and other proper expenses. The balance of the fund shall be paid to a conservatorship of the estate of the minor, or incompetent person, qualified to receive the fund, if the minor has one or one is to be appointed.

(c) When a judgment has been entered in favor of a minor plaintiff and no petition has been filed under the provisions of subdivision (b) of this rule, the amount of the judgment or any part thereof shall be paid only to a conservator of the estate of the minor qualified to receive the fund

(d) Nothing contained in this rule shall prevent the payment into court of any money by the defendant.

History:
Adopted February 3, 2011, effective July 1, 2011.