Board of Judicial Policy and Administration

TEAMS Meeting
September 20, 2021
9:00 A.M. – NOON

MINUTES

BJPA Members: Chief Justice Kate Fox (Chair); Justice Lynne Boomgaarden; Justice Kari Gray; Judge Catherine Wilking*; Judge Catherine Rogers; Judge Thomas Rumpke*; Judge Wes Roberts*; Judge Wendy Bartlett*; Judge Matt Castano*

Others Present: Judge Rick Lavery*; Judge Brian Christensen*; Diane Sanchez, Laramie County Clerk of District Court*; Shawna Goetz, Clerk of the Supreme Court; Elisa Butler, State Court Administrator; Claire Smith, Chief Fiscal Officer; Jeri Hendricks, Chief Legal Officer*; Nate Goddard, Chief Technology Officer*; Cierra Hipszky, Business Manager

**Appeared remotely via phone or video conference*

Agenda Items	
Roll Call	All members were present.
Welcome	Chief Justice Fox welcomed the Board and its newest members.
Future of BJPA	**1. Discussion – Chief Justice Fox** A list of discussion topics for the future of the BJPA (Appendix 1) was provided to the Board in advance. Additional materials included the order establishing (Appendix 2) and the rules and procedures for the Board (Appendix 3). The Board discussed whether and how the BJPA should continue to function. Members agreed it is necessary to continue with the BJPA, and to refocus work around policy decisions and the business of the courts. The Judiciary is facing significant challenges, and this is the appropriate body to tackle them. While administrative reports are needed, they can be communicated to the Board via a memo or newsletter as done in March. There is no need for administrative staff to attend BJPA meetings. Agendas should be set by the Board members with the Chief Justice leading those meetings. The Conference presidents and the Chief Justice meet weekly. They will gather suggestions from their conferences and compile a list of policy topics for the next BJPA agenda. Judge Roberts moved for the Board to receive the administrative report by

	newsletter or report. Administrative staff will present at future BJPA meetings when invited, but not as a matter of course. Judge Rogers seconded the motion. Elisa Butler noted administration will be happy to provide a newsletter to the Board and will cut down on staff attending. As a reminder, the State Court Administrator is named at the secretary of the Board unless the Board would prefer a rule change. Chief Justice Fox asked if there were any objections to the State Court Administrator continuing in that role. There were none. The motion passed unanimously.
Judicial Vacancies	**1. Ninth Judicial District (Lander): Robert Denhardt** **A. Judge Denhardt Retiring October 4, 2021** **2. Fifth Judicial District: Bruce Waters** **A. Judge Waters Retiring December 3, 2021** **3. Sixth Judicial District: John Perry** **A. Judge Perry Retiring January 3, 2022** **4. Wyoming Supreme Court: Justice Michael Davis** **A. Justice Davis Retiring January 16, 2022** **5. Ninth Judicial District: Timothy Day** **A. Judge Day Retiring January 18, 2022** Chief Justice Fox noted the decrease in applications being received. This is a big concern. Judge Wilking discussed this topic with the Joint Judiciary Committee at its interim meeting last week. The process for filling vacancies can be cumbersome due to tight timelines. Chief Justice Fox requests Judges touch base with her first if a Judge is thinking about retirement.
Interim Legislative Work	**1. Points of Interest – Elisa Butler** The Joint Judiciary Committee held an interim meeting last week. The Committee sponsored a bill to add three (3) district court judges – one in the third (3rd), sixth (6th), and seventh (7th) judicial districts. This bill still needs to go through the Legislative bodies and Joint Appropriations Committee, but this is a good first step. The JJC also discussed the workload study and concluded that it is too early to require the study now for the district courts as the rollout of the new case management system in the district courts has just begun. The idea of conducting a workload study in the circuit courts was presented to introduce the topic of funding to complete the study. The bills for the unified court system and the family court were not discussed. The legislative staff member did relay they could come up at the next meeting. Additionally, there was a bill draft to increase the retirement age for supreme court justices and district court judges to seventy-five (75). The JJC also engaged in a lot of discussion around juvenile data and reform. Additional conversations were held on Title 25, non-compete clauses, and non-bias-based crimes.

	The Joint Appropriations Committee is focused heavily on CARES and ARPA funding. There is a focused effort on the Governor's ARPA project, "Survive, Drive, and Thrive". Another piece includes bonuses for state employees. The Executive Branch Human Resources Division will be presenting to the Management Audit Committee to increase salaries based on a Hay Study. The Supreme Court is looking to get on that agenda as well to pitch an increase in Judicial Branch salaries. That meeting has yet to be set.
Court Interpreter Policy	**1. Revisions – Jeri Hendricks** **A. Proposed Edits to Court Interpreter Policy** The Court Interpreter Policy was originally adopted by this Board in 2011. The Department of Justice has been pushing for access to interpreters throughout the states. The proposed changes to the policy (Appendix 4) are updates to comply with Department of Justice requirements. These changes include definitions and standards for professionally certified, registered, and qualified court interpreters, when more than one interpreter is required, a complaint and investigation process, and remote interpretation. The Board discussed the proposed changes to the Policy. Judge Rumpke moved to table the discussion until the Board has a chance to review a red-line version for consideration. Judge Roberts seconded the motion. No further discussion was held. The motion passed unanimously. The proposed edits to the Court Interpreter Policy will be reviewed and discussed at the next meeting. Staff will send a red-line version to the Board for consideration in advance of the next meeting.
Fiscal	**1. Points of Interest – Claire Smith** **A. CARES Act** The Fiscal/HR Division is wrapping up the CARES Act projects. Seven (7) counties took advantage of the funds available to upgrade teleconferencing in jails. Some funds are left over so courts stock up on PPE if needed. **B. ARPA** Requests include: • Funds to enhance a number of services for Equal Justice Wyoming: o Money for grants to increase access to legal aid; o A common case management system for legal aid providers; o Online legal triage portal for low-income individuals to help them figure out where to go for assistance; o Enhanced statewide civil legal services website; and o Funding to fill vacant pro-bono coordinator position. • Replacement of three (3) positions that were given up during budget cuts last year; • Circuit Court eFiling;

	• Premium Pay (bonus) for circuit court clerks, who were considered essential workers and were present for continued operations; • Ten (10) temporary time-limited positions (until 2026) to be used mostly, if not all, in the circuit courts with the most need; and • KUDO software for remote interpretation through 2026. **C. Budget** Budgets for district courts are nearly ready for printing. The BJPA budget category will be changed to "Branchwide Resources" in response to a recommendation from the Joint Appropriations Committee. The new name better reflects this budget's purpose -- to pay for costs related to the whole branch or a group of units within the Branch. Some of the bigger exception requests the Supreme Court will present are: • Workload studies for circuit court judges and clerks; • Replacement of the appellate case management system (this was approved for this biennium but given up in budget cuts); and • Funds to finish setting up the Chancery Court, such as furniture, equipment, and courtroom technology plus additional salary and benefits to seat a judge in March of 2023. The issue of employee pay was discussed with the Board. The Court is going to join forces with the Executive Branch in discussing pay issues with the Legislature, so they are hearing that this is a problem for two (2) of the three (3) branches of government. The Fiscal/HR Division is moving along with the pay table project and has almost finished classifying judicial branch positions using Hay methodology. Administration staff will be talking to the State Justice Institute Tuesday about getting a grant to hire the National Center of State Courts to create the tables. This will provide the Judicial Branch with an independent source of data for the Legislature to consider when making decisions about funding pay and salaries. Chief Justice Fox noted that the Court stopped paying the National Center for State Courts dues during the budget crisis. They are still being used as a resource and because of that, the Court found some funds to pay about half of the normal dues.
Chancery Court	**1. Introduction of Chief Counsel and Director, Ben Burningham – Chief Justice Fox** Chief Justice Fox introduced and welcomed Ben Burningham, the Chancery Court Chief Counsel and Director. **2. Groundwork – Ben Burningham** Chancery Court goes live in seventy-two (72) days. To prepare for opening, we

	are working in three (3) primary areas: 1) promotion; 2) technology; and 3) rules. • Promotion: o Presentation at Annual Bar Meeting; o Article forthcoming in Oct. 2021 *Wyoming Lawyer;* o Future presentations to county bar associations, chambers of commerce, and inns of court chapters; and o Legislative outreach, including presentation to Select Committee on Blockchain Technologies later this week. • Technology: o In a first for a state trial court, the Chancery Court will use mandatory eFiling from day one. To launch eFiling, we are working with vendors to: ▪ Integrate eFiling system (FSX) with case management system (FCE); ▪ Configure the systems for Chancery Court; ▪ Prepare training materials and help resources for practitioners; and ▪ Develop eFiling Standards. • Rules: o Four documents comprise the proposed rules for Chancery Court: ▪ *W.R.C.P.Ch.C.* (Appendix 5) ➢ Modified version of the W.R.C.P. Revised to account for Chancery Court's expedited schedule, efiling, bench trials, and limited motions practice; and ➢ Substantially similar to the version previously approved by BJPA. ▪ *U.R.Ch.C.* (Appendix 6) ➢ Modified version of U.R.D.C. Revised to remove references to jury trials, criminal matters, and juvenile matters. ▪ *eFiling Policies & Procedures Manual* (Appendix 7) ➢ eFiling Committee is preparing eFiling rules, but the rules will not be ready by December 1; and ➢ This manual represents a fast-tracked effort to create standards that will govern eFiling and eService in Chancery Court. ▪ *Rules for Fees and Costs for the Chancery Court* (Appendix 8) ➢ Modified version of rules governing fees in district courts; and ➢ One-time initial filing fee of $610 ($500 statutory minimum + $100 court automation + $10 legal services). The Board discussed adopting the proposed rules for Chancery Court.

	W.R.C.P.Ch.C., it was noted Rule 2(d) should also note paragraph (c) for concurrent jurisdiction. Judge Rumpke moved to adopt the W.R.C.P.Ch.C. with the noted addition for concurrent jurisdiction. Judge Castano seconded to motion. No further discussion was held. The motion passed unanimously, and the W.R.C.P.Ch.C were recommended to the Supreme Court for adoption. U.R.Ch.C., it was noted Rule 802 should also include provisions for video conference within the title and the paragraph language. Judge Rogers moved to adopt the U.R.Ch.C. with the noted addition for video conferencing. Judge Bartlett seconded the motion. No further discussion was held. The motion passed unanimously, and the U.R.Ch.C. were recommended to the Supreme Court for adoption. eFiling Polices & Procedures Manual Judge Rogers moved to adopt the Manual.Justice Boomgaarden seconded the motion. No further discussion was held. The motion passed unanimously, and the eFiling Polices & Procedures Manual were adopted. Rules for Fees and Costs for the Chancery Court, it was noted within Rule 2 "district court" should be changed to "chancery court" for checking records. Justice Gray moved to adopt the Rules for Fees and Costs for the Chancery Court. Judge Rogers seconded the motion. No further discussion was held. The motion passed unanimously, and the Rules for Fees and Costs for the Chancery Court were recommended to the Supreme Court for adoption. It was further noted within these rules there are two ways the court is referred to, "the Chancery Court" and "the Court of Chancery". For uniformity, the Board discussed and decided to use "the Chancery Court" throughout.
Judicial Advisory Poll Subcommittee Judicial Members: Justice Boomgaarden, Judge Day, Judge Fenn, Judge Prokos, Judge Stipe	**1. Committee Work – Justice Boomgaarden** The Subcommittee is meeting monthly. Work is on track to provide recommendations for an improved poll to the Bar to be implemented in November of 2022. Recommendations include a new set of questions and scaled attorney responses. The new scoring will avoid the temptation to compare judges. Public information will be more limited than what would be provided to the judges. If you have questions or suggestions, please reach out to Justice Boomgaarden. As a reminder to the District Court Conference, Judge Day's retirement will create a vacancy on the Subcommittee.
Judicial Conference Reports Circuit Conference President: Judge Christensen District Conference President: Judge Lavery	**1. Circuit Court Conference – Judge Christensen** **A. Report** The Judicial Conference was good, and recognition was given to Justice Kautz and staff. All the presenters were good, and it would be nice to have Tom Clancy as a presenter again. **2. District Court Conference – Judge Lavery** **A. District Court Conference Meeting**

	Judge Lavery echoed Judge Christensen regarding the Judicial Conference. The District Court Conference went well. There are numerous legislative efforts occurring around what the District Judges do. The Conference created a Legislative Liaison Committee. The mission is to assist the Executive Committee to meet with legislators during the year. Three (3) District Judges will be working Chancery Court, and the Conference will provide support during that time. COVID related issues are still being dealt with, and budgets are being working on as well.
Judicial Branch Technology <u>Courtroom Automation Committee</u> Members: Chief Justice Fox (Chair), Justice Davis, Judge Fenn, Judge Edelman, Judge Campbell, Judge Christensen, Judge Castano, Judge Haws <u>Courtroom Technology Committee</u> Members: Chief Justice Fox (Chair), Justice Davis, Judge Lavery, Judge Johnson, Judge Christensen, and Judge Prokos	**<u>Applications Division</u> – Heather Kenworthy** **1. Case Management System** **A. FCE District** The new case management system, FullCourt Enterprise (FCE) is live in Albany County as of July. Laramie County will be live next month. Training has occurred and the court is now practicing with a preliminary migration of data. Fremont County will be the third Pilot with training in January of 2022 and go live in February of 2022. The full rollout will begin shortly after and by the end of 2022, a total of eleven (11) courts will be rolled out on FCE absent any major issues. **B. WyUser** The Supreme court entered into negotiations with Thomson Reuters seeking assistance to troubleshoot WyUser until the district courts are fully migrated to FCE. As the system ages, courts have begun to experience issues with the application that the Applications and IT Divisions are unable to fix without assistance from Thomson Reuters. So far, those issues have been addressed with "work-arounds," but as supporting technology outpaces WyUser, it is likely that the courts will experience more issues with WyUser. The Court is also looking at other means of handling a "worst case scenario," that would not include Thomson Reuters. The order of the courts in the rollout schedule will remain flexible to accommodate courts that have specific issues as they arise. For instance, both Laramie and Natrona Counties use an add-on application for scanning into WyUser that is no longer supported. Laramie County will be on FCE in October and Natrona County will be on FCE as the first court in the full rollout schedule to address this issue. **2. Jury Management** **A. Rollout Complete** The rollout of Clearview Jury to all trial courts is now complete. All courts have been trained to use the system. Courts are using the system to prepare jury terms, create jury panels, and manage payments to jurors. Jurors can complete

	questionnaires and request excusals on-line. As jury trials pick back up after COVID, the Applications Division is preparing for some "Refresher" training later this year. **EFiling Update – Elisa Butler** The Supreme Court is working with the case management system and eFiling vendors to ensure integration is working as expected. The current timeline for piloting the eFiling system in district court is summer of 2022. Chief Justice Fox relayed the Court has worked hard to provide updates on eFiling. As a reminder, the Judicial Branch's website has an eFiling tab. Information for timelines and updates on the project are posted there. **Information Technology Division – Nate Goddard** **1. Information Technology** **A. Onsite Visits** Behind the scenes cleanup work is being completed and includes cable management. While onsite, the IT Division staff is also bringing back old equipment. **B. O365 Multifactor Authentication (MFA)** Multifactor Authentication (MFA) will be implemented for the O365 environment. Over the next month, please be expecting contact from Nate Goddard, Tyler Christopherson, or Keven McGill. The IT Division will be working with each court and chambers one-on-one for implementation. This is an added security feature that came out of the last security audit. **C. Email Security Statistics** The email security statistics report (Appendix 9) looks back on the last thirty (30) days. It details how many emails were received and the number of emails flagged as malicious in nature and blocked. **2. Courtroom Technology** The courtroom technology vendor, Absolute Audio and Visual has been busy doing maintenance visits throughout the State. New installs are scheduled for Sweetwater and Sublette counites to be completed by the end of the year.
Permanent Rules Advisory Committee (PRAC) Court Records Division Judicial Members: Justice Gray, Judge Overfield, Judge Castano Appellate Division Judicial Members: Justice Boomgaarden, Judge Fenn	**1. Appellate Rules Division – Justice Boomgaarden** The Committee met at the end of August to act in three (3) areas. The Supreme Court Clerk of Court staff did a complete review of the rules. That review provided updates regarding clerk process, various cleanups, and changes for appeals from Chancery Court. The changes will be presented to the Court once the Chancery Court Rules are adopted. Additionally, the Committee will be considering the issue of video oral arguments. There will likely be continued requests for remote appearance. This area will need more work.

Civil Division Judicial Members: Chief Justice Fox (Chair), Judge Castano, Judge Kricken, Judge Rumpke Criminal Division Judicial Members: Justice Kautz (Chair), Judge Sharpe, Judge Phillips Evidence Division Judicial Members: Judge Rumpke (Chair), Judge Radda, Judge Phillips Juvenile Division Judicial Members: Judge Wilking (Chair), Justice Kautz, Judge Campbell, Judge Fenn	**2. Criminal Rules Division – Justice Kautz** The Committee is nearing completion in review of changes to Rule 3 and 3.1. Discussions are being held regarding discovery and methods of voir dire in Rule 16.
Access to Justice Commission	**1. Items of Interest – Justice Boomgaarden** **A. Volunteer Reference Attorney Program Update** The pandemic hindered the ability to have in-person reference attorney events. These will begin again, and the Equal Justice of Wyoming website has more information. Please reach out to Justice Boomgaarden or Angie Dorsch if there are more questions. **B. County Library Training Effort** The 2020 Legal Needs Assessment noted how much low-income populations rely on libraries. A training program is underway, and attorneys are being recruited to go to county libraries. If there is a desire or need for this assistance in a certain location, please let Justice Boomgaarden or Angie Dorsch know. **C. Pro Bono Government Attorney Proposal** The report will be ready soon. **D. EJW Annual Report** The annual report may be view at: https://www.courts.state.wy.us/wp-content/uploads/2021/08/EJW.Annual.Report_2021.pdf
Court Security Commission	The annual report may be viewed at https://www.courts.state.wy.us/wp-content/uploads/2021/09/Court-Security-Commission-2021-Report.pdf.
Judiciary's COOP	**1. Development – Elisa Butler** Based on feedback from the Court, there is a need to work towards a Continuity of Operations Plan (COOP). Resources should be evaluated to put a plan together to continue performing essential functions under a range of negative circumstances. An example of this would be a tornado. The Board was asked what the best approach was to move forward. Plans can be done in a variety of ways and vary on how in-depth they can be, and if they are court by court or Branchwide. Administration was directed to prepare a draft

	COOP for the Supreme Court to be presented to the Board during the next meeting in December for consideration.
Correspondence	**1. Letter & Supplemental Letter Regarding Wyoming Guardianship and Policy – Chief Justice Fox** The Board was provided with a letter and supplemental letter (Appendix 10 and 11) received via Mark Gifford from attorneys concerned about the guardianship process in district courts. The Board concluded this is a district judge matter. Judge Roberts suggested a taskforce, based off the framework of the Elder Abuse Taskforce, may be a way to go about identifying resource, systemic, and various other issues in guardianships and conservatorships.
Adjournment	The meeting was adjourned at 11:19 a.m.

Action Items:

1. Elisa Butler will provide a red-line version of the proposed edits to the Court Interpreter Policy to the Board as part of the next meeting's materials.

Action taken by Board:

1. Approved – Future BJPA agenda topics will focus on policy decisions and the business of the courts, and will be set by the Conference presidents and BJPA members. BJPA meetings will consist of justices and judges, and the State Court Administrator as Secretary of the Board. Administrative reports will be given to the Board in newsletter or report format. Administration staff will be invited to present at future BJPA meetings upon request, but will not attend meetings as a matter of course.
2. Tabled – Discussion of proposed edits to the Court Interpreter Policy in order to review red-line changes.
3. Approved – rules for Chancery Court, to include W.R.C.P.Ch.C., U.R.Ch.C, eFiling & Procedures Manual, and Rules for Fees and Costs for the Chancery Court.

Appendix 1: Future of BJPA

Appendix 2: Order Establishing 2000

Appendix 3: Rules Procedures BJPA

Appendix 4: Proposed Court Interpreter Policy

Appendix 5: W.R.C.P.Ch.C.

Appendix 6: U.R.Ch.C.

Appendix 7: eFiling Administrative & Procedures Manual

Appendix 8: Rules for Fees and Costs for the Chancery Court

Appendix 9: Email Security Statistics

Appendix 10: Letter Regarding Wyoming Guardianship and Policy

Appendix 11: Supplement to Letter Regarding Wyoming Guardianship and Policy

Attachments are highlighted

Approved on November 9, 2021

For discussion at Sept. 20, 2021 BJPA meeting

Future of BJPA

I. History
BJPA created in 2000 by Order of the Supreme Court, which delegated its Wyo. Const. Art. 5, §2 superintending authority to the BJPA. District court conference also delegated its authority to BJPA.

II. Does BJPA still serve a purpose?

III. How can it be more effective?
   A. Should BJPA take a more active role in judicial branch governance?
      Timelines – Supreme/District/Circuit
      Training/education
      Legislative collaboration

*Attachments

Order Establishing Board of Judicial Policy and Administration, May 24, 2000

Rules and Procedures Governing the Board of Judicial Policy and Administration

IN THE SUPREME COURT
STATE OF WYOMING
FILED

MAY 24 2000

JUDY PACHECO, CLERK

State of Wyoming
Board of Judicial Policy and Administration

IN THE SUPREME COURT, STATE OF WYOMING

APRIL TERM, A.D. 2000

In the Matter of the Establishment)
Of a Board of Judicial Policy and)
Administration)

ORDER ESTABLISHING BOARD OF JUDICIAL POLICY AND ADMINISTRATION AND APPOINTING MEMBERS THEREOF

The Supreme Court upon recommendation from the Wyoming Judicial Planning Commission for the formation of a Judicial Administrative Conference, and the judges of the district court having agreed to support and cooperate in the conceptual development of a Judicial Administrative Council, the Court finds that a Board of Judicial Policy and Administration[1] represents an appropriate body to promote the continued communication, cooperation, and efficient management of all levels of Wyoming courts for the Wyoming Judicial system; and

The Supreme Court finding that the superintending authority vested in the Wyoming Supreme Court by Article 5, Section 2, of the Wyoming Constitution can best be exercised with participation of judges from all levels of Wyoming courts; it is

[1] Because the responsibilities of the Board of Judicial Policy and Administration is intended to encompass not just administrative issues, but policy and procedural aspects of the Wyoming Judiciary as well, it was determined a more descriptive name was appropriate, and therefore Board of Judicial Policy and Administration was determined as a substitution of the name Judicial Administrative Conference previously used by the Judicial Planning Commission.

ORDERED THAT the Board of Judicial Policy and Administration be established and consist of:

Members

Larry L. Lehman – Chair, Chief Justice of the Wyoming Supreme Court
Term to expire June 30, 2003
Richard V. Thomas, Justice of the Wyoming Supreme Court
Term to expire June 30, 2001
William U. Hill, Justice of the Wyoming Supreme Court
Term to expire June 30, 2002
Gary Hartman, Fifth Judicial District Court Judge
Term to expire June 30, 2001
Barton Voigt, Eighth Judicial District Court Judge
Term to expire June 30, 2003
Jeffrey Donnell, Second Judicial District Court Judge
Term to expire June 30, 2002
Robert Denhardt, Ninth Judicial District Circuit Court Judge
Term to expire June 30, 2003
Frank Zebre, Third Judicial District Circuit Court Judge
Term to expire June 30, 2002
Wade Waldrip, Second Judicial District Circuit Court Judge
Term to expire June 30, 2001
Scott Cole, Platte County Justice of the Peace
Term to be determined by the Board of Judicial Policy and Administration

AND IT IS FURTHER ORDERED that the superintending authority vested in the Supreme Court is hereby delegated to the Board of Judicial Policy and Administration;

AND IT IS FURTHER ORDERED that the Board of Judicial Policy and Administration have their initial meeting no later than May 31, 2000, and they shall propose an organizational frame work and governing rules for the body to be adopted by the Supreme Court no later than June 30, 2000.

Dated at Cheyenne, Wyoming, this 24 day of May, 2000.

BY THE COURT:

LARRY L. LEHMAN
Chief Justice

Rules and Procedures Governing the Board of Judicial Policy and Administration

Rule 1. Supreme Court.

In accordance with the Supreme Court's Order Establishing Board of Judicial Policy and Administration and Appointing Members, dated May 24, 2000, the superintending authority vested in the Wyoming Supreme Court by Article 5, Section 2 of the Wyoming Constitution is delegated to the Board of Judicial Policy and Administration.

Rule 2. District Courts.

In accordance with the resolution of District Courts unanimously adopted in June 2001, the Wyoming District Courts delegate their administrative authority as established by Article 5, Section 1 of the Wyoming Constitution and W.S. 5-3-102(b) and 9-2-1002(c), except for the submission of budgets, to the Board of Judicial Policy and Administration.

Rule 3. Board of Judicial Policy and Administration.

Pursuant to the Wyoming Constitution, the order of the Wyoming Supreme Court and the resolution of the Wyoming District Courts, the Board will exercise general superintending control over the judicial department for administrative, policy making and planning purposes.

Rule 4. Membership.

The Board is composed of the following members: the Chief Justice of the Supreme Court and two justices of the Supreme Court; three district court judges; and three circuit court judges.

Rule 5. Terms of Members and Vacancies.

The Chief Justice of the Supreme Court shall serve on the Board during tenure in that office. The other Board members shall be elected by their respective judicial divisions. Initial appointments shall be for staggered terms of one to three years. Thereafter, all appointments shall be for terms of three years, with the exception of the Chief Justice of the Supreme Court. Board members may serve successive terms. Elections to fill vacancies shall be held in May of each year. Vacancies may be declared by the Board because of the death, retirement, resignation, or nonattendance of a member at three meetings during a calendar year. If necessary, a member may attend by telephone.

Rule 6. Responsibilities of Presiding Officer.

The Chief Justice is the presiding officer of the Board. It is the responsibility of the presiding officer to preside at meetings of the Board and serve as chief spokesperson for the Board.

Rule 7. Organization.

The presiding officer shall preside at any meeting. In the chairperson's absence, the member with the most seniority in the judiciary shall act as the presiding officer. The presiding officer may appoint an executive committee, standing committees, and advisory committees at any time to assist the Board in carrying out its responsibilities. Existing Supreme Court committees may be designated as standing or advisory committees of the Board by order of the Chief Justice.

Rule 8. Board Meetings.

The Board of Judicial Policy and Administration shall act only at a meeting, unless agreed upon unanimously by the Board, in which case the Board may take action or vote by email or other means. The Board shall meet quarterly in March, June, September, and December or as otherwise agreed upon by the Board, but in any event no less than four times a year. Additional meetings may be called at the discretion of the presiding officer. Standing or advisory committee meetings may be called at the discretion of the committee chairperson. The Wyoming Public Meetings Act, Wyo. Stat. Ann. § 16-4-401 et seq., by its terms, does not apply to the judiciary. Meetings of the Board are not public unless the Board, in its discretion, determines a particular meeting or agenda item should be open to the public.

Rule 9. Reporter for the Board.

The State Court Administrator shall be the executive secretary for the Board. It shall be the duty of the executive secretary to prepare and keep the minutes of all meetings. In the executive secretary's absence, the Board shall choose a member to record the minutes.

Rule 10. Board Minutes.

The minutes shall record the names of the members present, any and all actions taken by the Board, and any other matters that the Board may deem appropriate. Copies of the minutes shall be distributed as deemed appropriate by the Board and shall be filed in the office of the Clerk of the Supreme Court as a public record.

Rule 11. Actions and Voting.

Six members of the Board shall constitute a quorum. Once a quorum has been established, that quorum shall carry throughout the duration of the meeting. Approval by a majority of those voting shall constitute an action of the Board, except that a majority vote of five is required at any meeting where less than nine members are present. The Chairperson is a voting member of the Board. A tie vote means that the matter voted on has failed adoption. A member may vote on specific issues by written proxy delivered to the Chairperson. A motion to reconsider can only be made by a Board member who voted on the prevailing side of an issue.

Rule 12. Staff.

Under the Chief Justice's direction, the State Court Administrator's office shall provide staff support for the Board.

Dated this 23rd day of March, 2011.

Board of Judicial Policy and Administration

By: Marilyn S. Kite

Chief Justice Marilyn S. Kite

SUPREME COURT OF WYOMING
Language Interpreter Policy

This policy governs language interpreters by the courts and offers guidelines for access to the courts by persons with Limited English Proficiency.

I. DEFINITIONS

A. **Court Proceeding** – Any hearing, trial, or other appearance before the circuit court, district court, chancery court, and the Wyoming Supreme Court in an action, appeal, or other proceeding conducted by a Judicial Officer.

B. **Indigent Party** – A party found by the court to be indigent pursuant to the fiscal standards established by the Wyoming Supreme Court, Rule 44(d) and (e) of the Wyoming Rules of Criminal Procedure, or other applicable statute.

C. **Judicial Officer** – A justice, judge, or magistrate authorized to preside over a Court Proceeding.

D. **Language Interpreter –** A language interpreter who is an independent contractor pursuant to contract or is an independent contractor as defined by IRS Revenue ruling 87-41. A language interpreter may be Professionally Certified, Registered, or Qualified as defined below. Judicial Branch employees are not considered Language Interpreters as defined by this Policy.

E. **Limited English Proficient ("LEP") Person** – An individual who does not speak English as their primary language and who has limited ability to speak or understand the English Language.

F. **Professionally Certified Interpreter** – A Language Interpreter who has achieved certification by a recognized interpreter certification program and who is on a roster of interpreters, if any, maintained by another jurisdiction. Professionally Certified Interpreters are listed on Wyoming's Interpreter Roster, maintained by the Wyoming Supreme Court and posted on the Wyoming Judicial Branch website. Professionally Certified Interpreters must attend Wyoming's interpreter orientation program.

G. **Qualified Interpreter** – A Language Interpreter who is not Professionally Certified or Registered, as defined above, but has been qualified by the local court. Qualified Interpreters are <u>not</u> listed on the Interpreter Roster maintained by the Wyoming Supreme Court.

H. **Registered Interpreter** – A Language Interpreter who has not achieved

certification but has met minimum professional competency standards, as outlined below. Registered Interpreters are listed on the Interpreter Roster maintained by the Wyoming Supreme Court and posted on the Wyoming Judicial Branch website.

To receive the designation of a Registered Interpreter in the State of Wyoming the interpreter shall:

1. Attend the Wyoming Interpreter two (2) day orientation, ethics, and skill building workshop;

2. Complete and return the Wyoming Interpreter Service Provider Interest Form;

3. Pass the Wyoming Interpreter written exam with a score of eighty percent (80%) or higher;

4. Pass Oral Proficiency Interview (OPI) with a score of Advanced- Mid or better; and

5. Take the Wyoming interpreter oath.

II. APPOINTMENT OF LANGUAGE INTERPRETERS

A. The court shall appoint and pay for language interpretation in Court Proceedings relating to the following case types, subject to Section II(C):

1. Felony and Misdemeanors

2. Forcible Entry or Detainer

3. Juvenile Delinquency and CHINS

4. Protection Orders involving domestic abuse

5. Abuse and Neglect

6. Paternity and Support when covered under Title IV-D of the Social Security Act

7. Relinquishment and Termination of Parental Rights

8. Mental Health- Title 25

9. For a deaf or mute individual pursuant to Wyo. Stat. Ann. § 5-1-109(c)

B. The court may appoint and pay for an interpreter for any LEP party to a Court Proceeding where the person's indigency has been determined.

C. For those cases listed in Sections II(A) and II(B), the court may pay for language interpretation services in the following circumstances:

1. During Court Proceedings when an individual related to a case, a victim, witness, parent, legal guardian, or minor charged as a juvenile is a LEP person, as determined by the court.

2. To facilitate communication outside of the Judicial Officer's presence to allow a Court Proceeding to continue as scheduled, including pretrial conferences between defendants and prosecuting attorneys to relay a plea offer immediately prior to a court appearance.

3. During contempt proceedings when loss of liberty is a possible consequence.

4. During mental health evaluations performed for the purpose of aiding the court in determining competency.

D. The court shall not arrange, provide, or pay for language interpretation to facilitate communication with attorneys, prosecutors, or other parties related to a case involving LEP individuals for the purpose of gathering background information, investigation, trial preparation, client representation, or any other purpose that falls outside of the immediate Court Proceedings, except as delineated in Section II(C). Prosecutors and attorneys are expected to provide and pay for language interpretation that they deem necessary for case preparation and general communication with parties outside of Court Proceedings.

E. For cases other than those listed in Sections II(A) through II(C) above, the parties may provide and arrange for their own interpretation services. Failure by the parties to provide and arrange for language interpretation services in these cases will not require a continuance of the case.

III. QUALIFICATIONS OF LANGUAGE INTERPRETERS

A. All Language Interpreters provided by the courts shall sign an oath to abide by the Code of Professional Responsibility for Interpreters.

B. To ensure that Court Proceedings are interpreted as accurately as possible, courts are strongly encouraged to appoint a Language Interpreter according to the following preference list: (1) Professionally Certified Interpreters; (2)

Registered Interpreters; and (3) Qualified Interpreters.

C. When an interpreter is not listed on the Interpreter Roster maintained by the Wyoming Supreme Court or not a Professionally Certified or Registered Interpreter on the roster of another jurisdiction, the court shall conduct a *voir dire* inquiry of the interpreter to determine the interpreter's credentials prior to initiating a Court Proceeding. The *voir dire* inquiry applies to family members and friends used as interpreters. The court shall make the following findings in open court on the record:

1. A summary of the unsuccessful efforts made to obtain a Professionally Certified or Registered Interpreter; and

2. That the proposed interpreter appears to have adequate language skills, knowledge of interpreting techniques, and familiarity with interpreting in a court setting; and

3. That the proposed interpreter has read, understands, and will abide by the Interpreter's Code of Ethics, attached as Appendix B to this Policy.

IV. ASSIGNMENT OF MORE THAN ONE LANGUAGE INTERPRETER

A. Absent exigent circumstances, the court should arrange, provide and pay for two (2) or more Language Interpreters during the following proceedings to prevent interpreter fatigue and the concomitant loss of accuracy in interpretation:

1. Court Proceedings scheduled to last three (3) hours or more; or

2. Court Proceedings in which multiple languages other than English are involved; or

3. Court Proceedings in which sign language interpreters are needed for an individual who is deaf, mute, or hearing impaired that are scheduled for more than one (1) hour.

B. When two (2) Language Interpreters are used, one will be the proceedings interpreter and the other a support interpreter. The proceedings interpreter provides language interpretation services for all LEP parties and witnesses, while the support interpreter is available to assist with research, vocabulary, equipment or other issues. The proceedings interpreter and the support interpreter shall alternate roles every thirty (30) minutes.

C. If two (2) Language Interpreters are not reasonably available as set forth in Section IV(A), the Language Interpreter should be given no less than a ten (10) minute break for every fifty (50) minutes of interpreting.

D. The following guidelines and limitations apply to the utilization of more than one interpreter:

1. Language Interpreters are bound by an oath of confidentiality and impartiality, and serve as officers of the court; therefore, the use of one Language Interpreter by more than one individual in a case is permitted.

2. The court is not obligated to appoint a different Language Interpreter when a Language Interpreter has previously provided interpreter services during a Court Proceeding for another individual in a case.

3. Any individual may provide and arrange for interpretation services to facilitate attorney-client communication if interpretation services exceeding those provided by the court are desired.

V. USE OF COURT PERSONNEL AS INTERPRETERS

A. A court employee may not interpret Court Proceedings except as follows:

1. Prior to using a court employee as an interpreter, the court shall make findings in open court on the record summarizing the unsuccessful efforts made to obtain a Language Interpreter who is not a court employee.

2. The court employee will not be paid wages or benefits in addition to the employee's regular compensation as a court employee. The court employee will not receive any interpreter service fees established in this Policy.

VI. INVESTIGATION OF COMPLAINTS AND IMPOSITION OF SANCTIONS

An interpreter should be one whose record of conduct justifies the trust of the courts, witnesses, jurors, attorneys, parties, and the public.

Language Interpreters are not entitled to interpret on behalf of the courts or in Court Proceedings. Instead, the provision of interpretation services by Language Interpreters rests within the discretion of each Judicial Officer.

Similarly, Professionally Certified and Registered Interpreters are not entitled to have their names included on the Interpreter Roster. The Interpreter Roster is maintained at the discretion of the Wyoming Supreme Court. The Wyoming Supreme Court authorizes the State Court Administrator to investigate complaints and impose sanctions against Language Interpreters to protect the integrity of Court Proceedings and the safety of the public.

A. Sanctions may be imposed when:

1. The Language Interpreter is unable to adequately interpret the Court Proceedings;

2. The Language Interpreter knowingly makes a false interpretation;

3. The Language Interpreter knowingly discloses confidential or privileged information obtained while serving as a Language Interpreter;

4. The Language Interpreter knowingly fails to disclose a conflict of interest;

5. The Language Interpreter fails to appear as scheduled without good cause; or

6. If a sanction is determined appropriate in the interest of justice.

B. A complaint against a Language Interpreter must be in writing, signed by the complainant, and delivered via mail or email to the Court Interpreter Program Manager at:

Wyoming Supreme Court
c/o Court Interpreter Program Manager
2301 Capitol Ave.
Cheyenne, WY 82002

interpreters@courts.state.wy.us

The complaint shall state the date, time, place, and nature of the alleged improper conduct. The complaint shall include the names, titles, and telephone numbers of possible witnesses. If the complainant is unable to communicate in written English, the complainant may submit the complaint in his/her primary language.

The Court Interpreter Program Manager may take immediate action, upon

receipt and review of the complaint, if deemed necessary to protect the integrity of the courts, including immediately suspending the Professionally Certified or Registered Interpreter from the Interpreter Roster for the pendency of the investigation and consideration of the complaint. In any case where the Court Interpreter Program Manager deems it necessary to suspend the Professionally Certified or Registered Interpreter from the Interpreter Roster, notice shall be sent by certified mail to the Language Interpreter.

C. Upon receipt by the Court Interpreter Program Manager of a written complaint against a Language Interpreter or to further the interest of justice, the Court Interpreter Program Manager shall conduct an investigation into the alleged improper conduct of the Language Interpreter. The Court Interpreter Program Manager shall seek and receive such information and documentation as is necessary for the investigation. The rules of evidence do not apply to this evaluation and consideration of complaint, and the Language Interpreter is not entitled to representation by counsel. The Court Interpreter Program Manager shall provide a written report of the investigation results along with a recommendation on any action to be taken to the State Court Administrator within sixty (60) days of the complaint or start of the investigation.

The report and recommendation shall be provided to the Language Interpreter by certified mail at the same time it is provided to the State Court Administrator. The Language Interpreter shall have fifteen (15) days from receipt to respond to the report and recommendation of the Court Interpreter Program Manager.

D. Upon receipt of the report and recommendations of the Court Interpreter Program Manager and the Language Interpreter's response, if any, the State Court Administrator may take any of the following actions in order to protect the integrity of the Court Proceedings and the safety of the public:

1. Dismiss the complaint;

2. Issue a written reprimand against the Language Interpreter;

3. Specify corrective action with which the Language Interpreter must fully comply in order to remain on the Interpreter Roster, including, but not limited to, the completion of educational courses and/or retaking one or more parts of the of the interpreter orientation, written exam, or oral proficiency interview;

4. Suspend the Language Interpreter from the Interpreter Roster for a

specified period of time, or until corrective action is completed; or

5. Remove the Language Interpreter from the Interpreter Roster.

E. Written notice of any actions taken by the State Court Administrator will be sent via certified mail to the Language Interpreter and the complainant. Written notice will also be provided to Judicial Officers and court staff if sanctions are imposed against the Language Interpreter.

VII. REMOTE INTERPRETING

Remote interpretation may be utilized to facilitate access to the courts by LEP persons as may be determined by the court.

VIII. RECORDING OF PROCEEDING

The court may order that the testimony of the person for whom interpretation services are provided and the interpretation be recorded for use in verifying the official transcript of the Court Proceeding. If an interpretation error is believed to have occurred based on a review of the recording, a party may file a motion requesting that the court direct that the official transcript be amended and the court may grant further relief as it deems appropriate.

VIII. ACCESS TO SERVICES

Based on current Policy, court interpreting services are only provided in the cases detailed under Sections II(A) through II(C). Current Policy reflects a commitment to consistency and fairness in the provision of interpreting services for LEP persons statewide, a recognition of the serious nature and possible consequences of Court Proceedings for individuals who come in contact with the courts, and the need to allocate limited financial resources most effectively.

IX. FACILITATING THE USE OF LANGUAGE INTERPRETERS

To facilitate the use of the most qualified Language Interpreter available, the Wyoming Supreme Court or its designated agent(s) shall administer the training and testing of Language Interpreters and post the Interpreter Roster on the judicial website of active status interpreters who are Professionally Certified or Registered Interpreters as defined in this Policy.

X. APPENDIX A

Policies regarding payment of interpreters are contained in Appendix A of this Policy. Appendix A may be amended from time to time as necessary. Amendments to Appendix A may be made without requiring the reissuance of this Policy.

APPENDIX A

I. PAYMENT OF LANGUAGE INTERPRETERS AND OTHER LEP RELATED SERVICES

A. Compensation Rate for Language Interpreters. The recommended compensation rate for Language Interpreters working as independent contractors is:

(1) Professionally Certified: $55/hr.

(2) Registered: $40/hr.

(3) Qualified: $25/hr.

Based on the Language Interpreter's certification status and the language availability in the judicial district, the court may appoint a Language Interpreter at an hourly rate in excess of those established in this Appendix A.

B. Payment for Travel Time. At the discretion of the judge, a Language Interpreter may be paid the State of Wyoming's allowable mileage reimbursement rates or half the hourly Language Interpreter rate for travel time. In extraordinary circumstances, the Language Interpreter may be paid the full hourly Language Interpreter rate for travel when round trip travel exceeds one hundred fifty (150) miles.

C. Overnight Travel. In the case of trials or hearings exceeding one day duration, Language Interpreters may be compensated for food and lodging at the standard rate established by the Wyoming Supreme Court when round trip travel of one hundred twenty (120) miles or greater is required to secure the best qualified Language Interpreter. To receive reimbursement for food or lodging expenses, the Language Interpreter must receive authorization from the court for the expenses in advance of the actual expenditure. Reimbursement of allowed food and lodging expenses will be made only if itemized receipts are provided and expenses are within the allowable ranges as defined by the State of Wyoming fiscal procedures.

D. Cancellation Policy. A Language Interpreter whose assignment is cancelled within seventy-two (72) hours of the assignment start time shall be paid for the scheduled time up to a maximum of sixteen (16) hours as determined by the presiding judge in the cancelled matter. If the assignment is cancelled with more than seventy-two (72) hours' notice, the scheduling court is under no obligation to pay a cancellation fee.

APPENDIX B

Interpreter's Code of Ethics

Canon 1: Accuracy and Completeness

Interpreters shall render a complete and accurate interpretation or sight translation, without altering, omitting, or adding anything to what is stated or written, and without explanation.

Canon 2: Representation of Qualifications

Interpreters shall accurately and completely represent their certifications, training, and pertinent experience.

Canon 3: Impartiality and Avoidance of Conflict of Interest

Interpreters shall be impartial, unbiased and shall refrain from conduct that may give an appearance of bias. Interpreters shall disclose any real or perceived conflict of interest.

Canon 4: Professional Demeanor

Interpreters shall conduct themselves in a manner consistent with the dignity of the court and shall be as unobtrusive as possible.

Canon 5: Confidentiality

Interpreters shall keep confidential all matters interpreted and all conversations overheard between counsel and client. Interpreters should not discuss a case pending before the court.

Canon 6: Restriction of Public Comment

Interpreters shall not publicly discuss, report, or offer an opinion concerning a matter in which they are or have been engaged, even when that information is not privileged or required by law to be confidential.

Canon 7: Scope of Practice

Interpreters shall limit themselves to interpreting and translating, and shall not give legal advice,express personal opinions to individuals for whom they are interpreting, or engage in any other activities which may be construed to constitute a service other than interpreting or translating while serving as an interpreter.

Canon 8: Assessing and Reporting Impediments to Performance

Interpreters shall assess at all times their ability to deliver their services. When interpreters have any reservation about their ability to satisfy an assignment competently, they shall immediately convey that reservation to the appropriate judicial authority.

Canon 9: Duty to Report Ethical Violations

Interpreters shall report to the proper authority any effort to impede their compliance with any law, any provision of this code, or any other official policy governing court interpreting and legal translating.

Canon 10: Professional Development

Interpreters shall continually improve their skills and knowledge, and advance the profession through activities such as professional training and education, and interaction with colleagues and specialists in related fields.

Wyoming Rules of Civil Procedure for the Court of Chancery

Rule 1. Scope and Purpose.
These rules govern the procedure in all civil actions and proceedings in the State of Wyoming chancery courts, except as stated in Rule 81. They should be construed, administered, and employed by the court and the parties to secure the just, effective, and expeditious resolution of every action and proceeding. In order to effectuate the expeditious resolution of disputes, it is a goal of the chancery court to resolve a majority of the actions filed in its court within one hundred fifty (150) days of the filing of the action. Accordingly, the chancery court shall be active in the management of the docketed cases.

Rule 2. Jurisdiction, Eligible Actions, Excluded Action.
(a) Limited Jurisdiction. The chancery court shall be a court of limited jurisdiction for the expeditious resolution of disputes involving commercial, business, trust and similar issues. Disputes will not be tried by juries in Chancery Court.

(b) Eligible Actions. The chancery court shall have jurisdiction to hear and decide actions for equitable or declaratory relief and for actions where the prayer for money recovery is an amount exceeding fifty thousand dollars ($50,000.00), exclusive of claims for punitive or exemplary damages, prejudgment or post judgment interest, costs and attorney fees provided the cause of action arises from at least one (1) of the following:

(1) Breach of contract;

(2) Breach of fiduciary duty;

(3) Fraud;

(4) Misrepresentation;

(5) A statutory or common law violation involving:

(A) The sale of assets or securities;

(B) A corporate restructuring;

(C) A partnership, shareholder, joint venture or other business agreement;

(D) Trade secrets; or

(E) Employment agreements not including claims that principally involve alleged discriminatory practices.

(6) Transactions governed by the Uniform Commercial Code;

(7) Shareholder derivative actions. The monetary threshold in paragraph (b) of this rule shall not apply to action brought under this subparagraph;

(8) Commercial class actions;

(9) Business transactions involving or arising out of dealings with commercial banks and other financial institutions;

(10) A dispute concerning the internal affairs of business organizations;

(11) A dispute concerning environmental insurance coverage;

(12) A dispute concerning commercial insurance coverage;

(13) Dissolution of corporations, partnerships, limited liability companies, limited liability partnerships, joint ventures, banks and trust companies. The monetary threshold of paragraph (b) of this rule shall not apply to actions brought under this subparagraph;

(14) Transactions governed by the Wyoming Uniform Trust Code; or

(15) Applications to stay or compel arbitration and affirm or disaffirm arbitration awards and related injunctive relief or appeals pursuant to W.S. § 1-21-801 through 1-21-804 or 1-36-101 through 1-36-119, involving any of the foregoing enumerated issues. Where any applicable arbitration agreement provides for an arbitration to be heard outside the United States, the monetary threshold set forth in paragraph (b) of this rule shall not apply.

(16) A dispute concerning a trademark, trade name or service mark. The monetary threshold set forth in paragraph (b) of this rule shall not apply to actions brought under this subparagraph.

(c) Ancillary Jurisdiction. The chancery court shall have supplemental ancillary jurisdiction over any cause of action not listed in paragraph (b) of this rule.

(d) Concurrent Jurisdiction. All chancery court judges throughout the state shall have concurrent jurisdiction with all district court judges throughout the state only as to the causes of action enumerated in paragraph (b) of this rule.

(e) Excluded Actions. Except as otherwise provided in this rule or otherwise provided by statute, the following includes, but is not limited to, the actions that are not within the jurisdiction of the chancery court:

(1) Personal injury or wrongful death;

(2) Professional malpractice claims;

(3) Consumer claims against business entities or insurers of business entities, including breach of warranty, product liability, and personal injury cases and cases arising under consumer protection laws;

(4) Matters involving only wages or hours, occupational health or safety, workers' compensation, or unemployment compensation;

(5) Environmental claims, except those described in subparagraph (b)(11) above;

(6) Actions in the nature of a change of name of an individual, mental health act, guardianship, conservatorship, or government election matters;

(7) Individual residential real estate disputes, including foreclosure actions, or non-commercial landlord-tenant disputes;

(8) Any criminal matter, other than criminal contempt in connection with a matter pending before the chancery court;

(9) Consumer debts, such as debts or accounts incurred by an individual primarily for a personal, family, or household purpose; credit card debts incurred by individuals; medical services debts incurred by individuals; student loans; tax debts of individuals; personal auto mobile loans; and other similar types of consumer debts; or

(10) Summary or formal probate matters (domiciliary or ancillary).

Rule 3. Commencement of Action, Removal to Chancery Court, and Objection and Dismissal.

(a) Original Filing in Chancery Court. A civil action is commenced in the chancery court when service is completed upon all defendants, pursuant to Rule 4. A civil action is "brought" for statute of limitations purposes upon filing the initial pleading in chancery court. If any party files an objection to having the matter proceed in chancery court on or before the date its first pleading is due, the chancery court shall enter its order dismissing the case without prejudice. An objection to proceeding in chancery court is waived if not brought within the time periods in this rule. A dismissal of a case in chancery court is subject to W.S. § 1-3-118.

(b) Removal to Chancery Court. An action may be removed from district court to chancery court when:

(1) All parties consent in writing within 20 days of service of the last defendant; and

(2) The case meets the eligibility requirements of W.S. § 5-13-115 and these rules.

(c) Removal after Amended Pleading. If the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may

first be ascertained that the case is one which is or has become removable, if all parties consent in writing and the case meets the eligibility requirements of W.S. § 5-13-115 and these rules.

(d) Procedure after Removal Generally.

(1) *Written Notice to the District Court*. Promptly after the filing of such notice of removal of a civil action, the removing party shall file a copy of the notice with the clerk of such district court, which shall effect the removal and the district court shall proceed no further.

(2) *Order of Removal*. The case shall be deemed removed from district court to chancery court upon entry of an Order of Removal by the chancery court, which shall be issued within three (3) days following the filing of the notice of removal. The Order shall state that the chancery court obtained jurisdiction over both the parties and the subject matter of the district court action and that the district court should proceed no further. In the event a hearing is pending when the notice of removal is filed with the clerk of the district court, the Order on Removal shall require the removing party to notify the district court clerk of the removal of the action.

(3) *Court Record*. Within fourteen (14) days of entry of the Order on Removal, the removing party shall file with the clerk of chancery court a copy of the entire district court record and proceedings, including the docket sheet.

(4) *Process*. In any case removed from district court, the chancery court may issue all necessary orders and process to bring before it all proper parties whether served by process issued by the district court or otherwise.

Rule 3.1. Civil Cover Sheet.
(a) Civil Cover Sheet Required. Every complaint or other document initiating a civil action shall be accompanied by a completed civil cover sheet form available on the Wyoming Judicial Branch website or from the clerk of chancery court.

(b) No Legal Effect. This requirement is solely for administrative purposes and has no legal effect in the action.

(c) Absence of Cover Sheet. If the complaint or other document is filed without a completed civil cover sheet, the clerk of chancery court or the court shall at the time of filing give notice of the omission to the party filing the document. If, after notice of the omission the coversheet is not filed within 14 calendar days, the chancery court may impose an appropriate sanction upon the attorney or party filing the complaint or other document.

Rule 4. Summons.
(a) Contents. A summons must:

(1) name the chancery court and the parties;

(2) be directed to the defendant;

(3) state the name and address of the plaintiff's attorney or--if unrepresented--of the plaintiff;

(4) state the time within which the defendant must appear and defend;

(5) notify the defendant that a failure to appear and defend may result in a default judgment against the defendant for the relief demanded in the complaint;

(6) attach a copy or include the language of Rule 5(d)(2);

(7) be signed by the clerk; and

(8) bear the chancery court's seal.

(b) Issuance. On or after filing the initial pleading, the plaintiff may present a summons to the clerk for signature and seal. If the summons is properly completed, the clerk must sign, seal, and issue it to the plaintiff for service on the defendant. A summons--or a copy of a summons that is addressed to multiple defendants--must be issued for each defendant to be served.

(c) By Whom Served. Except as otherwise ordered by the chancery court, process may be served:

(1) By any person who is at least 18 years old and not a party to the action;

(2) At the request of the party causing it to be issued, by the sheriff of the county where the service is made or sheriff's designee, or by a United States marshal or marshal's designee;

(3) In the event service is made by a person other than a sheriff or U.S. marshal, the amount of costs assessed therefor, if any, against any adverse party shall be within the discretion of the chancery court.

(d) Personal Service. The summons and initial pleading shall be served together. The plaintiff shall furnish the person making service with such copies as are necessary.

(e) Serving an Individual Within the United States. An individual other than a person under 14 years of age or an incompetent person may be served within the United States:

(1) by delivering a copy of the summons and of the initial pleading to the individual personally,

(2) by leaving copies thereof at the individual's dwelling house or usual place of abode with some person over the age of 14 years then residing therein,

(3) at the defendant's usual place of business with an employee of the defendant then in charge of such place of business, or

(4) by delivering a copy of the summons and of the initial pleading to an agent authorized by appointment or by law to receive service of process.

(f) Serving an Individual in a Foreign Country. An individual--other than a person under 14 years of age or an incompetent person--may be served at a place not within the United States:

(1) by any internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents;

(2) if there is no internationally agreed means, or if an international agreement allows but does not specify other means, by a method that is reasonably calculated to give notice:

(A) as prescribed by the foreign country's law for service in that country in an action in its courts of general jurisdiction;

(B) as the foreign authority directs in response to a letter rogatory or letter of request; or

(C) unless prohibited by the foreign country's law, by:

(i) delivering a copy of the summons and of the initial pleading to the individual personally; or

(ii) using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt; or

(3) by other means not prohibited by international agreement, as the court orders.

(g) Serving a Person Under 14 years of Age or an Incompetent Person. An individual under 14 years of age or an incompetent person may be served within the United States by serving a copy of the summons and of the complaint upon the guardian or, if no guardian has been appointed in this state, then upon the person having legal custody and control or upon a guardian ad litem. An individual under 14 years of age or an incompetent person who is not within the United States must be served in the manner prescribed by Rule 4(f)(2)(A), (f)(2)(B), or (f)(3).

(h) Serving a Corporation, Partnership, or Association.

(1) Service upon a partnership, or other unincorporated association, within the United States shall be made:

(A) by delivery of copies to one or more of the partners or associates, or a managing or general agent thereof, or agent for process, or

(B) by leaving same at the usual place of business of such defendant with any employee then in charge thereof.

(2) Service upon a corporation within the United States shall be made:

(A) by delivery of copies to any officer, manager, general agent, or agent for process, or

(B) If no such officer, manager or agent can be found in the county in which the action is brought such copies may be delivered to any agent or employee found in such county.

(C) If such delivery be to a person other than an officer, manager, general agent or agent for process, the clerk, at least 20 days before default is entered, shall mail copies to the corporation by registered or certified mail and marked "restricted delivery" with return receipt requested, at its last known address.

(3) Service upon a partnership, other unincorporated association, or corporation not within the United States shall be made in any manner prescribed by Rule 4(f) for serving an

individual, except personal delivery under (f)(2)(C)(i).

(i) Serving a Department or Agency of the State, or a Municipal or Other Public Corporation. Service upon a department or agency of the state, a municipal or other public corporation shall be made by delivering a copy of the summons and of the initial pleading to the chief executive officer thereof, or to its secretary, clerk, person in charge of its principal office or place of business, or any member of its governing body, or as otherwise provided by statute.

(j) Serving the Secretary of State. Service upon the secretary of state, as agent for a party shall be made when and in the manner authorized by statute.

(k) Service by Publication. Service by publication may be had where specifically provided for by statute, and in the following cases:

(1) When the defendant resides out of the state, or the defendant's residence cannot be ascertained, and the action is:

(A) For the recovery of real property or of an estate or interest therein;

(B) For the partition of real property;

(C) For the sale of real property under a mortgage, lien or other encumbrance or charge;

(D) To compel specific performance of a contract of sale of real estate;

(2) Not Applicable.

(3) In actions in which it is sought by a provisional remedy to take, or appropriate in any way, the property of the defendant, when:

(A) the defendant is a foreign corporation, or

(B) a nonresident of this state, or

(C) the defendant's place of residence cannot be ascertained,

(D) and in actions against a corporation incorporated under the laws of this state, which has failed to elect officers, or to appoint an agent, upon whom service of summons can be made as provided by these rules and which has no place of doing business in this state;

(4) In actions which relate to, or the subject of which is real or personal property in this state, when

(A) a defendant has or claims a lien thereon, or an actual or contingent interest therein or the relief demanded consists wholly or partly in excluding the defendant from any interest therein, and

(B) the defendant is a nonresident of the state, or a dissolved domestic corporation which has no trustee for creditors and stockholders, who resides at a known address in Wyoming, or

(C) the defendant is a domestic corporation which has failed to elect officers or appoint other representatives upon whom service of summons can be made as provided by these rules, or to appoint an agent as provided by statute, and which has no place of doing business in this state, or

(D) the defendant is a domestic corporation, the certificate of incorporation of which has been forfeited pursuant to law and which has no trustee for creditors and stockholders who resides at a known address in Wyoming, or

(E) the defendant is a foreign corporation, or

(F) the defendant's place of residence cannot be ascertained;

(5) In actions against trustees, personal representatives, conservators, or guardians, when the defendant has given bond as such in this state, but at the time of the commencement of the action is a nonresident of the state, or the defendant's place of residence cannot be ascertained;

(6) In actions where the defendant is a resident of this state, but has departed from the county of residence with the intent to delay or defraud the defendant's creditors, or to avoid the service of process, or keeps concealed with like intent;

(7) Not Applicable.

(8) In an action or proceeding under Rule 60, to modify or vacate a judgment after term of court, or to impeach a judgment or order for fraud, or to obtain an order of satisfaction thereof, when a defendant is a nonresident of the state or the defendant's residence cannot be ascertained;

(9) Not Applicable.

(10) Not Applicable.

(11) In all actions or proceedings which involve or relate to the waters, or right to appropriate the waters of the natural streams, springs, lakes, or other collections of still water within the boundaries of the state, or which involve or relate to the priority of appropriations of such waters, and in all actions or proceedings which involve or relate to the ownership of means of conveying or transporting water situated wholly or partly within this state, when the defendant or any of the defendants are nonresidents of the state or the defendant's residence or their residence cannot be ascertained.

(l) Requirements for Service by Publication.

(1) *Affidavit Required.* Before service by publication can be made, an affidavit of the party, or the party's agent or attorney, must be filed stating:

(A) that service of a summons cannot be made within this state, on the defendant to be served by publication, and

(B) stating the defendant's address, if known, or that the defendant's address is

unknown and cannot with reasonable diligence be ascertained, and

(C) detailing the efforts made to obtain an address, and

(D) that the case is one of those mentioned in subdivision (k), and

(E) when such affidavit is filed, the party may proceed to make service by publication.

(2) *Publication and Notice to Clerk.*

(A) Address in publication. In any case in which service by publication is made when the address of a defendant is known, it must be stated in the publication.

(B) Notice to and from clerk. Immediately after the first publication the party making the service shall deliver to the chancery court clerk copies of the publication, and the chancery court clerk shall mail a copy to each defendant whose name and address is known by registered or certified mail and marked "Restricted Delivery" with return receipt requested, directed to the defendant's address named therein, and make an entry thereof on the appearance docket.

(C) Affidavit at time of hearing. In all cases in which a defendant is served by publication of notice and there has been no delivery of the notice mailed to the defendant by the chancery court clerk, the party who makes the service, or the party's agent or attorney, at the time of the hearing and prior to entry of judgment, shall make and file an affidavit stating

(i) the address of such defendant as then known to the affiant, or if unknown,

(ii) that the affiant has been unable to ascertain the same with the exercise of reasonable diligence, and

(iii) detailing the efforts made to obtain an address.

Such additional notice, if any, shall then be given as may be directed by the chancery court.

(m) Publication of Notice. The publication must be made by the chancery court clerk for four consecutive weeks in a newspaper published:

(1) in the county where the initial pleading is filed; or

(2) if there is no newspaper published in the county, then in a newspaper published in this state, and of general circulation in such county; and

(3) if publication is made in a daily newspaper, one insertion a week shall be sufficient; and

(4) publication must contain

(A) a summary statement of the object and prayer of the initial pleading,

(B) mention the chancery court wherein it is filed,

(C) notify the person or persons to be served when they are required to answer, and

(D) notify the person or persons to be served that judgment by default may be rendered against them if they fail to appear.

(n) When Service by Publication is Complete; Proof.

(1) *Completion.* Service by publication shall be deemed complete at the date of the last publication, when made in the manner and for the time prescribed in the preceding sections; and

(2) *Proof.* Service by publication shall be proved by affidavit.

(3) For purposes of Rule 4(u), when service is made by publication, a defendant shall be deemed served on the date of the first publication.

(o) Service by Publication upon Unknown Persons. When an heir, devisee, or legatee of a deceased person, or a bondholder, lienholder or other person claiming an interest in the subject matter of the action is a necessary party, and it appears by affidavit that the person's name and address are unknown to the party making service, proceedings against the person may be had by designating the person as an unknown heir, devisee or legatee of a named decedent or defendant, or in other cases as an unknown claimant, and service by publication may be had as provided in these rules for cases in which the names of the defendants are known.

(p) Publication in Another County. When it is provided by rule or statute that a notice shall be published in a newspaper, and no such paper is published in the county, or if such paper is published there and the publisher refuses, on tender of the publisher's usual charge for a similar notice, to insert the same in the publisher's newspaper, then a publication in a newspaper of general circulation in the county shall be sufficient.

(q) Costs of Publication. The lawful rates for any legal notice published in any qualified newspaper in this state in connection with or incidental to any cause or proceeding in any court of record in this state shall become a part of the chancery court costs in such action or proceeding, which shall be paid to the clerk of the chancery court in which such action or proceeding is pending by the party causing such notice to be published and finally assessed as the chancery court may direct.

(r) Personal Service Outside the State; Service by Registered or Certified Mail. In all cases where service by publication can be made under these rules, or where a Wyoming statute permits service outside the state, the plaintiff may obtain service without publication by:

(1) *Personal Service Outside the State.* By delivery to the defendant within the United States of copies of the summons and initial pleading.

(2) *Service by Registered or Certified Mail.* The chancery court clerk shall send by registered or certified mail:

(A) Upon the request of any party

(B) a copy of the initial pleading and summons

(C) addressed to the party to be served at the address within the United States given in the affidavit required under subdivision (l) of this rule.

(D) The mail shall be sent marked "Restricted Delivery," requesting a return receipt signed by the addressee or the addressee's agent who has been specifically authorized in writing by a form acceptable to, and deposited with, the postal authorities.

(E) When such return receipt is received signed by the addressee or the addressee's agent the chancery court clerk shall file the same and enter a certificate in the cause showing the making of such service.

(s) Proof of Service.

(1) *In General.* The person serving the process shall make proof of service thereof to the chancery court promptly and within the time during which the person served must respond to the process.

(2) *Proof of Service Within the United States.* Proof of service of process within the United States shall be made as follows:

(A) If served by a Wyoming sheriff, undersheriff or deputy, by a certificate with a statement as to date, place and manner of service, except that a special deputy appointed for the sole purpose of making service shall make proof by the special deputy's affidavit containing such statement;

(B) If by any other person, by the person's affidavit of proof of service with a statement as to date, place and manner of service;

(C) If by registered or certified mail, by the certificate of the chancery court clerk showing the date of the mailing and the date the clerk received the return receipt;

(D) If by publication, by the affidavit of publication together with the certificate of the chancery court clerk as to the mailing of copies where required;

(E) By the written admission or acceptance of service by the person to be served, duly acknowledged.

(3) *Proof of Service Outside the United States.* Proof of service of process outside the United States shall be made as follows:

(A) if made under Rule 4(f)(1), as provided in the applicable treaty or convention; or

(B) if made under Rule 4(f)(2) or (f)(3), by a receipt signed by the addressee, or by other evidence satisfying the chancery court that the summons and initial pleading were delivered to the addressee.

(4) *Failure to Prove Service.* Failure to make proof of service does not affect the validity of the service.

(t) Amendment. At any time in its discretion and upon such terms as it deems just, the chancery court may permit a summons or proof of service to be amended, unless it clearly appears that

material prejudice would result to the substantial rights of the party against whom the process issued.

(u) Not Applicable.

(v) Acceptance of Service.

(1) *Requesting Acceptance.* An individual, corporation, partnership or other unincorporated association that is subject to service under subdivision 4(e), (f), or (h) has a duty to avoid unnecessary costs of serving the summons. To avoid costs, the plaintiff may notify such a defendant of the commencement of the action and request that the defendant accept service of a summons. The notice and request must:

(A) be in writing and shall be addressed directly to the defendant, if an individual, or else to an officer, manager, general agent, or agent for process, if a corporation, or else to one or more of the partners or associates, or a managing or general agent, or agent for process, if a partnership or other unincorporated association;

(B) be sent through first-class mail or other reliable means;

(C) be accompanied by a copy of the initial pleading and shall identify the chancery court in which it has been filed;

(D) inform the defendant of the consequences of compliance and of a failure to comply with the request;

(E) set forth the date on which the request is sent;

(F) allow the defendant a reasonable time to return the acceptance, which shall be at least 14 days from the date on which the request is sent, or 21 days from that date if the defendant is addressed outside the United States; and

(G) provide the defendant with an extra copy of the notice and request, as well as a prepaid means of compliance in writing.

(2) *Failure to Accept Service.* If a defendant located within the United States fails to comply with a request for acceptance of service made by a plaintiff located within the United States, the chancery court shall impose the costs subsequently incurred in effecting service on the defendant unless good cause for the failure is shown.

(3) The acceptance of service shall:

(A) Be in writing;

(B) Be notarized and executed directly by the defendant or defendant's counsel;

(C) Inform the defendant of the duty to file with the chancery court clerk and serve upon the plaintiff's attorney an answer to the initial pleading, or a motion under Rule 12, within 20 days after the time of signing the acceptance; and

(D) Be filed by the party requesting the acceptance of service.

(4) When an acceptance of service is filed with the chancery court, the action shall proceed as if a summons and initial pleading had been served at the time of signing the acceptance, and no proof of service shall be required.

(5) *Jurisdiction and Venue Not Waived.* A defendant who accepts service of a summons does not thereby waive any objection to the venue or to the jurisdiction of the chancery court over the person of the defendant.

(6) *Costs.* The costs to be imposed on a defendant under paragraph (2) for failure to comply with a request to waive service of a summons shall include the costs subsequently incurred in effecting service, together with the costs, including a reasonable attorney's fee, of any motion required to collect the costs of service.

(w) Time Limit for Service. If a defendant is not served within 90 days after the initial pleading is filed, the chancery court--on motion or on its own after notice to the plaintiff--must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the chancery court must extend the time for service for an appropriate period. This subdivision (w) does not apply to service in a foreign country under Rule 4(f).

(x) Costs. Any cost of publication or mailing under this rule shall be borne by the party seeking it.

Rule 5. Serving and Filing Pleadings and Other Papers.
(a) Service: When required.

(1) *In General.* Unless these rules provide otherwise, each of the following papers must be served on every party:

(A) an order stating that service is required;

(B) a pleading filed after the initial pleading, unless the chancery court orders otherwise under Rule 5(c) because there are numerous defendants;

(C) a discovery paper required to be served on a party, unless the chancery court orders otherwise;

(D) a written motion, except one that may be heard ex parte; and

(E) a written notice, appearance, demand, or offer of judgment, or any similar paper.

(2) *If a Party Fails to Appear.* No service is required on a party who is in default for failing to appear. But a pleading that asserts a new claim for relief against such a party must be served on that party under Rule 4.

(3) *Seizing Property.* If an action is begun by seizing property and no person is or need be named as a defendant, any service required before the filing of an appearance, answer, or claim must be made on the person who had custody or possession of the property when it was seized.

(b) Service: How made.

(1) *Serving an Attorney.* If a party is represented by an attorney, service under this rule must be made on the attorney unless the chancery court orders service on the party.

(2) *Service in General.* Unless otherwise ordered by the chancery court, which will specify the method of service, the notice of electronic filing delivered to online inboxes on the electronic filing system constitutes service of the document on the electronic filing system users and the additional service of a hardcopy is unnecessary. Each registered user of the electronic filing system is responsible for regularly monitoring his or her online inbox accessible on the electronic filing system. The notice of electronic filing generated by the electronic filing system does not replace the certificate of service on the document being filed.

(3) The registered user's name and password required to submit documents to the electronic filing system serve as the user's signature on all electronic documents filed with the chancery court for purposes of Rule 11 or for any other purpose. An electronically filed document shall contain a signature line in the following manner: /s/ Attorney's Name.

(c) Filing.

(1) *Required Filings; Certificate of Service.* Any document after the initial pleading that is required to be served--together with a certificate of service--must be filed within a reasonable time after service. But disclosures under Rule 26(a)(1) or (2) and the following discovery requests and responses must not be filed until they are used in the proceeding or the chancery court orders filing: depositions, interrogatories, requests for documents or tangible things or to permit entry onto land, and requests for admission. A notice of discovery proceedings may be filed concurrently with service of discovery papers to demonstrate substantial and bona fide action of record to avoid dismissal for lack of prosecution.

(2) *How Filing Is Made--In General.* A document, including a case-initiating document, is filed by:

(A) Electronically submitting it to the chancery court using the electronic filing system, and the electronic version shall be the officially filed document in the case. The current version of the chancery court e-filing training, policies and log-in can be found on the chancery court website, www.courts.state.wy.us/chancery-court/.

(i) Electronic filing must be completed within the time set forth in the Wyoming State Court of Chancery, Electronic Filing Administrative Policies and Procedures Manual to be considered timely filed on the date it is due. Electronic filing constitutes filing of a document.

(ii) When documents filed do not comply with the rules (such as the Rules Governing Redaction from Court Records), the document may be removed from the public docket and counsel will immediately be notified by email or through the electronic filing system and instructed to re-file the pleading within a specified amount of time. If the pleading is not correctly re-filed within the required time, it shall not be considered timely filed.

(iii) Documents filed by pro se litigants shall comply with the electronic filing requirements.

(iv) Paper filings shall not be accepted absent a prior order of the court. Any request to be excused from the electronic filing requirements must be timely presented and demonstrate exceptional cause for excusal.

(B) Attachments to electronically filed documents may be scanned, however the document to which they are attached shall be uploaded directly from the filer's computer using the electronic filing system.

(C) All pleadings shall be 8 ½ ″ x 11″. Any attachments or appendices, which in their original form are larger or smaller, should be reduced or enlarged to 8 ½ ″ x 11″.

(3) *Acceptance by the Clerk.* The chancery court clerk must not refuse to file a document solely because it is not in the form prescribed by these rules or by a local practice. However, in order to effectuate the expeditious resolution of a majority of the actions filed in chancery court within one hundred fifty (150) days of the filing of the action, the chancery court clerk shall be active in the management of the docketed cases.

(d) Filing with the court defined. Not Applicable.

Rule 5.1. Constitutional Challenge to a Statute.
When the constitutionality of a Wyoming statute is drawn in question in any action to which the state or an officer, agency, or employee thereof is not a party, the party raising the constitutional issue shall serve the attorney general with a copy of the pleading or motion raising the issue.

Rule 5.2. Privacy Protection for Filings Made with the Chancery Court.
Unless otherwise ordered by the chancery court, all documents filed with the chancery court shall comply with the Rules Governing Redactions from Court Records and Rules Governing Access to Court Records.

Rule 6. Time.

All timelines are subject to adjustment and reduction by the chancery court judge.

(a) Computation. In computing any period of time prescribed or allowed by these rules, by order of the chancery court, or by any applicable statutes, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper, a day on which weather or other conditions have made the office of the clerk of the court inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days. As used in this rule, “legal holiday” includes any day officially recognized as a legal holiday in this state by designation of the legislature, appointment as a holiday by the governor or the chief justice of the Wyoming Supreme Court, or any day designated as such by local officials.

(b) Extending Time.

(1) *In General.* When by these rules or by a notice given thereunder or by order of chancery court an act is required or allowed to be done at or within a specified time, the chancery court, or a magistrate thereof, may for good cause and in its discretion:

(A) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order; or

(B) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect;

(2) *Exceptions.* The chancery court may not extend the time for taking any action under Rules 50(b) and (c)(2), 52(b), 59(b), (d) and (e), and 60(b), except to the extent and under the conditions stated in them.

(3) *By Clerk of Chancery Court.* A motion served before the expiration of the time limitations set forth by these rules for an extension of time of not more than 15 days within which to answer or move to dismiss the complaint, or answer, respond or object to discovery under Rules 33, 34, and 36, if accompanied by a statement setting forth:

(A) the specific reasons for the request,

(B) that the motion is timely filed,

(C) that the extension will not conflict with any scheduling or other order of the chancery court, and

(D) that there has been no prior extension of time granted with respect to the matter in question may be granted once by the clerk of chancery court, ex parte and routinely, subject to the right of the opposing party to move to set aside the order so extending time. Motions for further extensions of time with respect to matters extended by the clerk shall be presented to the chancery court, or a magistrate thereof, for determination.

(c) Motions and motion practice.

(1) *In General.* Unless these rules or an order of the chancery court establish time limitations other than those contained herein, all motions shall be served at least 14 days before the hearing on the motion, with the following exceptions:

(A) motions for enlargement of time;

(B) motions made during hearing or trial;

(C) motions which may be heard ex parte; and

(D) motions described in subdivisions (5) and (6) below, together with supporting affidavits, if any.

(2) *Responses.* Except as otherwise provided in Rule 59(c), or unless the chancery court by order permits service at some other time, a party affected by the motion may serve a response, together with affidavits, if any, at least three days prior to the hearing on the motion or within 20 days after service of the motion, whichever is earlier.

(3) *Replies.* Unless the chancery court by order permits service at some other time, the moving party may serve a reply, if any, at least one day prior to the hearing on the motion or within 15 days after service of the response, whichever is earlier. Unless the chancery court otherwise orders, any party may serve supplemental memoranda or rebuttal affidavits at least one day prior to the hearing on the motion.

(4) *Request for Hearing.* A request for hearing may be served by the moving party or any party affected by the motion within 14 days after service of the motion. The chancery court may, in its discretion, determine such motions without a hearing. Any motion, under Rules 50(b) and (c)(2), 52(b), 59 and 60(b), not determined within 60 days after filing shall be deemed denied unless, within that period, the determination is continued by order of the court, which continuation may not exceed 30 days, at which time, if the motion has not been determined, it shall be deemed denied.

(5) *Protective Orders and Motions to Compel.* A party moving for a protective order under Rule 26(c) or to compel discovery under Rule 37(a) may request an immediate hearing thereon. An immediate hearing may be held if the chancery court finds that a delay in determining the motion will cause undue prejudice, expense or inconvenience.

(6) *Motions in Limine.* A motion relating to the exclusion of evidence may be filed at any time. Absent a request for hearing by a moving party or any party affected by the motion, the chancery court may, in its discretion, determine the motion without a hearing.

(d) Additional time after service by mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the party, and the notice or paper is served upon the party by mail or by delivery to the chancery court clerk for service, three days shall be added to the prescribed period, provided however, this rule shall not apply to service of process by registered or certified mail under Rule 4(r). No additional time shall be added if the party is served electronically through the chancery court's electronic filing system.

Rule 7. Pleadings Allowed; Form of Motions and other Papers.
(a) Pleadings. Only these pleadings are allowed:

(1) a complaint;

(2) an answer to a complaint;

(3) an answer to a counterclaim designated as a counterclaim;

(4) an answer to a crossclaim;

(5) a third-party complaint;

(6) an answer to a third-party complaint; and

(7) if the chancery court orders one, a reply to an answer.

(b) Motions and Other Papers.

(1) *In General.* A request for a chancery court order must be made by motion. The motion must:

(A) be in writing unless made during a hearing or trial;

(B) state with particularity the grounds for seeking the order; and

(C) state the relief sought.

(2) The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion. All motions filed pursuant to Rules 12 and 56 shall, and all other motions may, contain or be accompanied by a memorandum of points and authority.

(3) *Form.* The rules governing captions and other matters of form in pleadings apply to motions and other papers.

(4) All motions shall be signed in accordance with Rule 11.

(c) Demurrers, pleas, etc. abolished. Not applicable.

Rule 8. General Rules of Pleading.

(a) Claim for Relief. A pleading that states a claim for relief must contain:

(1) a short and plain statement of the grounds for the chancery court's jurisdiction, unless the chancery court already has jurisdiction and the claim needs no new jurisdictional support;

(2) a short and plain statement of the claim showing that the pleader is entitled to relief; and

(3) a demand for the relief sought, which may include relief in the alternative or different types of relief.

(b) Defenses; Admissions and Denials.

(1) *In General.* In responding to a pleading, a party must:

(A) state in short and plain terms its defenses to each claim asserted against it; and

(B) admit or deny the allegations asserted against it by an opposing party.

(2) *Denials--Responding to the Substance.* A denial must fairly respond to the substance of the allegation.

(3) *General and Specific Denials.* A party that intends in good faith to deny all the allegations of a pleading--including the jurisdictional grounds--may do so by a general denial subject to the obligations set forth in Rule 11. A party that does not intend to deny all the allegations must either specifically deny designated allegations or generally deny all except those

specifically admitted.

(4) *Denying Part of an Allegation.* A party that intends in good faith to deny only part of an allegation must admit the part that is true and deny the rest.

(5) *Lacking Knowledge or Information.* A party that lacks knowledge or information sufficient to form a belief about the truth of an allegation must so state, and the statement has the effect of a denial.

(6) *Effect of Failing to Deny.* An allegation--other than one relating to the amount of damages--is admitted if a responsive pleading is required and the allegation is not denied. If a responsive pleading is not required, an allegation is considered denied or avoided.

(c) Affirmative Defenses.

(1) *In General.* In responding to a pleading, a party must affirmatively state any avoidance or affirmative defense, including:

accord and satisfaction;
arbitration and award;
assumption of risk;
contributory negligence;
duress;
discharge in bankruptcy;
estoppel;
failure of consideration;
fraud;
illegality;
injury by fellow servant;
laches;
license;
payment;
release;
res judicata;
statute of frauds;
statute of limitations; and
waiver.

(2) *Mistaken Designation.* If a party mistakenly designates a defense as a counterclaim, or a counterclaim as a defense, the chancery court must, if justice requires, treat the pleading as though it were correctly designated, and may impose terms for doing so.

(d) Pleading to be Concise and Direct; Alternative Statements; Inconsistency.

(1) *In General.* Each allegation must be simple, concise, and direct. No technical form is required.

(2) *Alternative Statements of a Claim or Defense.* A party may set out two or more statements of a claim or defense alternatively or hypothetically, either in a single count or defense or in

separate ones. If a party makes alternative statements, the pleading is sufficient if any one of them is sufficient.

(3) *Inconsistent Claims or Defenses.* A party may state as many separate claims or defenses as it has, regardless of consistency.

(e) Construing Pleadings. Pleadings must be construed so as to do justice.

Rule 9. Pleading Special Matters.
(a) Capacity or Authority to Sue; Legal Existence.

(1) *In General.* Except when required to show that the chancery court has jurisdiction, a pleading need not allege:

(A) a party's capacity to sue or be sued;

(B) a party's authority to sue or be sued in a representative capacity; or

(C) the legal existence of an organized association of persons that is made a party.

(2) *Raising Those Issues.* To raise any of those issues, a party must do so by a specific denial, which must state any supporting facts that are peculiarly within the party's knowledge.

(b) Fraud or Mistake; Conditions of Mind. In alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake. Malice, intent, knowledge, and other conditions of a person's mind may be alleged generally.

(c) Conditions Precedent. In pleading conditions precedent, it suffices to allege generally that all conditions precedent have occurred or been performed. But when denying that a condition precedent has occurred or been performed, a party must do so with particularity.

(d) Official Document or Act. In pleading an official document or official act, it suffices to allege that the document was legally issued or the act legally done.

(e) Judgment. In pleading a judgment or decision of a domestic or foreign court, a judicial or quasi-judicial tribunal, or a board or officer, it suffices to plead the judgment or decision without showing jurisdiction to render it.

(f) Time and Place. An allegation of time or place is material when testing the sufficiency of a pleading.

(g) Special Damages. If an item of special damage is claimed, it must be specifically stated.

(h) Municipal ordinance. In pleading a municipal ordinance or a right derived therefrom, it shall be sufficient to refer to such ordinance by its title or other applicable designation and the name of the municipality which adopted the same.

Rule 10. Form of Pleadings.
(a) Caption; Names of Parties. Every pleading must have a caption with the court's name, a title,

a file number, and a Rule 7(a) designation. The title of the initial pleading must name all the parties; the title of other pleadings, after naming the first party on each side, may refer generally to other parties.

(b) Paragraphs; Separate Statements. A party must state its claims or defenses in numbered paragraphs, each limited as far as practicable to a single set of circumstances. A later pleading may refer by number to a paragraph in an earlier pleading. If doing so would promote clarity, each claim founded on a separate transaction or occurrence--and each defense other than a denial--must be stated in a separate count or defense.

(c) Adoption by Reference; Exhibits. A statement in a pleading may be adopted by reference elsewhere in the same pleading or in any other pleading or motion. A copy of a written instrument that is an exhibit to a pleading is a part of the pleading for all purposes.

(d) Paper Filing. If any document is required to be filed in paper form, it shall be on 8 ½ by 11 inch white paper, single-sided, unless (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 chancery court.

Rule 11. Signing Pleadings, Motions, and other Papers; Representations to the Chancery Court; Sanctions.

(a) Signature. Every pleading, written motion, and other paper must be signed by at least one attorney of record in the attorney's name--or by a party personally if the party is unrepresented. The paper must state the signer's address, e-mail address, telephone number, and attorney number, if any. Unless a rule or statute specifically states otherwise, a pleading need not be verified or accompanied by an affidavit. The chancery court must strike an unsigned paper unless the omission is promptly corrected after being called to the attorney's or party's attention.

(b) Representations to the Chancery Court. By presenting to the chancery court a pleading, written motion, or other paper--whether by signing, filing, submitting, or later advocating it--an attorney or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;

(2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;

(3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

(c) Sanctions.

(1) *In General.* If, after notice and a reasonable opportunity to respond, the chancery court determines that Rule 11(b) has been violated, the court may impose an appropriate sanction on any attorney, law firm, or party that violated the rule or is responsible for the violation. Absent exceptional circumstances, a law firm must be held jointly responsible for a violation committed by its partner, associate, or employee.

(2) *Motion for Sanctions.* A motion for sanctions must be made separately from any other motion and must describe the specific conduct that allegedly violates Rule 11(b). The motion must be served under Rule 5, but it must not be filed or be presented to the court if the challenged paper, claim, defense, contention, or denial is withdrawn or appropriately corrected within 14 days after service or within another time the chancery court sets. If warranted, the court may award to the prevailing party the reasonable expenses, including attorney's fees, incurred for the motion.

(3) *On the Chancery Court's Initiative.* On its own, the chancery court may order an attorney, law firm, or party to show cause why conduct specifically described in the order has not violated Rule 11(b).

(4) *Nature of a Sanction.* A sanction imposed under this rule must be limited to what suffices to deter repetition of the conduct or comparable conduct by others similarly situated. The sanction may include nonmonetary directives; an order to pay a penalty into court; or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of part or all of the reasonable attorney's fees and other expenses directly resulting from the violation.

(5) *Limitations on Monetary Sanctions.* The chancery court must not impose a monetary sanction:

(A) against a represented party for violating Rule 11(b)(2); or

(B) on its own, unless it issued the show-cause order under Rule 11(c)(3) before voluntary dismissal or settlement of the claims made by or against the party that is, or whose attorneys are, to be sanctioned.

(6) *Requirements for an Order.* An order imposing a sanction must describe the sanctioned conduct and explain the basis for the sanction.

(d) Inapplicability to Discovery. This rule does not apply to disclosures and discovery requests, responses, objections, and motions under Rules 26 through 37.

Rule 12. When and How Presented; Motion for Judgment on the Pleadings; Consolidating Motions; Waiving Defenses; Pretrial Hearing.
(a) Time to Serve a Responsive Pleading.

(1) *In General.* Unless another time is specified by this rule or a state statute, the time for serving a responsive pleading is as follows:

(A) A defendant must serve an answer:

(i) within 20 days after being served with the summons and initial pleading;

(ii) within 30 days after being served with the summons and initial pleading if service is made outside the State of Wyoming; or

(iii) within 30 days after the last day of publication.

Not Applicable.

(B) A party must serve an answer to a counterclaim or crossclaim within 20 days after being served with the pleading that states the counterclaim or crossclaim.

(C) A party must serve a reply to an answer within 20 days after being served with an order to reply, unless the order specifies a different time.

(2) *Effect of a Motion.* Unless the chancery court sets a different time, serving a motion under this rule alters these periods as follows:

(A) if the chancery court denies the motion or postpones its disposition until trial, the responsive pleading must be served within 14 days after notice of the chancery court's action; or

(B) if the chancery court grants a motion for a more definite statement, the responsive pleading must be served within 14 days after the more definite statement is served.

(b) How to Present Defenses. Every defense to a claim for relief in any pleading must be asserted in the responsive pleading if one is required. But a party may assert the following defenses by motion:

(1) lack of subject-matter jurisdiction;

(2) lack of personal jurisdiction;

(3) improper venue;

(4) insufficient process;

(5) insufficient service of process;

(6) failure to state a claim upon which relief can be granted; and

(7) failure to join a party under Rule 19.

A motion asserting any of these defenses must be made before pleading if a responsive pleading is allowed. If a pleading sets out a claim for relief that does not require a responsive pleading, an opposing party may assert at trial any defense to that claim. No defense or objection is waived by joining it with one or more other defenses or objections in a responsive pleading or in a motion.

(c) Motion for Judgment on the Pleadings. After the pleadings are closed--but early enough not to delay trial--a party may move for judgment on the pleadings.

(d) Result of Presenting Matters Outside the Pleadings. If, on a motion under Rule 12(b)(6) or 12(c), matters outside the pleadings are presented to and not excluded by the chancery court, the motion must be treated as one for summary judgment under Rule 56. All parties must be given a reasonable opportunity to present all the material that is pertinent to the motion.

(e) Motion for a More Definite Statement. A party may move for a more definite statement of a pleading to which a responsive pleading is allowed but which is so vague or ambiguous that the party cannot reasonably prepare a response. The motion must be made before filing a responsive pleading and must point out the defects complained of and the details desired. If the chancery court orders a more definite statement and the order is not obeyed within 10 days after notice of the order or within the time the chancery court sets, the chancery court may strike the pleading or issue any other appropriate order.

(f) Motion to Strike. The chancery court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter. The court may act:

(1) on its own; or

(2) on motion made by a party either before responding to the pleading or, if a response is not allowed, within 20 days after being served with the pleading.

(g) Joining Motions.

(1) *Right to Join.* A motion under this rule may be joined with any other motion allowed by this rule.

(2) *Limitation on Further Motions.* Except as provided in Rule 12(h)(2) or (3), a party that makes a motion under this rule must not make another motion under this rule raising a defense or objection that was available to the party but omitted from its earlier motion.

(h) Waiving and Preserving Certain Defenses.

(1) *When Some Are Waived.* A party waives any defense listed in Rule 12(b)(2)-(5) by:

(A) omitting it from a motion in the circumstances described in Rule 12(g)(2); or

(B) failing to either:

(i) make it by motion under this rule; or

(ii) include it in a responsive pleading or in an amendment allowed by Rule 15(a)(1) as a matter of course.

(2) *When to Raise Others.* Failure to state a claim upon which relief can be granted, to join a person required by Rule 19(b), or to state a legal defense to a claim may be raised:

(A) in any pleading allowed or ordered under Rule 7(a);

(B) by a motion under Rule 12(c); or

(C) at trial.

(3) *Lack of Subject-Matter Jurisdiction.* If the court determines at any time that it lacks subject-matter jurisdiction, the chancery court must dismiss the action.

(i) Decision Before Trial. If a party so moves, any defense listed in Rule 12(b)(1)-(7)--whether made in a pleading or by motion--and a motion under Rule 12(c) must be decided before trial unless the chancery court orders a deferral until trial.

Rule 13. Counterclaim and Crossclaim.
(a) Compulsory Counterclaim.

(1) *In General.* A pleading must state as a counterclaim any claim that--at the time of its service--the pleader has against an opposing party if the claim:

(A) arises out of the transaction or occurrence that is the subject matter of the opposing party's claim; and

(B) does not require adding another party over whom the court cannot acquire jurisdiction.

(2) *Exceptions.* The pleader need not state the claim if:

(A) when the action was commenced, the claim was the subject of another pending action; or

(B) the opposing party sued on its claim by attachment or other process that did not establish personal jurisdiction over the pleader on that claim, and the pleader does not assert any counterclaim under this rule.

(b) Permissive Counterclaim. A pleading may state as a counterclaim against an opposing party any claim that is not compulsory.

(c) Relief Sought in a Counterclaim. A counterclaim need not diminish or defeat the recovery sought by the opposing party. It may request relief that exceeds in amount or differs in kind from the relief sought by the opposing party.

(d) Counterclaim Against the State. These rules do not expand the right to assert a counterclaim--or to claim a credit--against the state or against a county, municipal corporation or other political subdivision, public corporation, or any officer or agency thereof.

(e) Counterclaim Maturing or Acquired After Pleading. The chancery court may permit a party to file a supplemental pleading asserting a counterclaim that matured or was acquired by the party after serving an earlier pleading.

(f) Omitted Counterclaim. When a pleader fails to set up a counterclaim through oversight, inadvertence, or excusable neglect, or when justice requires, the pleader may by leave of chancery court set up the counterclaim by amendment.

(g) Crossclaim Against a Coparty. A pleading may state as a crossclaim any claim by one party against a coparty if the claim arises out of the transaction or occurrence that is the subject matter of the original action or of a counterclaim, or if the claim relates to any property that is the subject

matter of the original action. The crossclaim may include a claim that the coparty is or may be liable to the crossclaimant for all or part of a claim asserted in the action against the crossclaimant.

(h) Joining Additional Parties. Rules 19 and 20 govern the addition of a person as a party to a counterclaim or crossclaim.

(i) Separate Trials; Separate Judgments. If the chancery court orders separate trials under Rule 42(b), it may enter judgment on a counterclaim or crossclaim under Rule 54(b) when it has jurisdiction to do so, even if the opposing party's claims have been dismissed or otherwise resolved.

Rule 14. Third-Party Practice.
(a) When a Defending Party may Bring in a Third Party.

(1) *Timing of the Summons and Complaint.* A defending party may, as third-party plaintiff, serve a summons and complaint on a nonparty who is or may be liable to it for all or part of the claim against it. But the third-party plaintiff must, by motion, obtain the chancery court's leave if it files the third-party complaint more than 14 days after serving its original answer.

(2) *Third-Party Defendant's Claims and Defenses.* The person served with the summons and third-party complaint--the "third-party defendant":

(A) must assert any defense against the third-party plaintiff's claim under Rule 12;

(B) must assert any counterclaim against the third-party plaintiff under Rule 13(a), and may assert any counterclaim against the third-party plaintiff under Rule 13(b) or any crossclaim against another third-party defendant under Rule 13(g);

(C) may assert against the plaintiff any defense that the third-party plaintiff has to the plaintiff's claim; and

(D) may also assert against the plaintiff any claim arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff.

(3) *Plaintiff's Claims Against a Third-Party Defendant.* The plaintiff may assert against the third-party defendant any claim arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff. The third-party defendant must then assert any defense under Rule 12 and any counterclaim under Rule 13(a), and may assert any counterclaim under Rule 13(b) or any crossclaim under Rule 13(g).

(4) *Motion to Strike, Sever, or Try Separately.* Any party may move to strike the third-party claim, to sever it, or to try it separately.

(5) *Third-Party Defendant's Claim Against a Nonparty.* A third-party defendant may proceed under this rule against a nonparty who is or may be liable to the third-party defendant for all or part of any claim against it.

(b) When a Plaintiff may Bring in a Third Party. When a claim is asserted against a plaintiff, the plaintiff may bring in a third party if this rule would allow a defendant to do so.

Rule 15. Amended and Supplemental Pleadings.

(a) Amendments Before Trial.

(1) *Amending as a Matter of Course.* A party may amend its pleading once as a matter of course within:

(A) 14 days after serving it, or

(B) if the pleading is one to which a responsive pleading is required, 14 days after service of a responsive pleading or 14 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

(2) *Other Amendments.* In all other cases, a party may amend its pleading only with the opposing party's written consent or the chancery court's leave. The chancery court should freely give leave when justice so requires.

(3) *Time to Respond.* Unless the chancery court orders otherwise, any required response to an amended pleading must be made within the time remaining to respond to the original pleading or within 14 days after service of the amended pleading, whichever is later.

(b) Amendments During and After Trial.

(1) *Based on an Objection at Trial.* If, at trial, a party objects that evidence is not within the issues raised in the pleadings, the chancery court may permit the pleadings to be amended. The chancery court should freely permit an amendment when doing so will aid in presenting the merits and the objecting party fails to satisfy the chancery court that the evidence would prejudice that party's action or defense on the merits. The chancery court may grant a continuance to enable the objecting party to meet the evidence.

(2) *For Issues Tried by Consent.* When an issue not raised by the pleadings is tried by the parties' express or implied consent, it must be treated in all respects as if raised in the pleadings. A party may move--at any time, even after judgment--to amend the pleadings to conform them to the evidence and to raise an unpleaded issue. But failure to amend does not affect the result of the trial of that issue.

(c) Relation Back of Amendments.

(1) *When an Amendment Relates Back.* An amendment to a pleading relates back to the date of the original pleading when:

(A) the law that provides the applicable statute of limitations allows relation back;

(B) the amendment asserts a claim or defense that arose out of the conduct, transaction, or occurrence set out--or attempted to be set out--in the original pleading; or

(C) the amendment changes the party or the naming of the party against whom a claim is asserted, if Rule 15(c)(1)(B) is satisfied and if, within the period provided by Rule 4(w) for serving the summons and initial pleading, the party to be brought in by amendment:

(i) received such notice of the action that it will not be prejudiced in defending on the merits; and

(ii) knew or should have known that the action would have been brought against it, but for a mistake concerning the proper party's identity.

(2) *Notice to the State.* When the State or a State officer or agency is added as a defendant by amendment, the notice requirements of Rule 15(c)(1)(C)(i) and (ii) are satisfied if, during the stated period, process was delivered or mailed to the Attorney General of the State or to the officer or agency.

(d) Supplemental Pleadings. On motion and reasonable notice, the chancery court may, on just terms, permit a party to serve a supplemental pleading setting out any transaction, occurrence, or event that happened after the date of the pleading to be supplemented. The chancery court may permit supplementation even though the original pleading is defective in stating a claim or defense. The chancery court may order that the opposing party plead to the supplemental pleading within a specified time.

Rule 16. Pretrial Conferences; Scheduling; Management.

(a) Purposes of a Pretrial Conference. In any action, the chancery court may order the attorneys and any unrepresented parties to appear for one or more pretrial conferences for such purposes as:

(1) expediting disposition of the action within one hundred fifty (150) days from the date of filing, as defined by Rule 3, if the judge determines at the judge's discretion this this timeframe is feasible;

(2) establishing early and continuing control so that the case will not be protracted because of lack of management;

(3) discouraging wasteful pretrial activities;

(4) improving the quality of the trial through more thorough preparation; and

(5) facilitating settlement.

(b) Scheduling.

(1) *Scheduling Order.* The judge, or a chancery court magistrate, shall, after consulting with the parties' attorneys and any unrepresented parties at a scheduling conference, telephone, mail or other suitable means, enter a scheduling order.

(2) *Time to Issue.* The judge must issue the scheduling order as soon as practicable, but unless the judge finds good cause for delay, the judge must issue it within the earlier of 14 days after any defendant has been served with the initial pleading or 10 days after any defendant has appeared.

(3) *Contents of the Order.*

(A) Required Contents. The scheduling order must limit the time to join other parties,

amend the pleadings, complete discovery, and file motions.

(B) Permitted Contents. The scheduling order may:

(i) modify the timing of disclosures under Rules 26(a) and 26(e)(1);

(ii) modify the extent of discovery;

(iii) provide for disclosure, discovery, or preservation of electronically stored information;

(iv) include any agreements the parties reach for asserting claims of privilege or of protection as trial-preparation material after information is produced;

(v) direct that before moving for an order relating to discovery, the movant must request a conference with the court;

(vi) set dates for pretrial conferences and for trial; and

(vii) include other appropriate matters.

(4) *Modifying a Schedule.* A schedule may be modified only for good cause and with the judge's consent.

(c) Attendance and Matters for Consideration at a Pretrial Conference.

(1) *Attendance.* A represented party must authorize at least one of its attorneys to make stipulations and admissions about all matters that can reasonably be anticipated for discussion at a pretrial conference. If appropriate, the chancery court may require that a party or its representative be present or reasonably available by other means to consider possible settlement.

(2) *Matters for Consideration.* At any pretrial conference, the chancery court may consider and take appropriate action on the following matters:

(A) formulating and simplifying the issues, and eliminating frivolous claims or defenses;

(B) amending the pleadings if necessary or desirable;

(C) obtaining admissions and stipulations about facts and documents to avoid unnecessary proof, and ruling in advance on the admissibility of evidence;

(D) avoiding unnecessary proof and cumulative evidence, and limiting the use of testimony under Wyoming Rule of Evidence 702;

(E) determining the appropriateness and timing of summary adjudication under Rule 56;

(F) controlling and scheduling discovery, including orders affecting disclosures and discovery under Rule 26 and Rules 29 through 37;

(G) identifying witnesses and documents, scheduling the filing and exchange of any pretrial briefs, and setting dates for further conferences and for trial;

(H) referring matters to a chancery court magistrate or master;

(I) settling the case and using special procedures to assist in resolving the dispute under Rule 40(b) or other alternative dispute resolution procedures;

(J) determining the form and content of the pretrial order;

(K) disposing of pending motions;

(L) adopting special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems;

(M) ordering a separate trial under Rule 42(b) of a claim, counterclaim, crossclaim, third-party claim, or particular issue;

(N) ordering the presentation of evidence early in the trial on a manageable issue that might, on the evidence, be the basis for a judgment as a matter of law under Rule 50(a) or a judgment on partial findings under Rule 52(c);

(O) establishing a reasonable limit on the time allowed to present evidence; and

(P) facilitating in other ways the just, speedy, and inexpensive disposition of the action.

(3) *Accelerated Adjudication Actions*. The parties by written consent may authorize the chancery court to apply the accelerated adjudication procedures set forth in this Rule.

(A) In any matter proceeding through the accelerated process, the court may deem the parties to have irrevocably waived;

i. any objections based on lack of personal jurisdiction or the doctrine of forum non conveniens;

ii. the right to recover punitive or exemplary damages; and

iii. the right to any interlocutory appeal.

(B) The right to discovery, except to such discovery as the parties might otherwise agree or as follows:

i. There shall be no more than seven (7) interrogatories and five (5) requests to admit;

ii. Absent a showing of good cause, there shall be no more than seven (7) discovery depositions per side with no deposition to exceed seven (7) hours in length. Such depositions can be done either in person at the location of the deponent, a party or their counsel or in real time by any electronic video device; and

iii. Documents requested by the parties shall be limited to those relevant to a claim or defense in the action and shall be restricted in terms of time frame, subject matter and persons, or entities to which the requests pertain.

(C) In any accelerated action, electronic discovery shall proceed as follows unless the parties agree otherwise:

i. the production of electronic documents shall normally be made in a searchable format that is usable by the party receiving the e-documents;

ii. the description of custodians from whom electronic documents may be collected shall be narrowly tailored to include only those individuals whose electronic documents may reasonably be expected to contain evidence that is material to the disputes;

iii. where the costs and burdens of e-discovery are disproportionate to the nature of the dispute or to the amount in controversy, or to the relevance of the materials requested, the court will either deny such requests or order disclosure on condition that the requesting party advance the reasonable cost of production to the other side, subject to the allocation of costs in the final judgment; and

iv. All discovery responses and documents produced by a party shall be delivered but not filed through the electronic filing system unless the chancery court orders otherwise or unless a response or document is incapable of delivery through the electronic filing system. If not delivered through the electronic filing system, the response or document must be delivered via an electronic sharing methodology as agreed upon or approved at the initial conference. All documents delivered as a means of document production shall contain a bates stamp number on each page, as directed by the chancery court at the initial conference.

(d) Pretrial Orders. After any conference under this rule, the chancery court shall issue an order reciting the action taken. This order controls the course of the action unless the chancery court modifies it.

(e) Final Pretrial Conference and Orders. The chancery court may hold a final pretrial conference to formulate a trial plan, including a plan to facilitate the admission of evidence. The conference must be held as close to the start of trial as is reasonable, and must be attended by at least one attorney who will conduct the trial for each party and by any unrepresented party. The chancery court may modify the order issued after a final pretrial conference only to prevent manifest injustice.

(f) Sanctions.

(1) *In General.* On motion or on its own, the chancery court may issue any just orders, including those authorized by Rule 37(b)(2)(A)(ii)-(vii), if a party or its attorney:

(A) fails to appear at a scheduling or other pretrial conference;

(B) is substantially unprepared to participate--or does not participate in good faith--in the conference; or

(C) fails to obey a scheduling or other pretrial order.

(2) *Imposing Fees and Costs.* Instead of or in addition to any other sanction, the chancery court must order the party, its attorney, or both to pay the reasonable expenses--including attorney's fees--incurred because of any noncompliance with this rule, unless the noncompliance was substantially justified or other circumstances make an award of expenses unjust.

Rule 17. Plaintiff and Defendant; Capacity; Public Officers.
(a) Real Party in Interest.

(1) *Designation in General.* An action must be prosecuted in the name of the real party in interest. The following may sue in their own names without joining the person for whose benefit the action is brought:

(A) an executor;

(B) an administrator;

(C) a guardian;

(D) a bailee;

(E) a trustee, trust protector, or trust advisor of a trust;

(F) a party with whom or in whose name a contract has been made for another's benefit; and

(G) a party authorized by statute.

(2) *Action in the Name of the United States for Another's Use or Benefit.* When a federal statute so provides, an action for another's use or benefit must be brought in the name of the United States.

(3) *Joinder of the Real Party in Interest.* The chancery court may not dismiss an action for failure to prosecute in the name of the real party in interest until, after an objection, a reasonable time has been allowed for the real party in interest to ratify, join, or be substituted into the action. After ratification, joinder, or substitution, the action proceeds as if it had been originally commenced by the real party in interest.

(b) Capacity to sue or be sued.

(1) The capacity of an individual, including one acting in a representative capacity, to sue or be sued, shall be determined by the law of this State.

(2) A married person may sue or be sued in all respects as if he or she were single.

(3) The capacity of a corporation to sue or be sued shall be determined by the law under which

it was organized, unless a statute of this State provides to the contrary.

(4) A partnership or other unincorporated association may sue or be sued in its common name.

(c) Minor or Incompetent Person.

(1) *With a Representative.* The following representatives may sue or defend on behalf of a minor or an incompetent person:

(A) a general guardian;

(B) a committee;

(C) a conservator; or

(D) a like fiduciary.

(2) *Without a Representative.* A minor or an incompetent person who does not have a duly appointed representative, or if such representative fails to act the minor or incompetent person may sue by a next friend or by a guardian ad litem. The chancery court must appoint a guardian ad litem--or issue another appropriate order--to protect a minor or incompetent person who is unrepresented in an action.

(d) Suing person by fictitious name. When the identity of a defendant is unknown, such defendant may be designated in any pleading or proceeding by any name and description, and when the true name is discovered the pleading or proceeding may be amended accordingly; and the plaintiff in such case must state in the complaint that the plaintiff could not discover the true name, and the summons must contain the words, "real name unknown", and a copy thereof must be served personally upon the defendant.

(e) Public Officer's Title and Name. A public officer who sues or is sued in an official capacity may be designated by official title rather than by name, but the chancery court may order that the officer's name be added.

Rule 18. Joinder of Claims.
(a) In General. A party asserting a claim, counterclaim, crossclaim, or third-party claim may join, as independent or alternative claims, as many claims as it has against an opposing party.

(b) Joinder of Contingent Claims. A party may join two claims even though one of them is contingent on the disposition of the other; but the chancery court may grant relief only in accordance with the parties' relative substantive rights. In particular, a plaintiff may state a claim for money and a claim to set aside a conveyance that is fraudulent as to that plaintiff, without first obtaining a judgment for the money.

Rule 19. Required Joinder of Parties.
(a) Persons Required to Be Joined if Feasible.

(1) *Required Party.* A person who is subject to service of process and whose joinder will not deprive the chancery court of subject-matter jurisdiction must be joined as a party if:

(A) in that person's absence, the court cannot accord complete relief among existing parties; or

(B) that person claims an interest relating to the subject of the action and is so situated that disposing of the action in the person's absence may:

(i) as a practical matter impair or impede the person's ability to protect the interest; or

(ii) leave an existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations because of the interest.

(2) *Joinder by Chancery Court Order.* If a person has not been joined as required, the chancery court must order that the person be made a party. A person who refuses to join as a plaintiff may be made either a defendant or, in a proper case, an involuntary plaintiff.

(3) *Venue.* If a joined party objects to venue and the joinder would make venue improper, the chancery court must dismiss that party.

(b) When Joinder Is Not Feasible. If a person who is required to be joined if feasible cannot be joined, the chancery court must determine whether, in equity and good conscience, the action should proceed among the existing parties or should be dismissed. The factors for the chancery court to consider include:

(1) the extent to which a judgment rendered in the person's absence might prejudice that person or the existing parties;

(2) the extent to which any prejudice could be lessened or avoided by:

(A) protective provisions in the judgment;

(B) shaping the relief; or

(C) other measures;

(3) whether a judgment rendered in the person's absence would be adequate; and

(4) whether the plaintiff would have an adequate remedy if the action were dismissed for nonjoinder.

(c) Pleading the Reasons for Nonjoinder. When asserting a claim for relief, a party must state:

(1) the name, if known, of any person who is required to be joined if feasible but is not joined; and

(2) the reasons for not joining that person.

(d) Exception for Class Actions. This rule is subject to Rule 23.

Rule 20. Permissive Joinder of Parties.

(a) Persons Who May Join or Be Joined.

(1) *Plaintiffs.* Persons may join in one action as plaintiffs if:

(A) they assert any right to relief jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and

(B) any question of law or fact common to all plaintiffs will arise in the action.

(2) *Defendants.* Persons may be joined in one action as defendants if:

(A) any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and

(B) any question of law or fact common to all defendants will arise in the action.

(3) *Extent of Relief.* Neither a plaintiff nor a defendant need be interested in obtaining or defending against all the relief demanded. The chancery court may grant judgment to one or more plaintiffs according to their rights, and against one or more defendants according to their liabilities.

(b) Protective Measures. The chancery court may issue orders--including an order for separate trials--to protect a party against embarrassment, delay, expense, or other prejudice that arises from including a person against whom the party asserts no claim and who asserts no claim against the party.

Rule 21. Misjoinder and Nonjoinder of Parties.

Misjoinder of parties is not a ground for dismissing an action. On motion or on its own, the chancery court may at any time, on just terms, add or drop a party. The chancery court may also sever any claim against a party.

Rule 22. Interpleader.

(a) Grounds.

(1) *By a Plaintiff.* Persons with claims that may expose a plaintiff to double or multiple liability may be joined as defendants and required to interplead. Joinder for interpleader is proper even though:

(A) the claims of the several claimants, or the titles on which their claims depend, lack a common origin or are adverse and independent rather than identical; or

(B) the plaintiff denies liability in whole or in part to any or all of the claimants.

(2) *By a Defendant.* A defendant exposed to similar liability may seek interpleader through a crossclaim or counterclaim.

(b) Relation to Other Rules. This rule supplements--and does not limit--the joinder of parties allowed by Rule 20.

Rule 23. Class Actions.

(a) Prerequisites. One or more members of a class may sue or be sued as representative parties on behalf of all members only if:

(1) the class is so numerous that joinder of all members is impracticable;

(2) there are questions of law or fact common to the class;

(3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and

(4) the representative parties will fairly and adequately protect the interests of the class.

(b) Types of Class Actions. A class action may be maintained if Rule 23(a) is satisfied and if:

(1) prosecuting separate actions by or against individual class members would create a risk of:

(A) inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for the party opposing the class; or

(B) adjudications with respect to individual class members that, as a practical matter, would be dispositive of the interests of the other members not parties to the individual adjudications or would substantially impair or impede their ability to protect their interests;

(2) the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole; or

(3) the chancery court finds that the questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy. The matters pertinent to these findings include:

(A) the class members' interests in individually controlling the prosecution or defense of separate actions;

(B) the extent and nature of any litigation concerning the controversy already begun by or against class members;

(C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and

(D) the likely difficulties in managing a class action.

(c) Certification Order; Notice to Class Members; Judgment; Issues Classes; Subclasses.

(1) *Certification Order.*

(A) Time to Issue. At an early practicable time after a person sues or is sued as a class representative, the chancery court must determine by order whether to certify the action

as a class action.

(B) Defining the Class; Appointing Class Counsel. An order that certifies a class action must define the class and the class claims, issues, or defenses, and must appoint class counsel under Rule 23(f).

(C) Altering or Amending the Order. An order that grants or denies class certification may be altered or amended before final judgment.

(2) *Notice.*

(A) For (b)(1) or (b)(2) Classes. For any class certified under Rule 23(b)(1) or (b)(2), the chancery court may direct appropriate notice to the class.

(B) For (b)(3) Classes. For any class certified under Rule 23(b)(3), the chancery court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice must clearly and concisely state in plain, easily understood language:

(i) the nature of the action;

(ii) the definition of the class certified;

(iii) the class claims, issues, or defenses;

(iv) that a class member may enter an appearance through an attorney if the member so desires;

(v) that the chancery court will exclude from the class any member who requests exclusion;

(vi) the time and manner for requesting exclusion; and

(vii) the binding effect of a class judgment on members under Rule 23(c)(3).

(3) *Judgment.* Whether or not favorable to the class, the judgment in a class action must:

(A) for any class certified under Rule 23(b)(1) or (b)(2), include and describe those whom the chancery court finds to be class members; and

(B) for any class certified under Rule 23(b)(3), include and specify or describe those to whom the Rule 23(c)(2) notice was directed, who have not requested exclusion, and whom the chancery court finds to be class members.

(4) *Particular Issues.* When appropriate, an action may be brought or maintained as a class action with respect to particular issues.

(5) *Subclasses.* When appropriate, a class may be divided into subclasses that are each treated as a class under this rule.

(d) Conducting the Action.

(1) *In General.* In conducting an action under this rule, the chancery court may issue orders that:

(A) determine the course of proceedings or prescribe measures to prevent undue repetition or complication in presenting evidence or argument;

(B) require--to protect class members and fairly conduct the action--giving appropriate notice to some or all class members of:

(i) any step in the action;

(ii) the proposed extent of the judgment; or

(iii) the members' opportunity to signify whether they consider the representation fair and adequate, to intervene and present claims or defenses, or to otherwise come into the action;

(C) impose conditions on the representative parties or on intervenors;

(D) require that the pleadings be amended to eliminate allegations about representation of absent persons and that the action proceed accordingly; or

(E) deal with similar procedural matters.

(2) *Combining and Amending Orders.* An order under Rule 23(d)(1) may be altered or amended from time to time and may be combined with an order under Rule 16.

(e) Settlement, Voluntary Dismissal, or Compromise. The claims, issues, or defenses of a certified class may be settled, voluntarily dismissed, or compromised only with the chancery court's approval. The following procedures apply to a proposed settlement, voluntary dismissal, or compromise:

(1) The chancery court must direct notice in a reasonable manner to all class members who would be bound by the proposal.

(2) If the proposal would bind class members, the chancery court may approve it only after a hearing and on finding that it is fair, reasonable, and adequate.

(3) The parties seeking approval must file a statement identifying any agreement made in connection with the proposal.

(4) If the class action was previously certified under Rule 23(b)(3), the court may refuse to approve a settlement unless it affords a new opportunity to request exclusion to individual class members who had an earlier opportunity to request exclusion but did not do so.

(5) Any class member may object to the proposal if it requires court approval under this subdivision (e); the objection may be withdrawn only with the court's approval.

(f) Class Counsel.

(1) *Appointing Class Counsel.* Unless a statute provides otherwise, a chancery court that

certifies a class must appoint class counsel. In appointing class counsel, the chancery court:

(A) must consider:

(i) the work counsel has done in identifying or investigating potential claims in the action;

(ii) counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action;

(iii) counsel's knowledge of the applicable law; and

(iv) the resources that counsel will commit to representing the class;

(B) may consider any other matter pertinent to counsel's ability to fairly and adequately represent the interests of the class;

(C) may order potential class counsel to provide information on any subject pertinent to the appointment and to propose terms for attorney's fees and nontaxable costs;

(D) may include in the appointing order provisions about the award of attorney's fees or nontaxable costs under Rule 23(g); and

(E) may make further orders in connection with the appointment.

(2) *Standard for Appointing Class Counsel.* When one applicant seeks appointment as class counsel, the chancery court may appoint that applicant only if the applicant is adequate under Rule 23(f)(1) and (4). If more than one adequate applicant seeks appointment, the chancery court must appoint the applicant best able to represent the interests of the class.

(3) *Interim Counsel.* The chancery court may designate interim counsel to act on behalf of a putative class before determining whether to certify the action as a class action.

(4) *Duty of Class Counsel.* Class counsel must fairly and adequately represent the interests of the class.

(g) Attorney's Fees and Nontaxable Costs. In a certified class action, the chancery court may award reasonable attorney's fees and nontaxable costs that are authorized by law or by the parties' agreement. The following procedures apply:

(1) A claim for an award must be made by motion under Rule 54(d)(2), subject to the provisions of this subdivision (h), at a time the chancery court sets. Notice of the motion must be served on all parties and, for motions by class counsel, directed to class members in a reasonable manner.

(2) A class member, or a party from whom payment is sought, may object to the motion.

(3) The chancery court may hold a hearing and must find the facts and state its legal conclusions under Rule 52(a).

(4) The chancery court may refer issues related to the amount of the award to a master, as

provided in Rule 54(d)(2)(D).

Rule 23.1. Derivative Actions.
(a) Prerequisites. This rule applies when one or more shareholders or members of a corporation or an unincorporated association bring a derivative action to enforce a right that the corporation or association may properly assert but has failed to enforce. The derivative action may not be maintained if it appears that the plaintiff does not fairly and adequately represent the interests of shareholders or members who are similarly situated in enforcing the right of the corporation or association.

(b) Pleading Requirements. The complaint must be verified and must:

(1) allege that the plaintiff was a shareholder or member at the time of the transaction complained of, or that the plaintiff's share or membership later devolved on it by operation of law;

(2) allege that the action is not a collusive one to confer jurisdiction that the chancery court would otherwise lack; and

(3) state with particularity:

(A) any effort by the plaintiff to obtain the desired action from the directors or comparable authority and, if necessary, from the shareholders or members; and

(B) the reasons for not obtaining the action or not making the effort.

(c) Settlement, Dismissal, and Compromise. A derivative action may be settled, voluntarily dismissed, or compromised only with the chancery court's approval. Notice of a proposed settlement, voluntary dismissal, or compromise must be given to shareholders or members in the manner that the chancery court orders.

Rule 23.2. Actions Relating to Unincorporated Associations.
This rule applies to an action brought by or against the members of an unincorporated association as a class by naming certain members as representative parties. The action may be maintained only if it appears that those parties will fairly and adequately protect the interests of the association and its members. In conducting the action, the chancery court may issue any appropriate orders corresponding with those in Rule 23(d), and the procedure for settlement, voluntary dismissal, or compromise must correspond with the procedure in Rule 23(e).

Rule 24. Intervention.
(a) Intervention of Right. On timely motion, the chancery court must permit anyone to intervene who:

(1) is given an unconditional right to intervene by statute; or

(2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

(b) Permissive Intervention.

(1) *In General.* On timely motion, the chancery court may permit anyone to intervene who:

(A) is given a conditional right to intervene by statute; or

(B) has a claim or defense that shares with the main action a common question of law or fact.

(2) *By a Government Officer or Agency.* On timely motion, the chancery court may permit a federal or state governmental officer or agency to intervene if a party's claim or defense is based on:

(A) a statute or executive order administered by the officer or agency; or

(B) any regulation, order, requirement, or agreement issued or made under the statute or executive order.

(3) *Delay or Prejudice.* In exercising its discretion, the chancery court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights.

(c) Notice and Pleading Required. A motion to intervene must be served on the parties as provided in Rule 5. The motion must state the grounds for intervention and be accompanied by a pleading that sets out the claim or defense for which intervention is sought.

Rule 25. Substitution of Parties.
(a) Death.

(1) *Substitution if the Claim Is Not Extinguished.* If a party dies and the claim is not extinguished, the chancery court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

(2) *Continuation Among the Remaining Parties.* After a party's death, if the right sought to be enforced survives only to or against the remaining parties, the action does not abate, but proceeds in favor of or against the remaining parties. The death should be noted on the record.

(3) *Service.* A motion to substitute, together with a notice of hearing, must be served on the parties as provided in Rule 5 and on nonparties as provided in Rule 4. A statement noting death must be served in the same manner.

(b) Incompetency. If a party becomes incompetent, the chancery court may, on motion, permit the action to be continued by or against the party's representative. The motion must be served as provided in Rule 25(a)(3).

(c) Transfer of Interest. If an interest is transferred, the action may be continued by or against the original party unless the chancery court, on motion, orders the transferee to be substituted in the action or joined with the original party. The motion must be served as provided in Rule 25(a)(3).

(d) Public Officers; Death or Separation from Office.

(1) An action does not abate when a public officer who is a party in an official capacity dies, resigns, or otherwise ceases to hold office while the action is pending. The officer's successor is automatically substituted as a party. Later proceedings should be in the substituted party's name, but any misnomer not affecting the parties' substantial rights must be disregarded.

(2) A public officer who sues or is sued in an official capacity may be described as a party by the officer's official title rather than by name; but the chancery court may require the officer's name to be added.

(e) Substitution at any stage. Substitution of parties under the provisions of this rule may be made, either before or after judgment, by the chancery court then having jurisdiction.

Rule 26. Duty to Disclose; General Provisions Governing Discovery.
(a) Required Disclosures.

(1) *Initial Disclosure.*

(A) In General. Except as exempted by Rule 26(a)(1)(B) or as otherwise stipulated or ordered by the chancery court, a party must, without awaiting a discovery request, provide to the other parties, but not file with the chancery court, unless otherwise ordered by the chancery court or required by other rule:

(i) the name and, if known, the address and telephone number of each individual likely to have discoverable information--along with the subjects of that information--that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment;

(ii) a copy--or a description by category and location--of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment;

(iii) a computation of each category of damages claimed by the disclosing party--who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered; and

(iv) for inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

(B) Proceedings Exempt from Initial Disclosure. The following proceedings are exempt from initial disclosure:

(i) a forfeiture action in rem arising from a Wyoming statute;

(ii) an action brought without an attorney by a person in the custody of the State, county, or other political subdivision of the State;

(iii) a proceeding ancillary to a proceeding in another court; and

(iv) an action to enforce an arbitration award.

(1.1) *Initial disclosures in divorce actions.* Not Applicable.

(1.2) *Initial disclosures in custody and support actions where the parties are not married.* Not Applicable.

(1.3) *Timing of disclosures; requirement to disclose.* Unless a different time is set by stipulation in writing or by chancery court order, these disclosures pursuant to 26(a)(1) shall be made within 30 days after a party's answer is required to be served under Rule 12(a) or as that period may be altered as described in Rule 12(a) by the party's service of a dispositive motion as described in Rule 12(b). Any party later served or otherwise joined must make these disclosures within 30 days after being served or joined unless a different time is set by stipulation in writing or by chancery court order. A party must make its initial disclosures based on the information then reasonably available to it. A party is not excused from making its disclosures because it has not fully investigated the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures.

(2) *Disclosure of Expert Testimony.*

(A) In addition to the disclosures required by paragraph (1), a party must disclose to the other parties the identity of any witness it may use at trial to present evidence under Wyoming Rule of Evidence 702, 703, or 705.

(B) Witnesses Who Must Provide a Written Report. Unless otherwise stipulated or ordered by the chancery court, if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony, this disclosure must be accompanied by a written report prepared and signed by the witness or a disclosure signed by counsel for the party. The report must contain:

(i) a complete statement of all opinions the witness will express and the basis and reasons for them;

(ii) the facts or data considered by the witness in forming them;

(iii) any exhibits that will be used to summarize or support them;

(iv) the witness's qualifications, including a list of all publications authored in the previous 10 years;

(v) a list of all other cases in which, during the previous four years, the witness testified as an expert at trial or by deposition; and

(vi) a statement of the compensation to be paid for the study and testimony in the case.

(C) Witnesses Who Do Not Provide a Written Report. Unless otherwise stipulated or ordered by the chancery court, if the witness is not required to provide a written report, this disclosure must state:

(i) the subject matter on which the witness is expected to present evidence under Wyoming Rule of Evidence 702, 703, or 705; and

(ii) a summary of the facts and opinions to which the witness is expected to testify.

(D) Time to Disclose Expert Testimony. A party must make these disclosures at the times and in the sequence that the chancery court orders. Absent a stipulation or a chancery court order, the disclosures must be made:

(i) at least 90 days before the date set for trial or for the case to be ready for trial; or

(ii) if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under Rule 26(a)(2)(B) or (C), within 30 days after the other party's disclosure.

(E) Supplementing the Disclosure. The parties must supplement these disclosures when required under Rule 26(e).

(3) *Pretrial Disclosures.*

(A) In General. In addition to the disclosures required by Rule 26(a)(1) and (2), a party must provide to the other parties and promptly file the following information about the evidence that it may present at trial other than solely for impeachment:

(i) the name and, if not previously provided, the address and telephone number of each witness--separately identifying those the party expects to present and those it may call if the need arises;

(ii) the designation of those witnesses whose testimony the party expects to present by deposition and, if not taken stenographically, a transcript of the pertinent parts of the deposition; and

(iii) an identification of each document or other exhibit, including summaries of other evidence--separately identifying those items the party expects to offer and those it may offer if the need arises.

(B) Time for Pretrial Disclosures; Objections. Unless the chancery court orders otherwise, these disclosures must be made at least 30 days before trial. Within 14 days after they are made, unless the chancery court sets a different time, a party may serve and promptly file a list of the following objections: any objections to the use under Rule 32(a) of a deposition designated by another party under Rule 26(a)(3)(A)(ii); and any objection, together with the grounds for it, that may be made to the admissibility of

materials identified under Rule 26(a)(3)(A)(iii). An objection not so made--except for one under Wyoming Rule of Evidence 402 or 403--is waived unless excused by the chancery court for good cause.

(4) *Form of Disclosures.* Unless the chancery court orders otherwise, all disclosures under Rule 26(a)(1), (2), or (3) must be in writing, signed, and served.

(b) Discovery Scope and Limits.

(1) *Scope in General.* Unless otherwise limited by chancery court order, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.

(2) *Limitations on Frequency and Extent.*

(A) When Permitted. By order, the court may alter the limits in these rules on the number of depositions and interrogatories or on the length of depositions under Rule 30. By order, the chancery court may also limit the number of requests under Rule 36.

(B) Specific Limitations on Electronically Stored Information. A party need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the party from whom discovery is sought must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the chancery court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(C) When Required. On motion or on its own, the court must limit the frequency or extent of discovery otherwise allowed by these rules or by the chancery court if it determines that:

(i) the discovery sought is unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive;

(ii) the party seeking discovery has had ample opportunity to obtain the information by discovery in the action; or

(iii) the proposed discovery is outside the scope permitted by Rule 26(b)(1).

(3) *Trial Preparation: Materials.*

(A) Documents and Tangible Things. Ordinarily, a party may not discover documents and tangible things that are prepared in anticipation of litigation or for trial by or for

another party or its representative (including the other party's attorney, consultant, surety, indemnitor, insurer, or agent). But, subject to Rule 26(b)(4), those materials may be discovered if:

(i) they are otherwise discoverable under Rule 26(b)(1); and

(ii) the party shows that it has substantial need for the materials to prepare its case and cannot, without undue hardship, obtain their substantial equivalent by other means.

(B) Protection Against Disclosure. If the chancery court orders discovery of those materials, it must protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of a party's attorney or other representative concerning the litigation.

(C) Previous Statement. Any party or other person may, on request and without the required showing, obtain the person's own previous statement about the action or its subject matter. If the request is refused, the person may move for a chancery court order, and Rule 37(a)(5) applies to the award of expenses. A previous statement is either:

(i) a written statement that the person has signed or otherwise adopted or approved; or

(ii) a contemporaneous stenographic, mechanical, electrical, or other recording--or a transcription of it--that recites substantially verbatim the person's oral statement.

(4) *Trial Preparation: Experts.*

(A) Deposition of an Expert Who May Testify. A party may depose any person who has been identified as an expert whose opinions may be presented at trial. If Rule 26(a)(2)(B) requires a report from the expert, the deposition may be conducted only after the report is provided.

(B) Trial-Preparation Protection for Draft Reports or Disclosures. Rules 26(b)(3)(A) and (B) protect drafts of any report or disclosure required under Rule 26(a)(2), regardless of the form in which the draft is recorded.

(C) Trial-Preparation Protection for Communications Between a Party's Attorney and Expert Witnesses. Rules 26(b)(3)(A) and (B) protect communications between the party's attorney and any witness required to provide a report under Rule 26(a)(2)(B), regardless of the form of the communications, except to the extent that the communications:

(i) relate to compensation for the expert's study or testimony;

(ii) identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed; or

(iii) identify assumptions that the party's attorney provided and that the expert

relied on in forming the opinions to be expressed.

(D) Expert Employed Only for Trial Preparation. Ordinarily, a party may not, by interrogatories or deposition, discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or to prepare for trial and who is not expected to be called as a witness at trial. But a party may do so only:

(i) as provided in Rule 35(b); or

(ii) on showing exceptional circumstances under which it is impracticable for the party to obtain facts or opinions on the same subject by other means.

(E) Payment. Unless manifest injustice would result, the chancery court must require that the party seeking discovery:

(i) pay the expert a reasonable fee for time spent in responding to discovery under Rule 26(b)(4)(A) or (D); and

(ii) for discovery under (D), also pay the other party a fair portion of the fees and expenses it reasonably incurred in obtaining the expert's facts and opinions.

(5) *Claiming Privilege or Protecting Trial-Preparation Materials.*

(A) Information Withheld. When a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, the party must:

(i) expressly make the claim; and

(ii) describe the nature of the documents, communications, or tangible things not produced or disclosed--and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.

(B) Information Produced. If information produced in discovery is subject to a claim of privilege or of protection as trial-preparation material, the party making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The producing party must preserve the information until the claim is resolved.

(c) Protective Orders.

(1) *In General.* A party or any person from whom discovery is sought may move for a protective order in the chancery court where the action is pending. The motion must include a certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without chancery court action. The chancery

court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(A) forbidding the disclosure or discovery;

(B) specifying terms, including time and place or the allocation of expenses, for the disclosure or discovery;

(C) prescribing a discovery method other than the one selected by the party seeking discovery;

(D) forbidding inquiry into certain matters, or limiting the scope of disclosure or discovery to certain matters;

(E) designating the persons who may be present while the discovery is conducted;

(F) requiring that a deposition be sealed and opened only on chancery court order;

(G) requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way; and

(H) requiring that the parties simultaneously file specified documents or information in sealed envelopes, to be opened as the chancery court directs.

(2) *Ordering Discovery.* If a motion for a protective order is wholly or partly denied, the chancery court may, on just terms, order that any party or person provide or permit discovery.

(3) *Awarding Expenses.* Rule 37(a)(5) applies to the award of expenses.

(d) Timing, Sequence of Discovery, and Electronic Delivery.

(1) *Timing.* Except in a proceeding exempted from initial disclosure under Rule 26(a)(1)(B), or when authorized by these rules, by stipulation, or by chancery court order, a party may not seek discovery from any source before the period for initial disclosures has expired and that party has provided the disclosures required under Rule 26(a)(1).

(2) *Sequence.* Unless the parties stipulate or the chancery court orders otherwise for the parties' and witnesses' convenience and in the interests of justice:

(A) methods of discovery may be used in any sequence; and

(B) discovery by one party does not require any other party to delay its discovery.

(3) *Electronic Delivery*. All discovery responses and documents produced by a party shall be delivered but not filed through the electronic filing system unless the chancery court orders otherwise or unless a response or document is incapable of delivery through the electronic filing system. If not delivered through the electronic filing system, the response or document must be delivered via an electronic sharing methodology as agreed upon or approved at the initial conference. All documents delivered as a means of document production shall contain a bates stamp number on each page, as directed by the chancery court at the initial conference.

(e) Supplementing Disclosures and Responses.

(1) *In General.* A party who has made a disclosure under Rule 26(a)--or who has responded to an interrogatory, request for production, or request for admission--must supplement or correct its disclosure or response:

(A) in a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing; or

(B) as ordered by the chancery court.

(2) *Expert Witness.* For an expert whose report must be disclosed under Rule 26(a)(2)(B), the party's duty to supplement extends both to information included in the report and to information given during the expert's deposition. Any additions or changes to this information must be disclosed by the time the party's pretrial disclosures under Rule 26(a)(3) are due.

(f) Discovery Conference. At any time after commencement of an action the chancery court may direct the attorneys for the parties to appear before it for a conference on the subject of discovery. The chancery court shall do so upon motion by the attorney for any party if the motion includes:

(1) a statement of the issues as they then appear;

(2) a proposed plan and schedule of discovery;

(3) any expansion or further limitation proposed to be placed on discovery;

(4) any other proposed orders with respect to discovery; and

(5) a statement showing that the attorney making the motion has made a reasonable effort to reach agreement with opposing attorneys on the matters set forth in the motion. Each party and each party's attorney are under a duty to participate in good faith in the framing of a discovery plan if a plan is proposed by the attorney for any party. Notice of the motion shall be served on all parties. Objections or additions to matters set forth in the motion shall be served not later than 14 days after service of the motion.

Following the discovery conference, the chancery court shall enter an order tentatively identifying the issues for discovery purposes, establishing a plan and schedule for discovery, setting limitations on discovery, if any; and determining such other matters, including the allocation of expenses, as are necessary for the proper management of discovery in the action. An order may be altered or amended whenever justice so requires.

Subject to the right of a party who properly moves for a discovery conference to prompt convening of the conference, the chancery court may combine the discovery conference with a pretrial conference authorized by Rule 16.

(g) Signing Disclosures and Discovery Requests, Responses, and Objections.

(1) *Signature Required; Effect of Signature.* Every disclosure under Rule 26(a)(1) or (3) and

every discovery request, response, or objection must be signed by at least one attorney of record in the attorney's own name--or by the party personally, if unrepresented-and must state the signer's address, email address, and telephone number. By signing, an attorney or party certifies that to the best of the person's knowledge, information, and belief formed after a reasonable inquiry:

(A) with respect to a disclosure, it is complete and correct as of the time it is made; and

(B) with respect to a discovery request, response, or objection, it is:

(i) consistent with these rules and warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law, or for establishing new law;

(ii) not interposed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and

(iii) neither unreasonable nor unduly burdensome or expensive, considering the needs of the case, prior discovery in the case, the amount in controversy, and the importance of the issues at stake in the action.

(2) *Failure to Sign.* Other parties have no duty to act on an unsigned disclosure, request, response, or objection until it is signed, and the chancery court must strike it unless a signature is promptly supplied after the omission is called to the attorney's or party's attention.

(3) *Sanction for Improper Certification.* If a certification violates this rule without substantial justification, the chancery court, on motion or on its own, must impose an appropriate sanction on the signer, the party on whose behalf the signer was acting, or both. The sanction may include an order to pay the reasonable expenses, including attorney's fees, caused by the violation.

Rule 27. Depositions to Perpetuate Testimony.
(a) Before an Action is Filed.

(1) *Petition.* A person who wants to perpetuate testimony about any matter cognizable in the chancery court may file a verified petition in the chancery court. The petition must ask for an order authorizing the petitioner to depose the named persons in order to perpetuate their testimony. The petition must be titled in the petitioner's name and must show:

(A) that the petitioner expects to be a party to an action cognizable in the chancery court of the state but cannot presently bring it or cause it to be brought;

(B) the subject matter of the expected action and the petitioner's interest;

(C) the facts that the petitioner wants to establish by the proposed testimony and the reasons to perpetuate it;

(D) the names or a description of the persons whom the petitioner expects to be adverse parties and their addresses, so far as known; and

(E) the name, address, and expected substance of the testimony of each deponent.

(2) *Notice and Service.* At least 20 days before the hearing date, the petitioner must serve each expected adverse party with a copy of the petition and a notice stating the time and place of the hearing. The notice may be served either inside or outside the state in the manner provided in Rule 4. If that service cannot be made with reasonable diligence on an expected adverse party, the chancery court may order service by publication or otherwise. The chancery court must appoint an attorney to represent persons not served in the manner provided in Rule 4 and to cross-examine the deponent if an unserved person is not otherwise represented. If any expected adverse party is a minor or is incompetent, Rule 17(c) applies.

(3) *Order and Examination.* If satisfied that perpetuating the testimony may prevent a failure or delay of justice, the chancery court must issue an order that designates or describes the persons whose depositions may be taken, specifies the subject matter of the examinations, and states whether the depositions will be taken orally or by written interrogatories. The depositions may then be taken under these rules, and the chancery court may issue orders like those authorized by Rules 34 and 35.

(4) *Using the Deposition.* A deposition to perpetuate testimony may be used under Rule 32(a) in any later-filed chancery court action involving the same subject matter if the deposition either was taken under these rules or, although not so taken, would be admissible in evidence in the courts of the state where it was taken.

(b) Pending Appeal.

(1) *In General.* The chancery court where a judgment has been rendered may, if an appeal has been taken or may still be taken, permit a party to depose witnesses to perpetuate their testimony for use in the event of further proceedings in that chancery court.

(2) *Motion.* The party who wants to perpetuate testimony may move for leave to take the depositions, on the same notice and service as if the action were pending in the chancery court. The motion must show:

(A) the name, address, and expected substance of the testimony of each deponent; and

(B) the reasons for perpetuating the testimony.

(3) *Chancery Court Order.* If the chancery court finds that perpetuating the testimony may prevent a failure or delay of justice, the chancery court may permit the depositions to be taken and may issue orders like those authorized by Rules 34 and 35. The depositions may be taken and used as any other deposition taken in a pending chancery court action.

(c) Perpetuation by an Action. This rule does not limit a chancery court's power to entertain an action to perpetuate testimony.

Rule 28. Persons Before whom Depositions may be Taken.

(a) Within the United States.

(1) *In General.* Within the United States or a territory or insular possession subject to United States jurisdiction, a deposition must be taken before:

(A) an officer authorized to administer oaths either by the laws of this state or of the United States or of the place of examination; or

(B) a person appointed by the chancery court where the action is pending to administer oaths and take testimony.

(2) *Definition of "Officer.*" The term "officer" in Rules 30, 31, and 32 includes a person appointed by the chancery court under this rule or designated by the parties under Rule 29(a).

(b) In a Foreign Country.

(1) *In General.* A deposition may be taken in a foreign country:

(A) under an applicable treaty or convention;

(B) under a letter of request, whether or not captioned a "letter rogatory";

(C) on notice, before a person authorized to administer oaths either by federal law or by the law in the place of examination; or

(D) before a person commissioned by the chancery court to administer any necessary oath and take testimony.

(2) *Issuing a Letter of Request or a Commission.* A letter of request, a commission, or both may be issued:

(A) on appropriate terms after an application and notice of it; and

(B) without a showing that taking the deposition in another manner is impracticable or inconvenient.

(3) *Form of a Request, Notice, or Commission.* When a letter of request or any other device is used according to a treaty or convention, it must be captioned in the form prescribed by that treaty or convention. A letter of request may be addressed "To the Appropriate Authority in [name of country]." A deposition notice or a commission must designate by name or descriptive title the person before whom the deposition is to be taken.

(4) *Letter of Request--Admitting Evidence.* Evidence obtained in response to a letter of request need not be excluded merely because it is not a verbatim transcript, because the testimony was not taken under oath, or because of any similar departure from the requirements for depositions taken within the United States.

(c) Interstate Depositions and Discovery.

(1) *Definitions*. For purposes of this rule:

(A) "foreign jurisdiction" means a state other than Wyoming;

(B) "foreign subpoena" means a subpoena issued under authority of a court of record of a foreign jurisdiction;

(C) “person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency or instrumentality, or any other legal or commercial entity;

(D) “state” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States; and

(E) “subpoena” means a document, however denominated, issued under authority of a court of record requiring a person to:

(i) attend and give testimony at a deposition;

(ii) produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person; or

(iii) permit inspection of premises under the control of the person.

(2) *Issuance of a Subpoena*.

(A) To request issuance of a subpoena under this section, a party must submit a foreign subpoena to a clerk of court in the county in which discovery is sought to be conducted in Wyoming. A request for issuance of a subpoena under this act does not constitute an appearance in the courts of this state.

(B) When a party submits a foreign subpoena to a clerk of court in this state, the clerk, in accordance with that court's procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.

(C) A subpoena under paragraph (B) must:

(i) incorporate the terms used in the foreign subpoena; and

(ii) contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

(3) *Service of a Subpoena*. A subpoena issued by a clerk of court under paragraph (c)(2) of this rule must be served in compliance with Rule 45.

(4) *Deposition, Production, and Inspection*. Rules 30, 31, 34, and 45 apply to subpoenas issued under subparagraph (c)(2) of this rule.

(5) *Application to Court*. An application to the court for a protective order or to enforce, quash, or modify a subpoena issued by a clerk of court under paragraph (c)(2) of this rule must comply with the rules or statutes of this state and be submitted to the court for the county in which discovery is to be conducted.

(d) Disqualification. A deposition must not be taken before a person who is any party's relative, employee, or attorney; who is related to or employed by any party's attorney; or who is financially interested in the action.

Rule 29. Stipulations about Discovery Procedure.
Unless the chancery court orders otherwise, the parties may stipulate that:

(a) a deposition may be taken before any person, at any time or place, on any notice, and in the manner specified--in which event it may be used in the same way as any other deposition; and

(b) other procedures governing or limiting discovery be modified--but a stipulation extending the time for any form of discovery must have chancery court approval if it would interfere with the time set for completing discovery, for hearing a motion, or for trial.

Rule 30. Depositions by Oral Examination.
(a) When a Deposition May Be Taken.

(1) *Without Leave.* A party may, by oral questions, depose any person, including a party, without leave of chancery court except as provided in Rule 30(a)(2). The deponent's attendance may be compelled by subpoena under Rule 45.

(2) *With Leave.* A party must obtain leave of chancery court, and the chancery court must grant leave to the extent consistent with Rule 26(b)(1) and (2):

(A) if the parties have not stipulated to the deposition and:

(i) the deposition would result in more than 10 depositions being taken under this rule or Rule 31 by the plaintiffs, or by the defendants, or by the third-party defendants;

(ii) the deponent has already been deposed in the case; or

(iii) the party seeks to take the deposition before the time specified in Rule 26(d), unless the party certifies in the notice, with supporting facts, that the deponent is expected to leave the State of Wyoming and be unavailable for examination in this State after that time; or

(B) if the deponent is confined in prison.

(b) Notice of the Deposition; Other Formal Requirements.

(1) *Notice in General.* A party who wants to depose a person by oral questions must give reasonable written notice to every other party. The notice must state the time and place of the deposition and, if known, the deponent's name and address. If the name is unknown, the notice must provide a general description sufficient to identify the person or the particular class or

group to which the person belongs.

(2) *Producing Documents.* If a subpoena duces tecum is to be served on the deponent, the materials designated for production, as set out in the subpoena, must be listed in the notice or in an attachment. The notice to a party deponent may be accompanied by a request under Rule 34 to produce documents and tangible things at the deposition.

(3) *Method of Recording.*

(A) Method Stated in the Notice. The party who notices the deposition must state in the notice the method for recording the testimony. Unless the chancery court orders otherwise, testimony may be recorded by audio, audiovisual, or stenographic means. The noticing party bears the recording costs. Any party may arrange to transcribe a deposition.

(B) Additional Method. With prior notice to the deponent and other parties, any party may designate another method for recording the testimony in addition to that specified in the original notice. That party bears the expense of the additional record or transcript unless the chancery court orders otherwise.

(4) *By Remote Means.* The parties may stipulate--or the chancery court may on motion order--that a deposition be taken by telephone or other remote means. For the purpose of this rule and Rules 28(a), 37(a)(2), and 37(b)(1), the deposition takes place where the deponent answers the questions.

(5) *Officer's Duties.*

(A) Before the Deposition. Unless the parties stipulate otherwise, a deposition must be conducted before an officer appointed or designated under Rule 28. The officer must begin the deposition with an on-the-record statement that includes:

(i) the officer's name and business address;

(ii) the date, time, and place of the deposition;

(iii) the deponent's name;

(iv) the officer's administration of the oath or affirmation to the deponent; and

(v) the identity of all persons present.

(B) Conducting the Deposition; Avoiding Distortion. If the deposition is recorded nonstenographically, the officer must repeat the items in Rule 30(b)(5)(A)(i)-(iii) at the beginning of each unit of the recording medium. The deponent's and attorneys' appearance or demeanor must not be distorted through recording techniques.

(C) After the Deposition. At the end of a deposition, the officer must state on the record that the deposition is complete and must set out any stipulations made by the attorneys about custody of the transcript or recording and of the exhibits, or about any other pertinent matters.

(6) *Notice or Subpoena Directed to an Organization.* In its notice or subpoena, a party may name as the deponent a public or private corporation, a partnership, an association, a governmental agency, or other entity and must describe with reasonable particularity the matters for examination. The named organization must then designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on its behalf; and it may set out the matters on which each person designated will testify. A subpoena must advise a nonparty organization of its duty to make this designation. The persons designated must testify about information known or reasonably available to the organization. This paragraph (6) does not preclude a deposition by any other procedure allowed by these rules.

(c) Examination and Cross-Examination; Record of the Examination; Objections; Written Questions.

(1) *Examination and Cross-Examination.* The examination and cross-examination of a deponent proceed as they would at trial under the Wyoming Rules of Evidence, except Rules 103 and 615. After putting the deponent under oath or affirmation, the officer must record the testimony by the method designated under Rule 30(b)(3)(A). The testimony must be recorded by the officer personally or by a person acting in the presence and under the direction of the officer.

(2) *Objections.* An objection at the time of the examination--whether to evidence, to a party's conduct, to the officer's qualifications, to the manner of taking the deposition, or to any other aspect of the deposition--must be noted on the record, but the examination still proceeds; the testimony is taken subject to any objection. An objection must be stated concisely in a nonargumentative and nonsuggestive manner. A person may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation ordered by the court, or to present a motion under Rule 30(d)(3).

(3) *Participating Through Written Questions.* Instead of participating in the oral examination, a party may serve written questions in a sealed envelope on the party noticing the deposition, who must deliver them to the officer. The officer must ask the deponent those questions and record the answers verbatim.

(d) Duration; Sanction; Motion to Terminate or Limit.

(1) *Duration.* Unless otherwise stipulated or ordered by the chancery court, a deposition is limited to one day of seven hours. The chancery court must allow additional time consistent with Rule 26(b)(1) and (2) if needed to fairly examine the deponent or if the deponent, another person, or any other circumstance impedes or delays the examination.

(2) *Sanction.* The chancery court may impose an appropriate sanction--including the reasonable expenses and attorney's fees incurred by any party--on a person who impedes, delays, or frustrates the fair examination of the deponent.

(3) *Motion to Terminate or Limit.*

(A) Grounds. At any time during a deposition, the deponent or a party may move to terminate or limit it on the ground that it is being conducted in bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses the deponent or party. The motion

may be filed in the court where the action is pending or the deposition is being taken. If the objecting deponent or party so demands, the deposition must be suspended for the time necessary to obtain an order.

(B) Order. The chancery court may order that the deposition be terminated or may limit its scope and manner as provided in Rule 26(c). If terminated, the deposition may be resumed only by order of the chancery court where the action is pending.

(C) Award of Expenses. Rule 37(a)(5) applies to the award of expenses.

(e) Review by the Witness; Changes.

(1) *Review; Statement of Changes.* On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) *Changes Indicated in the Officer's Certificate.* The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

(f) Certification and Delivery; Exhibits; Copies of the Transcript or Recording; Filing.

(1) *Certification and Delivery.* The officer must certify in writing that the witness was duly sworn and that the deposition accurately records the witness's testimony. The certificate must accompany the record of the deposition. Unless the chancery court orders otherwise, the officer must seal the deposition in an envelope or package bearing the title of the action and marked "Deposition of [witness's name]" and must promptly send it to the attorney who arranged for the transcript or recording. The attorney must store it under conditions that will protect it against loss, destruction, tampering, or deterioration.

(2) *Documents and Tangible Things.*

(A) Originals and Copies. Documents and tangible things produced for inspection during a deposition must, on a party's request, be marked for identification and attached to the deposition. Any party may inspect and copy them. But if the person who produced them wants to keep the originals, the person may:

(i) offer copies to be marked, attached to the deposition, and then used as originals--after giving all parties a fair opportunity to verify the copies by comparing them with the originals; or

(ii) give all parties a fair opportunity to inspect and copy the originals after they are marked--in which event the originals may be used as if attached to the deposition.

(B) Order Regarding the Originals. Any party may move for an order that the originals

be attached to the deposition pending final disposition of the case.

(3) *Copies of the Transcript or Recording.* Unless otherwise stipulated or ordered by the chancery court, the officer must retain the stenographic notes of a deposition taken stenographically or a copy of the recording of a deposition taken by another method. When paid reasonable charges, the officer must furnish a copy of the transcript or recording to any party or the deponent.

(4) *Notice of Filing.* A party who files the deposition must promptly notify all other parties of the filing.

(g) Failure to Attend a Deposition or Serve a Subpoena; Expenses. A party who, expecting a deposition to be taken, attends in person or by an attorney may recover reasonable expenses for attending, including attorney's fees, if the noticing party failed to:

(1) attend and proceed with the deposition; or

(2) serve a subpoena on a nonparty deponent, who consequently did not attend.

Rule 31. Depositions by Written Questions.
(a) When a Deposition May Be Taken.

(1) *Without Leave.* A party may, by written questions, depose any person, including a party, without leave of chancery court except as provided in Rule 31(a)(2). The deponent's attendance may be compelled by subpoena under Rule 45.

(2) *With Leave.* A party must obtain leave of chancery court, and the chancery court must grant leave to the extent consistent with Rule 26(b)(1) and (2):

(A) if the parties have not stipulated to the deposition and:

(i) the deposition would result in more than 10 depositions being taken under this rule or Rule 30 by the plaintiffs, or by the defendants, or by the third-party defendants;

(ii) the deponent has already been deposed in the case; or

(iii) the party seeks to take a deposition before the time specified in Rule 26(d); or

(B) if the deponent is confined in prison.

(3) *Service; Required Notice.* A party who wants to depose a person by written questions must serve them on every other party, with a notice stating, if known, the deponent's name and address. If the name is unknown, the notice must provide a general description sufficient to identify the person or the particular class or group to which the person belongs. The notice must also state the name or descriptive title and the address of the officer before whom the deposition will be taken.

(4) *Questions Directed to an Organization.* A public or private corporation, a partnership, an association, or a governmental agency may be deposed by written questions in accordance

with Rule 30(b)(6).

(5) *Questions from Other Parties.* Any questions to the deponent from other parties must be served on all parties as follows: cross-questions, within 14 days after being served with the notice and direct questions; redirect questions, within seven days after being served with cross-questions; and recross-questions, within seven days after being served with redirect questions. The court may, for good cause, extend or shorten these times.

(b) Delivery to the Officer; Officer's Duties. The party who noticed the deposition must deliver to the officer a copy of all the questions served and of the notice. The officer must promptly proceed in the manner provided in Rule 30(c), (e), and (f) to:

(1) take the deponent's testimony in response to the questions;

(2) prepare and certify the deposition; and

(3) send it to the party, attaching a copy of the questions and of the notice.

(c) Notice of Completion or Filing.

(1) *Completion.* The party who noticed the deposition must notify all other parties when it is completed.

(2) *Filing.* A party who files the deposition must promptly notify all other parties of the filing.

Rule 32. Using Depositions in Court Proceedings.
(a) Using Depositions.

(1) *In General.* At a hearing or trial, all or part of a deposition may be used against a party on these conditions:

(A) the party was present or represented at the taking of the deposition or had reasonable notice of it;

(B) it is used to the extent it would be admissible under the Wyoming Rules of Evidence if the deponent were present and testifying; and

(C) the use is allowed by Rule 32(a)(2) through (8).

(2) *Impeachment and Other Uses.* Any party may use a deposition to contradict or impeach the testimony given by the deponent as a witness, or for any other purpose allowed by the Wyoming Rules of Evidence.

(3) *Deposition of Party, Agent, or Designee.* An adverse party may use for any purpose the deposition of a party or anyone who, when deposed, was the party's officer, director, managing agent, or designee under Rule 30(b)(6) or 31(a)(4).

(4) *Unavailable Witness.* A party may use for any purpose the deposition of a witness, whether or not a party, if the court finds:

(A) that the witness is dead;

(B) that the witness is absent from the state, unless it appears that the witness's absence was procured by the party offering the deposition;

(C) that the witness cannot attend or testify because of age, illness, infirmity, or imprisonment;

(D) that the party offering the deposition could not procure the witness's attendance by subpoena; or

(E) on motion and notice, that exceptional circumstances make it desirable--in the interest of justice and with due regard to the importance of live testimony in open court--to permit the deposition to be used.

(5) *Limitations on Use.*

(A) Deposition Taken on Short Notice. A deposition must not be used against a party who, having received less than 14 days' notice of the deposition, promptly moved for a protective order under Rule 26(c)(1)(B) requesting that it not be taken or be taken at a different time or place--and this motion was still pending when the deposition was taken.

(B) Unavailable Deponent; Party Could Not Obtain an Attorney. A deposition taken without leave of chancery court under the unavailability provision of Rule 30(a)(2)(A)(iii) must not be used against a party who shows that, when served with the notice, it could not, despite diligent efforts, obtain an attorney to represent it at the deposition.

(6) *Using Part of a Deposition.* If a party offers in evidence only part of a deposition, an adverse party may require the offeror to introduce other parts that in fairness should be considered with the part introduced, and any party may itself introduce any other parts.

(7) *Substituting a Party.* Substituting a party under Rule 25 does not affect the right to use a deposition previously taken.

(8) *Deposition Taken in an Earlier Action.* A deposition lawfully taken and, if required, filed in any federal or state court action may be used in a later action involving the same subject matter between the same parties, or their representatives or successors in interest, to the same extent as if taken in the later action. A deposition previously taken may also be used as allowed by the Wyoming Rules of Evidence.

(b) Objections to Admissibility. Subject to Rules 28(b) and 32(d)(3), an objection may be made at a hearing or trial to the admission of any deposition testimony that would be inadmissible if the witness were present and testifying.

(c) Form of Presentation. Unless the chancery court orders otherwise, a party must provide a transcript of any deposition testimony the party offers, but may provide the chancery court with the testimony in nontranscript form as well.

(d) Waiver of Objections.

(1) *To the Notice.* An objection to an error or irregularity in a deposition notice is waived unless promptly served in writing on the party giving the notice.

(2) *To the Officer's Qualification.* An objection based on disqualification of the officer before whom a deposition is to be taken is waived if not made:

(A) before the deposition begins; or

(B) promptly after the basis for disqualification becomes known or, with reasonable diligence, could have been known.

(3) *To the Taking of the Deposition.*

(A) Objection to Competence, Relevance, or Materiality. An objection to a deponent's competence--or to the competence, relevance, or materiality of testimony--is not waived by a failure to make the objection before or during the deposition, unless the ground for it might have been corrected at that time.

(B) Objection to an Error or Irregularity. An objection to an error or irregularity at an oral examination is waived if:

(i) it relates to the manner of taking the deposition, the form of a question or answer, the oath or affirmation, a party's conduct, or other matters that might have been corrected at that time; and

(ii) it is not timely made during the deposition.

(C) Objection to a Written Question. An objection to the form of a written question under Rule 31 is waived if not served in writing on the party submitting the question within the time for serving responsive questions or, if the question is a recross-question, within seven days after being served with it.

(4) *To Completing and Returning the Deposition.* An objection to how the officer transcribed the testimony--or prepared, signed, certified, sealed, endorsed, sent, or otherwise dealt with the deposition--is waived unless a motion to suppress is made promptly after the error or irregularity becomes known or, with reasonable diligence, could have been known.

Rule 33. Interrogatories to Parties.
(a) In General.

(1) *Number.* Unless otherwise stipulated or ordered by the chancery court, a party may serve on any other party no more than 25 written interrogatories, including all discrete subparts. Leave to serve additional interrogatories may be granted to the extent consistent with Rule 26(b)(1) and (2).

(2) *Scope.* An interrogatory may relate to any matter that may be inquired into under Rule 26(b). An interrogatory is not objectionable merely because it asks for an opinion or

contention that relates to fact or the application of law to fact, but the chancery court may order that the interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time.

(b) Answers and Objections.

(1) *Responding Party.* The interrogatories must be answered:

(A) by the party to whom they are directed; or

(B) if that party is a public or private corporation, a partnership, an association, or a governmental agency, by any officer or agent, who must furnish the information available to the party.

(2) *Time to Respond.* The responding party must serve its answers and any objections within 30 days after being served with the interrogatories. A shorter or longer time may be stipulated to under Rule 29 or be ordered by the chancery court.

(3) *Answering Each Interrogatory.* Each interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath.

(4) *Objections.* The grounds for objecting to an interrogatory must be stated with specificity. Any ground not stated in a timely objection is waived unless the chancery court, for good cause, excuses the failure.

(5) *Signature.* The person who makes the answers must sign them, and the attorney who objects must sign any objections.

(c) Use. An answer to an interrogatory may be used to the extent allowed by the Wyoming Rules of Evidence.

(d) Option to Produce Business Records. If the answer to an interrogatory may be determined by examining, auditing, compiling, abstracting, or summarizing a party's business records (including electronically stored information), and if the burden of deriving or ascertaining the answer will be substantially the same for either party, the responding party may answer by:

(1) specifying the records that must be reviewed, in sufficient detail to enable the interrogating party to locate and identify them as readily as the responding party could; and

(2) giving the interrogating party a reasonable opportunity to examine and audit the records and to make copies, compilations, abstracts, or summaries.

Rule 34. Producing Documents, Electronically Stored Information, and Tangible Things, or Entering onto Land for Inspection and other Purposes.

(a) In General. A party may serve on any other party a request within the scope of Rule 26(b):

(1) to produce and permit the requesting party or its representative to inspect, copy, test, or sample the following items in the responding party's possession, custody, or control:

(A) any designated documents or electronically stored information--including writings,

drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations--stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form; or

(B) any designated tangible things; or

(2) to permit entry onto designated land or other property possessed or controlled by the responding party, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

(b) Procedure.

(1) *Contents of the Request.* The request:

(A) must describe with reasonable particularity each item or category of items to be inspected;

(B) must specify a reasonable time, place, and manner for the inspection and for performing the related acts; and

(C) may specify the form or forms in which electronically stored information is to be produced.

(2) *Responses and Objections.*

(A) Time to Respond. The party to whom the request is directed must respond in writing within 30 days after being served. A shorter or longer time may be stipulated to under Rule 29 or be ordered by the chancery court.

(B) Responding to Each Item. For each item or category, the response must either state that inspection and related activities will be permitted as requested or state with specificity the grounds for objecting to the request, including the reasons. The responding party may state that it will produce copies of documents or of electronically stored information instead of permitting inspection. The production must then be completed no later than the time for inspection specified in the request or another reasonable time specified in the response.

(C) Objections. An objection must state whether any responsive materials are being withheld on the basis of that objection. An objection to part of a request must specify the part and permit inspection of the rest.

(D) Responding to a Request for Production of Electronically Stored Information. The response may state an objection to a requested form for producing electronically stored information. If the responding party objects to a requested form--or if no form was specified in the request--the party must state the form or forms it intends to use.

(E) Producing the Documents or Electronically Stored Information. Unless otherwise stipulated or ordered by the chancery court, these procedures apply to producing documents or electronically stored information:

(i) A party must produce documents as they are kept in the usual course of business or must organize and label them to correspond to the categories in the request;

(ii) If a request does not specify a form for producing electronically stored information, a party must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms; and

(iii) A party need not produce the same electronically stored information in more than one form.

(c) Nonparties. As provided in Rule 45, a nonparty may be compelled to produce documents and tangible things or to permit an inspection.

Rule 35. Physical and Mental Examinations.
(a) Order for an Examination.

(1) *In General.* The chancery court where the action is pending may order a party whose mental or physical condition--including blood group--is in controversy to submit to a physical or mental examination by a suitably licensed or certified examiner. The chancery court has the same authority to order a party to produce for examination a person who is in its custody or under its legal control.

(2) *Motion and Notice*; Contents of the Order. The order:

(A) may be made only on motion for good cause and on notice to all parties and the person to be examined; and

(B) must specify the time, place, manner, conditions, and scope of the examination, as well as the person or persons who will perform it.

(b) Examiner's Report.

(1) *Request by the Party or Person Examined.* The party who moved for the examination must, on request, deliver to the requester a copy of the examiner's report, together with like reports of all earlier examinations of the same condition. The request may be made by the party against whom the examination order was issued or by the person examined.

(2) *Contents.* The examiner's report must be in writing and must set out in detail the examiner's findings, including diagnoses, conclusions, and the results of any tests.

(3) *Request by the Moving Party.* After delivering the reports, the party who moved for the examination may request--and is entitled to receive--from the party against whom the examination order was issued like reports of all earlier or later examinations of the same condition. But those reports need not be delivered by the party with custody or control of the person examined if the party shows that it could not obtain them.

(4) *Waiver of Privilege.* By requesting and obtaining the examiner's report, or by deposing the examiner, the party examined waives any privilege it may have--in that action or any other action involving the same controversy--concerning testimony about all examinations of the same condition.

(5) *Failure to Deliver a Report.* The chancery court on motion may order--on just terms--that a party deliver the report of an examination. If the report is not provided, the court may exclude the examiner's testimony at trial.

(6) *Scope.* This subdivision (b) applies also to an examination made by the parties' agreement, unless the agreement states otherwise. This subdivision does not preclude obtaining an examiner's report or deposing an examiner under other rules.

Rule 36. Requests for Admission.
(a) Scope and Procedure.

(1) *Scope.* A party may serve on any other party a written request to admit, for purposes of the pending action only, the truth of any matters within the scope of Rule 26(b)(1) relating to:

(A) facts, the application of law to fact, or opinions about either; and

(B) the genuineness of any described documents.

(2) *Form; Copy of a Document.* Each matter must be separately stated. A request to admit the genuineness of a document must be accompanied by a copy of the document unless it is, or has been, otherwise furnished or made available for inspection and copying.

(3) *Time to Respond; Effect of Not Responding.* A matter is admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party or its attorney. A shorter or longer time for responding may be stipulated to under Rule 29 or be ordered by the chancery court.

(4) *Answer.* If a matter is not admitted, the answer must specifically deny it or state in detail why the answering party cannot truthfully admit or deny it. A denial must fairly respond to the substance of the matter; and when good faith requires that a party qualify an answer or deny only a part of a matter, the answer must specify the part admitted and qualify or deny the rest. The answering party may assert lack of knowledge or information as a reason for failing to admit or deny only if the party states that it has made reasonable inquiry and that the information it knows or can readily obtain is insufficient to enable it to admit or deny.

(5) *Objections.* The grounds for objecting to a request must be stated. A party must not object solely on the ground that the request presents a genuine issue for trial.

(6) *Motion Regarding the Sufficiency of an Answer or Objection.* The requesting party may move to determine the sufficiency of an answer or objection. Unless the chancery court finds an objection justified, it must order that an answer be served. On finding that an answer does not comply with this rule, the chancery court may order either that the matter is admitted or that an amended answer be served. The chancery court may defer its final decision until a pretrial conference or a specified time before trial. Rule 37(a)(5) applies to an award of expenses.

(b) Effect of an Admission; Withdrawing or Amending It. A matter admitted under this rule is conclusively established unless the chancery court, on motion, permits the admission to be

withdrawn or amended. Subject to Rule 16(e), the chancery court may permit withdrawal or amendment if it would promote the presentation of the merits of the action and if the chancery court is not persuaded that it would prejudice the requesting party in maintaining or defending the action on the merits. An admission under this rule is not an admission for any other purpose and cannot be used against the party in any other proceeding.

Rule 37. Failure to Make Disclosures or to Cooperate in Discovery; Sanctions.
(a) Motion for an Order Compelling Disclosure or Discovery.

(1) *In General.* Except as otherwise ordered, the court will not entertain any motions relating to discovery disputes unless counsel for the moving party has first conferred orally, in person or by telephone, and has made reasonable good faith efforts to resolve the dispute with opposing counsel. In the event that the parties cannot settle the discovery dispute on their own, then counsel shall jointly contact the chancery court judge's chambers for approval prior to filing any written discovery motion. The court will attempt to resolve as many disputes as possible in this informal manner. If the court determines that the issue requires the formal filing of a motion and briefing, the court will permit the parties to file a written motion. If the chancery court is satisfied with the party's compliance with this provision, permission may be granted to the parties to proceed as set forth below.

(2) *Appropriate Court.* A motion for an order to a party or a nonparty must be made in the chancery court where the action is pending.

(3) *Specific Motions.*

(A) To Compel Disclosure. If a party fails to make a disclosure required by Rule 26(a), any other party may move to compel disclosure and for appropriate sanctions.

(B) To Compel a Discovery Response. A party seeking discovery may move for an order compelling an answer, designation, production, or inspection. This motion may be made if:

(i) a deponent fails to answer a question asked under Rule 30 or 31;

(ii) a corporation or other entity fails to make a designation under Rule 30(b)(6) or 31(a)(4);

(iii) a party fails to answer an interrogatory submitted under Rule 33; or

(iv) a party fails to produce documents or fails to respond that inspection will be permitted--or fails to permit inspection--as requested under Rule 34.

(C) Related to a Deposition. When taking an oral deposition, the party asking a question may complete or adjourn the examination before moving for an order.

(4) *Evasive or Incomplete Disclosure, Answer, or Response.* For purposes of this subdivision (a), an evasive or incomplete disclosure, answer, or response must be treated as a failure to disclose, answer, or respond.

(5) *Payment of Expenses; Protective Orders.*

(A) If the Motion Is Granted (or Disclosure or Discovery Is Provided After Filing). If the motion is granted--or if the disclosure or requested discovery is provided after the motion was filed--the chancery court must, after giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees. But the chancery court must not order this payment if:

(i) the movant filed the motion before attempting in good faith to obtain the disclosure or discovery without chancery court action;

(ii) the opposing party's nondisclosure, response, or objection was substantially justified; or

(iii) other circumstances make an award of expenses unjust.

(B) If the Motion Is Denied. If the motion is denied, the chancery court may issue any protective order authorized under Rule 26(c) and must, after giving an opportunity to be heard, require the movant, the attorney filing the motion, or both to pay the party or deponent who opposed the motion its reasonable expenses incurred in opposing the motion, including attorney's fees. But the chancery court must not order this payment if the motion was substantially justified or other circumstances make an award of expenses unjust.

(C) If the Motion Is Granted in Part and Denied in Part. If the motion is granted in part and denied in part, the chancery court may issue any protective order authorized under Rule 26(c) and may, after giving an opportunity to be heard, apportion the reasonable expenses for the motion.

(b) Failure to Comply with Chancery Court Order.

(1) *Sanctions Sought in the District Where the Deposition Is Taken.* If the chancery court where the discovery is taken orders a deponent to be sworn or to answer a question and the deponent fails to obey, the failure may be treated as contempt of court. If a deposition-related motion is transferred to the court where the action is pending, and that court orders a deponent to be sworn or to answer a question and the deponent fails to obey, the failure may be treated as contempt of either the court where the discovery is taken or the court where the action is pending.

(2) *Sanctions Sought in Pending Action.*

(A) For Not Obeying a Discovery Order. If a party or a party's officer, director, or managing agent--or a witness designated under Rule 30(b)(6) or 31(a)(4)--fails to obey an order to provide or permit discovery, including an order under Rule 26(f), 35, or 37(a), the chancery court may issue further just orders. They may include the following:

(i) directing that the matters embraced in the order or other designated facts be taken as established for purposes of the action, as the prevailing party claims;

(ii) prohibiting the disobedient party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence;

(iii) striking pleadings in whole or in part;

(iv) staying further proceedings until the order is obeyed;

(v) dismissing the action or proceeding in whole or in part;

(vi) rendering a default judgment against the disobedient party; or

(vii) treating as contempt of chancery court the failure to obey any order except an order to submit to a physical or mental examination.

(B) For Not Producing a Person for Examination. If a party fails to comply with an order under Rule 35(a) requiring it to produce another person for examination, the chancery court may issue any of the orders listed in Rule 37(b)(2)(A)(i)-(vi), unless the disobedient party shows that it cannot produce the other person.

(C) Payment of Expenses. Instead of or in addition to the orders above, the chancery court must order the disobedient party, the attorney advising that party, or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the failure was substantially justified or other circumstances make an award of expenses unjust.

(c) Failure to Disclose, to Supplement an Earlier Response, or to Admit.

(1) *Failure to Disclose or Supplement.* If a party fails to provide information or identify a witness as required by Rule 26(a) or (e), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless. In addition to or instead of this sanction, the chancery court, on motion and after giving an opportunity to be heard:

(A) may order payment of the reasonable expenses, including attorney's fees, caused by the failure; and(B) may impose other appropriate sanctions, including any of the orders listed in Rule 37(b)(2)(A)(i)-(vi).

(2) *Failure to Admit.* If a party fails to admit what is requested under Rule 36 and if the requesting party later proves a document to be genuine or the matter true, the requesting party may move that the party who failed to admit pay the reasonable expenses, including attorney's fees, incurred in making that proof. The chancery court must so order unless:

(A) the request was held objectionable under Rule 36(a);

(B) the admission sought was of no substantial importance;

(C) the party failing to admit had a reasonable ground to believe that it might prevail on the matter; or

(D) there was other good reason for the failure to admit.

(d) Party's Failure to Attend Its Own Deposition, Serve Answers to Interrogatories, or Respond to a Request for Inspection.

(1) *In General.*

(A) Motion; Grounds for Sanctions. The court where the action is pending may, on motion, order sanctions if:

(i) a party or a party's officer, director, or managing agent--or a person designated under Rule 30(b)(6) or 31(a)(4)--fails, after being served with proper notice, to appear for that person's deposition; or

(ii) a party, after being properly served with interrogatories under Rule 33 or a request for inspection under Rule 34, fails to serve its answers, objections, or written response.

(B) Certification. A motion for sanctions for failing to answer or respond must include a certification that the movant has in good faith conferred or attempted to confer with the party failing to act in an effort to obtain the answer or response without chancery court action.

(2) *Unacceptable Excuse for Failing to Act.* A failure described in Rule 37(d)(1)(A) is not excused on the ground that the discovery sought was objectionable, unless the party failing to act has a pending motion for a protective order under Rule 26(c).

(3) *Types of Sanctions.* Sanctions may include any of the orders listed in Rule 37(b)(2)(A)(i)-(vi). Instead of or in addition to these sanctions, the chancery court shall require the party failing to act, the attorney advising that party, or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the failure was substantially justified or other circumstances make an award of expenses unjust.

(e) Failure to Preserve Electronically Stored Information. If electronically stored information that should have been preserved in the anticipation or conduct of litigation is lost because a party failed to take reasonable steps to preserve it, and it cannot be restored or replaced through additional discovery, the chancery court:

(1) upon finding prejudice to another party from loss of the information, may order measures no greater than necessary to cure the prejudice; or

(2) only upon finding that the party acted with the intent to deprive another party of the information's use in the litigation may:

(A) presume that the lost information was unfavorable to the party; or

(B) dismiss the action or enter a default judgment.

(f) Failure to Participate in Framing a Discovery Plan. If a party or its attorney fails to participate in good faith in developing and submitting a proposed discovery plan as required by Rule 26(f), the chancery court may, after giving an opportunity to be heard, require that party or attorney to pay to any other party the reasonable expenses, including attorney's fees, caused by

the failure.

Rule 38. [Reserved]

Rule 39. Trial by the Chancery Court.
All matters in chancery court are to be tried by the chancery court.

Rule 40. Assignment for Trial or Alternative Dispute Resolution.
(a) Scheduling Actions for Trial. The chancery court shall place actions upon the trial calendar:

(1) without request of the parties; or

(2) upon request of a party and notice to the other parties; or

(3) in such other manner as the chancery court deems expedient.

(b) Limited Assignment for Alternative Dispute Resolution.

(1) *Assignment.* For the purpose of invoking nonbinding alternative dispute resolution methods:

(A) Chancery Court Assignment. The chancery court may, or at the request of any party, shall, assign the case to:

(i) another active judge,

(ii) a retired judge,

(iii) retired justice, or

(iv) other qualified person on limited assignment.

(B) By Agreement. By agreement, the parties may select the person to conduct the settlement conference or to serve as the mediator.

(i) If the parties are unable to agree, they may advise the chancery court of their recommendations, and

(ii) the chancery court shall then appoint a person to conduct the settlement conference or to serve as the mediator.

(2) *Alternative Dispute Resolution Procedure.* A settlement conference or mediation may be conducted in accordance with procedures prescribed by the person conducting the settlement conference or mediation. A mediation also may be conducted in accordance with the following recommended rules of procedure:

(A) Written Submissions. Prior to the session, the mediator may require confidential ex parte written submissions from each party. Those submissions should include:

(i) each party's honest assessment of the strengths and weaknesses of the case with regard to liability, damages, and other relief,

(ii) a history of all settlement offers and counteroffers in the case,

(iii) an honest statement from plaintiff's counsel of the minimum settlement authority that plaintiff's counsel has or is able to obtain, and

(iv) an honest statement from defense counsel of the maximum settlement authority that defense counsel has or is able to obtain.

(B) Authority to Settle. Prior to the session, a commitment must be obtained from the parties that their representatives at the session have full and complete authority to represent them and to settle the case. If any party's representative lacks settlement authority, the session should not proceed. The mediator may also require the presence at the session of the parties themselves.

(C) Conduct of Alternative Dispute Resolution.

(i) Commencement. The mediator may begin the session by stating the objective, which is to seek a workable resolution that is in the best interests of all involved and that is fair and acceptable to the parties. The parties should be informed of statutory provisions governing mediation, including provisions relating to confidentiality, privilege, and immunity.

(ii) Opening Statements. Each party or attorney may then make an opening statement stating the party's case in its best light, the issues involved, supporting law, prospects for success, and the party's evaluation of the case.

(iii) Responses. Each party or attorney may then respond to the other's presentation.

(iv) Conferences. From time to time, the parties and their attorneys may confer privately.

(v) Mediator's Role. The mediator may adjourn the session for short periods of time. After a full, open discussion, the mediator may summarize, identify the strong and weak points in each case, point out the risks of trial to each party, suggest a probable judgment range, and suggest a fair settlement of the case. This may be done in the presence of all parties or separately.

(vi) Settlement. If settlement results, it should promptly be reduced to a writing executed by the settling parties or recorded by other reliable means. The mediator may suggest to the parties such reasonable additions or requirements as may be appropriate or beneficial in a particular case.

(D) Fees and Costs. For those cases filed in chancery court and assigned for settlement conference or mediation:

(i) compensation for services shall be arranged by agreement between the parties and the person conducting the settlement conference or serving as the mediator, and

(ii) that person's statement shall be paid within 30 days of receipt by the parties.

(E) Other forms of Alternative Dispute Resolution. Nothing in this rule is intended to preclude the parties from agreeing to submit their dispute to other forms of alternative dispute resolution, including arbitration.

(F) Retained Jurisdiction. Assignment of a case to alternative dispute resolution shall not suspend any deadlines or cancel any hearings or trial. The chancery court retains jurisdiction for any and all purposes while the case is assigned to any alternative dispute resolution.

Rule 40.1. Transfer of Trial and Change of Judge.
(a) Transfer of Trial.

(1) *Time.* Any party may move to transfer trial within 15 days after the last pleading is filed.

(2) *Transfer.* The chancery court shall transfer the action to another county for trial if the chancery court is satisfied that the convenience of witnesses would be promoted thereby.

(3) *Hearing.* All parties shall have an opportunity to be heard at the hearing on the motion and any party may urge objections to any county.

(4) *Transfer.* If the motion is granted the chancery court shall order that the action be transferred to the most convenient county to which the objections of the parties do not apply or are the least applicable, whether or not such county is specified in the motion.

(5) *Additional Motions to Transfer.* After the first motion has been ruled upon, no party may move for transfer without permission of the chancery court.

(6) *Upon Transfer.* When a transfer is ordered the action shall continue in the county to which it is transferred as though it had been originally filed therein.

(7) The presiding judge may at any time upon the judge's own motion order a transfer of trial when it appears that the ends of justice would be promoted thereby.

(b) Change of Judge.

(1) *Peremptory Disqualification*. Not Applicable.

(2) *Disqualification for Cause.*

(A) Grounds. Whenever the grounds for such motion become known, any party may move for a change of chancery judge on the ground that the presiding judge

(i) has been engaged as counsel in the action prior to being appointed as judge,

(ii) is interested in the action,

(iii) is related by consanguinity to a party,

(iv) is a material witness in the action, or

(v) is biased or prejudiced against the party or the party's counsel.

(B) Motion, Affidavits and Counter-Affidavits. The motion shall be supported by an affidavit or affidavits of any person or persons, stating sufficient facts to show the existence of such grounds. Prior to a hearing on the motion any party may file counter-affidavits.

(C) Hearing. The motion shall be heard by the presiding judge, or at the discretion of the presiding judge by another judge. If the motion is granted, the presiding judge shall immediately call in another judge to try the action.

(3) *Effect of Ruling.* A ruling on a motion for a change of chancery judge shall not be an appealable order, but the ruling shall be entered on the docket and made a part of the record and may be assigned as error in an appeal of the case.

(4) *Motion by Judge.* The presiding judge may at any time on the judge's own motion order a change of judge when it appears that the ends of justice would be promoted thereby.

Rule 41. Dismissal of Actions.
(a) Voluntary Dismissal.

(1) *By the Plaintiff.*

(A) Without a Chancery Court Order. Subject to Rules 23(e), 23.1(c), 23.2, and 66 and any applicable statute, the plaintiff may dismiss an action without a court order by filing:

(i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or

(ii) a stipulation of dismissal signed by all parties who have appeared.

(B) Effect. Unless the notice or stipulation states otherwise, the dismissal is without prejudice. But if the plaintiff previously dismissed any federal or state court action based on or including the same claim, a notice of dismissal operates as an adjudication on the merits.

(2) *By Chancery Court Order; Effect.* Except as provided in Rule 41(a)(1), an action may be dismissed at the plaintiff's request only by chancery court order, on terms that the court considers proper. If a counterclaim was plead by a defendant prior to the service upon the defendant of the plaintiff's motion to dismiss, the counterclaim shall remain pending for independent adjudication by the chancery court to the extent permitted by the chancery court's subject matter jurisdiction. Unless otherwise specified in the order, a dismissal under this paragraph is without prejudice.

(b) Involuntary Dismissal; Effect.

(1) *By Defendant.* If the plaintiff fails to prosecute or to comply with these rules or a chancery

court order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order states otherwise, a dismissal under this subdivision (b) and any dismissal not under this rule--except one for lack of jurisdiction, improper venue, or failure to join a party under Rule 19--operates as an adjudication on the merits.

(2) *By the Chancery Court.* Upon its own motion, after reasonable notice to the parties, the chancery court may dismiss, without prejudice, any action not prosecuted or brought to trial with due diligence.

(c) Dismissing a Counterclaim, Crossclaim, or Third-Party Claim. This rule applies to a dismissal of any counterclaim, crossclaim, or third-party claim. A claimant's voluntary dismissal under Rule 41(a)(1)(A)(i) must be made:

(1) before a responsive pleading is served; or

(2) if there is no responsive pleading, before evidence is introduced at a hearing or trial.

(d) Costs of a Previously Dismissed Action. If a plaintiff who previously dismissed an action in any court files an action based on or including the same claim against the same defendant, the chancery court:

(1) may order the plaintiff to pay all or part of the costs of that previous action; and

(2) may stay the proceedings until the plaintiff has complied.

Rule 42. Consolidation; Separate Trials.
(a) Consolidation. If actions before the court involve a common question of law or fact, the chancery court may:

(1) join for hearing or trial any or all matters at issue in the actions;

(2) consolidate the actions; or

(3) issue any other orders to avoid unnecessary cost or delay.

(b) Separate Trials. For convenience, to avoid prejudice, or to expedite and economize, the chancery court may order a separate trial of one or more separate issues, claims, crossclaims, counterclaims, or third-party claims. When ordering a separate trial, the court must preserve any right to a jury trial.

Rule 43. Taking Testimony.
(a) In Open Court. At trial, the witnesses' testimony must be taken in open court unless these rules, a statute, the Wyoming Rules of Evidence, or other rules adopted by the Supreme Court of Wyoming provide otherwise. For good cause in compelling circumstances and with appropriate safeguards, the chancery court may permit testimony in open court by contemporaneous transmission from a different location.

(b) Affirmation Instead of an Oath. When these rules require an oath, a solemn affirmation suffices.

(c) Evidence on a Motion. When a motion relies on facts outside the record, the chancery court may hear the matter on affidavits or may hear it wholly or partly on oral testimony or on depositions.

(d) Interpreter. The chancery court may appoint an interpreter of its choosing; fix reasonable compensation to be paid from funds provided by law or by one or more parties; and tax the compensation as costs.

Rule 44. Determining Foreign Law.
A party who intends to raise an issue about a foreign country's law must give notice by a pleading or other writing. In determining foreign law, the chancery court may consider any relevant material or source, including testimony, whether or not submitted by a party or admissible under the Wyoming Rules of Evidence. The chancery court's determination must be treated as a ruling on a question of law.

Rule 45. Subpoena.
(a) In General.

(1) *Form and Contents.*

(A) Requirements--In General. Every subpoena must:

(i) state the court from which it issued;

(ii) state the title of the action and its civil action number;

(iii) command each person to whom it is directed to do the following at a specified time and place: attend and testify; produce and permit inspection, copying, testing, or sampling of designated documents, electronically stored information, or tangible things in that person's possession, custody, or control; or permit the inspection of premises; and

(iv) set out the text of Rule 45 (c), (d) and (e).

(v) A command to produce evidence or to permit inspection, copying, testing, or sampling may be joined with a command to appear at trial or hearing or at deposition, or may be issued separately. A subpoena may specify the form or forms in which electronically stored information is to be produced.

(2) A subpoena must issue as follows:

(A) Command to Attend Trial. For attendance at a trial or hearing, from the chancery court in which the action is pending;

(B) Command to Attend a Deposition. For attendance at a deposition, from the chancery court in which the action is pending, stating the method for recording the testimony; and

(C) Command to Produce. For production, inspection, copying, testing, or sampling, if separate from a subpoena commanding a person's attendance, from the chancery court

in which the action is pending.

(3) *Issued by Whom.* The chancery court clerk shall issue a subpoena, signed but otherwise in blank, to a party requesting it, who shall complete it before service. An attorney as officer of the chancery court may also issue and sign a subpoena on behalf of

(A) a court in which the attorney is authorized to practice; or

(B) a court for a district in which a deposition or production is compelled by the subpoena, if the deposition or production pertains to an action pending in a court in which the attorney is authorized to practice.

(4) *Notice to Other Parties Before Service.* If the subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, then before it is served, a notice must be served on each party.

(b) Service; place of attendance; notice before service.

(1) *By Whom and How; Fees.* A subpoena may be served by the sheriff, by a deputy sheriff, or by any other person who is not a party and is not a minor, at any place within the State of Wyoming. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and, if the person's attendance is commanded, by tendering to that person the fees for one day's attendance and the mileage allowed by law. The party subpoenaing any witness residing in a county other than that in which the action is pending shall pay to such witness, after the hearing or trial, the statutory per diem allowance for state employees for each day or part thereof necessarily spent by such witness in traveling to and from the court and in attendance at the hearing or trial.

(2) *Service in Another State or Territory*. A subpoena may be served in another state or territory of the United States as provided by the law of that state or territory.

(3) *Service in a Foreign Country*. A subpoena may be served in a foreign country as provided by the law of that country.

(4) *Proof of Service.* Proving service, when necessary, requires filing with the clerk of the chancery court by which the subpoena is issued, a statement of the date and manner of service and of the names of the persons served. The statement must be certified by the person who made the service.

(5) *Place of Compliance for Trial.* A subpoena for trial or hearing may require the person subpoenaed to appear at the trial or hearing irrespective of the person's place of residence, place of employment, or where such person regularly transacts business in person.

(6) *Place of Compliance for Deposition.* A person commended by subpoena to appear at a deposition may be required to attend only in the county wherein that person resides or is employed or regularly transacts business in person, or at such other convenient place as is fixed by an order of chancery court. A nonresident of the state may be required to attend only in the county wherein that nonresident is served with a subpoena or at such other convenient place as is fixed by an order of chancery court.

(c) Protecting a Person Subject to Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The chancery court shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) *Command to Produce Materials or Permit Inspection.*

(A) Appearance not Required. A person commanded to produce and permit inspection, copying, testing, or sampling of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless also commanded to appear for deposition, hearing or trial.

(B) Objections. Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection, copying, testing, or sampling may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to producing any or all of the designated materials or inspection of the premises--or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect, copy, test, or sample the materials or inspect the premises except pursuant to an order of the chancery court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production, inspection, copying, testing, or sampling. Such an order to compel shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection, copying, testing, or sampling commanded.

(3) *Quashing or Modifying a Subpoena.*

(A) When Required. On timely motion, the chancery court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel outside that person's county of residence or employment or a county where that person regularly transacts business in person except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel to attend trial.

The chancery court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the chancery court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) *Producing Documents or Electronically Stored Information.*

(A) Documents. A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) Form of Electronically Stored Information if Not Specified. If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(C) Electronically Stored Information Produced in Only One Form. A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the chancery court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The chancery court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) Making a Claim. When information or material subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the

claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) Information Produced. If information is produced in response to a subpoena that is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the chancery court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt. Failure of any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the chancery court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a nonparty to attend or produce at a place not within the limits provided by subparagraph (c)(3)(A)(ii).

Rule 46. Objecting to a Ruling or Order.

A formal exception to a ruling or order is unnecessary. When the ruling or order is requested or made, a party need only state the action that it wants the chancery court to take or objects to, along with the grounds for the request or objection. Failing to object does not prejudice a party who had no opportunity to do so when the ruling or order was made.

Rules 47 - 51. [Reserved]

Rule 52. Findings by the Chancery Court; Judgment on Partial Findings; Reserved Questions.

(a) General and Special Findings by Chancery Court.

(1) *Trials by the Chancery Court.* Upon the trial of questions of fact by the chancery court, it shall not be necessary for the chancery court to state its findings, except generally for the plaintiff or defendant. Findings of fact and conclusions of law are unnecessary on decisions of motions under Rule 12 or 56 or any other motion except as provided in Rule 52(c).

(A) Requests for Written Findings. If one of the parties requests it before the introduction of any evidence, with the view of excepting to the decision of the chancery court upon the questions of law involved in the trial, the chancery court shall state in writing its special findings of fact separately from its conclusions of law;

(B) Written Findings Absent Request. Without a request from the parties, the chancery court may make such special findings of fact and conclusions of law as it deems proper and if the same are preserved in the record either by stenographic report or by the court's written memorandum, the same may be considered on appeal. Requests for findings are not necessary for purposes of review.

(2) *Findings of a Master.* The findings of a master, to the extent that the court adopts them, shall be considered as the findings of the chancery court.

(b) Amendment or Additional Findings. On a party's motion filed no later than 28 days after entry of judgment; the chancery court may amend its findings--or make additional findings--and may amend the judgment accordingly. The motion may accompany a motion for a new trial under Rule 59. When special findings of fact are made, the sufficiency of the evidence supporting the findings may be later questioned whether or not in the court the party raising the question objected to the findings, moved to amend them, or moved for partial findings.

(c) Judgment on Partial Findings. If a party has been fully heard on an issue in a trial and the chancery court finds against the party on that issue, the chancery court may enter judgment as a matter of law against that party with respect to a claim or defense that cannot under the controlling law be maintained or defeated without a favorable finding on that issue, or the chancery court may decline to render any judgment until the close of all the evidence. The party against whom entry of such a judgment is considered shall be entitled to no special inference as a consequence of such consideration, and the chancery court may weigh the evidence and resolve conflicts. Such a judgment shall be supported by findings as provided in Rule 52(a).

(d) Reserved Questions.

(1) *In General.* In all cases in which a chancery court reserves an important and difficult constitutional question arising in an action or proceeding pending before it, the chancery court, before sending the question to the supreme court for decision, shall

(A) dispose of all necessary and controlling questions of fact and make special findings of fact thereon, and

(B) state its conclusions of law on all points of common law and of construction, interpretation and meaning of statutes and of all instruments necessary for a complete decision of the case.

(2) *Constitutional Questions.* No constitutional question shall be deemed to arise in an action unless, after all necessary special findings of fact and conclusions of law have been made by the chancery court, a decision on the constitutional question is necessary to the rendition of final judgment. The constitutional question reserved shall be specific and shall identify the constitutional provision to be interpreted. The special findings of fact and conclusions of law required by this subdivision of this rule shall be deemed to be a final order from which either party may appeal, and such appeal may be considered by the supreme court simultaneously with the reserved question.

Rule 53. Masters.
(a) Appointment and compensation.

(1) *Appointment.* The chancery court in which any action is pending may appoint a master therein. As used in these rules the word "master" includes, but is not limited to, a referee, an auditor, or an examiner.

(2) *Compensation.* The compensation to be allowed to a master shall be fixed by the chancery

court, and may be charged against one or more of the parties, paid out of any fund or subject matter of the action which is in the custody and control of the court, or as the chancery court may direct. The master shall not retain the master's report as security for the master's compensation; but when the party ordered to pay the compensation allowed by the chancery court does not pay it after notice and within the time prescribed by the chancery court, the master is entitled to a writ of execution against the delinquent party.

(b) Reference. A reference to a master shall be the exception and not the rule.

(c) Powers. The order of reference to the master may specify or limit the master's powers and may direct the master to report only upon particular issues or to do or perform particular acts or to receive and report evidence only and may fix the time and place for beginning and closing the hearings and for the filing of the master's report. Subject to the specifications and limitations stated in the order, the master has and shall exercise the power to regulate all proceedings in every hearing before the master and to do all acts and take all measures necessary or proper for the efficient performance of the master's duties under the order. The master may require the production before the master of evidence upon all matters embraced in the reference, including the production of all books, papers, vouchers, documents, and writings applicable thereto. The master may rule upon the admissibility of evidence unless otherwise directed by the order of reference and has the authority to put witnesses on oath and may examine them and may call the parties to the action and examine them upon oath. When a party so requests, the master shall make a record of the evidence received, offered and excluded in the same manner and subject to the same limitations as provided in the Wyoming Rules of Evidence for a court sitting without a jury.

(d) Proceedings.

(1) *Meetings.* When a reference is made, the chancery court clerk shall forthwith furnish the master with a copy of the order of reference.

(A) Time. Upon receipt thereof unless the order of reference otherwise provides, the master shall forthwith set a time and place for the first meeting of the parties or their attorneys to be held within 14 days after the date of the order of reference and shall notify the parties or their attorneys.

(B) Delay. It is the duty of the master to proceed with all reasonable diligence. Either party, on notice to the parties and master, may apply to the chancery court for an order requiring the master to speed the proceedings and to make the master's report.

(C) Appearance of Parties Required. If a party fails to appear at the time and place appointed, the master may proceed ex parte, or in the master's discretion, adjourn the proceedings to a future day, giving notice to the absent party of the adjournment.

(2) *Witnesses.* The parties may procure the attendance of witnesses before the master by the issuance and service of subpoenas as provided in Rule 45. If without adequate excuse a witness fails to appear or give evidence, the witness may be punished as for a contempt and be subjected to the consequences, penalties, and remedies provided in Rules 37 and 45.

(3) *Statement of Accounts.* When matters of accounting are in issue before the master, the master may prescribe the form in which the accounts shall be submitted and in any proper

case may require or receive in evidence a statement by a certified public accountant who is called as a witness. Upon objection of a party to any of the items thus submitted or upon a showing that the form of statement is insufficient, the master may require a different form of statement to be furnished, or the accounts or specific items thereof to be proved by oral examination of the accounting parties or upon written interrogatories or in such other manner as the master directs.

(e) Report.

(1) *Contents and Filing.* The master shall prepare a report upon the matters submitted to the master by the order of reference and, if required to make findings of fact and conclusions of law, the master shall set them forth in the report. The master shall file the report with the clerk of the chancery court and serve on all parties notice of the filing, pursuant to Rule 5. Unless otherwise directed by the order of reference, the master shall also serve a copy of the report on each party, pursuant to Rule 5.

(2) *Filing Master's Report.* Unless otherwise directed by the order of reference, the master shall file with the report a transcript of the proceedings and of the evidence and the original exhibits.

(A) Findings Accepted. The chancery court shall accept the master's findings of fact unless clearly erroneous.

(B) Objections. Within 14 days after being served with notice of the filing of the report any party may serve written objections thereto upon the other parties. Application to the chancery court for action upon the report and upon objections thereto shall be by motion and upon notice. The chancery court, after hearing, may adopt the report or may modify it or may reject it in whole or in part or may receive further evidence or may recommit it with instructions.

(3) *In Jury Actions.* Not Applicable.

(4) *Stipulation as to Findings.* The effect of a master's report is the same whether or not the parties have consented to the reference; but, when the parties stipulate that a master's findings of fact shall be final, only questions of law arising upon the report shall thereafter be considered.

(5) *Draft of Report.* Before filing the master's report, a master may submit a draft thereof to counsel for all parties for the purpose of receiving their suggestions.

Rule 54. Judgment; Costs.

(a) Definition; Form. "Judgment" as used in these rules includes a decree and any order from which an appeal lies. A judgment should not include recitals of pleadings, a master's report, or a record of prior proceedings. A court's decision letter or opinion letter, made or entered in writing, is not a judgment.

(b) Judgment on Multiple Claims or Involving Multiple Parties. When an action presents more than one claim for relief--whether as a claim, counterclaim, crossclaim, or third-party claim--or when multiple parties are involved, the chancery court may direct entry of a final judgment as to

one or more, but fewer than all, claims or parties only if the chancery court expressly determines that there is no just reason for delay. Otherwise, any order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities.

(c) Demand for Judgment; Relief to be Granted. A default judgment must not differ in kind from, or exceed in amount, what is demanded in the pleadings. Every other final judgment should grant the relief to which each party is entitled, even if the party has not demanded that relief in its pleadings.

(d) Costs; Attorney's Fees.

(1) *Costs Other Than Attorney's Fees.* Unless a statute, these rules, or a chancery court order provides otherwise, costs--other than attorney's fees--should be allowed to the prevailing party, when a motion for such costs is filed no later than 21 days after the entry of judgment. But costs against the State of Wyoming, its officers, and its agencies may be imposed only to the extent allowed by law.

(2) *Attorney's Fees.*

(A) Claim to Be by Motion. A claim for attorney's fees and allowable costs shall be made by motion unless the substantive law requires those fees to be proved at trial as an element of damages.

(B) Timing and Contents of the Motion. Unless a statute or a chancery court order provides otherwise, the motion must:

(i) be filed no later than 21 days after the entry of judgment;

(ii) specify the judgment and the statute, rule, or other grounds entitling the movant to the award;

(iii) state the amount sought or provide a fair estimate of it; and

(iv) disclose, if the chancery court so orders, the terms of any agreement about fees for the services for which the claim is made.

(C) Proceedings. Subject to Rule 23(g), the chancery court must, on a party's request, give an opportunity for adversary submissions on the motion in accordance with Rule 43(c) or 78. The chancery court may decide issues of liability for fees before receiving submissions on the value of services. The chancery court must find the facts and state its conclusions of law as provided in Rule 52(a).

(D) Special Procedures; Reference to a Master. The chancery court may establish special procedures to resolve fee-related issues without extensive evidentiary hearings. Also, the chancery court may refer issues concerning the value of services to a special master under Rule 53 without regard to the limitations of Rule 53(a)(1).

(E) Exceptions. Subparagraphs (A)-(D) do not apply to claims for fees and expenses as

sanctions for violating these rules.

(3) *Contents of the Motion.* Unless a statute or a chancery court order provides otherwise, any motion must:

(A) specify the judgment and the statute, rule, or other grounds entitling the movant to the award;

(B) state the amount sought or provide a fair estimate of it; and

(C) disclose, if the chancery court so orders, the terms of any agreement about fees for the services for which the claim is made.

Rule 55. Default; Default Judgment.

(a) Entering a Default. When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the chancery court clerk must enter the party's default.

(b) Entering a Default Judgment.

(1) *By the Clerk.* If the plaintiff's claim is for a sum certain or a sum that can be made certain by computation, the chancery court clerk--on the plaintiff's request, with an affidavit showing the amount due--must enter judgment for that amount and costs against a defendant who has been defaulted for not appearing and who is neither a minor nor an incompetent person.

(2) *By the Chancery Court.* In all other cases, the party must apply to the chancery court for a default judgment. A default judgment may be entered against a minor or incompetent person only if represented by a guardian, guardian ad litem, trustee, conservator, or other like fiduciary who has appeared. If the party against whom a default judgment is sought has appeared personally or by a representative, that party or its representative must be served with written notice of the application at least 7 days before the hearing. The chancery court may conduct hearings or make referrals when, to enter or effectuate judgment, it needs to:

(A) conduct an accounting;

(B) determine the amount of damages;

(C) establish the truth of any allegation by evidence; or

(D) investigate any other matter.

(c) Setting Aside a Default or a Default Judgment. The chancery court may set aside an entry of default for good cause, and it may set aside a final default judgment under Rule 60(b).

(d) Judgment Against State. A default judgment may be entered against the state, its officers, or its agencies only if the claimant establishes a claim or right to relief by evidence that satisfies the chancery court.

Rule 56. Summary Judgment.

(a) Motion for Summary Judgment or Partial Summary Judgment. A party may move for summary judgment, identifying each claim or defense--or the part of each claim or defense--on which summary judgment is sought. The chancery court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The chancery court should state on the record the reasons for granting or denying the motion.

(b) Time to File a Motion. Unless a different time is set by chancery court order otherwise, a party may file a motion for summary judgment at any time.

(c) Procedures.

(1) *Supporting Factual Positions.* A party asserting that a fact cannot be or is genuinely disputed must support the assertion by:

(A) citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials; or

(B) showing that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.

(2) *Objection That a Fact Is Not Supported by Admissible Evidence.* A party may object that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence.

(3) *Materials Not Cited.* The chancery court need consider only the cited materials, but it may consider other materials in the record.

(4) *Affidavits or Declarations.* An affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated.

(d) When Facts are Unavailable to the Nonmovant. If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the chancery court may:

(1) defer considering the motion or deny it;

(2) allow time to obtain affidavits or declarations or to take discovery; or

(3) issue any other appropriate order.

(e) Failing to Properly Support or Address a Fact. If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c), the chancery court may:

(1) give an opportunity to properly support or address the fact;

(2) consider the fact undisputed for purposes of the motion;

(3) grant summary judgment if the motion and supporting materials--including the facts considered undisputed--show that the movant is entitled to it; or

(4) issue any other appropriate order.

(f) Judgment Independent of the Motion. After giving notice and a reasonable time to respond, the chancery court may:

(1) grant summary judgment for a nonmovant;

(2) grant the motion on grounds not raised by a party; or

(3) consider summary judgment on its own after identifying for the parties material facts that may not be genuinely in dispute.

(g) Failing to Grant All the Requested Relief. If the chancery court does not grant all the relief requested by the motion, it may enter an order stating any material fact--including an item of damages or other relief--that is not genuinely in dispute and treating the fact as established in the case.

(h) Affidavit or Declaration Submitted in Bad Faith. If satisfied that an affidavit or declaration under this rule is submitted in bad faith or solely for delay, the chancery court--after notice and a reasonable time to respond--may order the submitting party to pay the other party the reasonable expenses, including attorney's fees, it incurred as a result. An offending party or attorney may also be held in contempt or subjected to other appropriate sanctions.

Rule 56.1. Summary Judgment--Required Statement of Material Facts.
(a) Upon any motion for summary judgment pursuant to Rule 56 of the Rules of Civil Procedure for the Chancery Court, in addition to the materials supporting the motion, there shall be annexed to the motion a separate, short and concise statement of the material facts as to which the moving party contends there is no genuine issue to be tried.

(b) In addition to the materials opposing a motion for summary judgment, there shall be annexed a separate, short and concise statement of material facts as to which it is contended that there exists a genuine issue to be tried.

(c) Such statements shall include pinpoint citations to the specific portions of the record and materials relied upon in support of the parties' position.

Rule 57. Declaratory Judgment.
These rules govern the procedure for obtaining a declaratory judgment pursuant to statute. The existence of another adequate remedy does not preclude a declaratory judgment that is otherwise appropriate. The chancery court may order a speedy hearing of a declaratory judgment action.

Rule 58. Entering Judgment.
(a) Presentation. Subject to the provisions of Rule 55(b) and unless otherwise ordered by the chancery court, if the parties are unable to agree on the form and content of a proposed judgment or order, it shall be presented to the chancery court and served upon the other parties within 14

days after the chancery court's decision is made known. Any objection to the form or content of a proposed judgment or order, together with an alternate form of judgment or order which cures the objection(s), shall be filed with the court and served upon the other parties within 5 days after service of the proposed judgment or order. If no written objection is timely filed, the chancery court may sign the judgment or order. If objection is timely filed, the chancery court will resolve the matter with or without a hearing.

(b) Form and Entry. Subject to the provisions of Rule 54(b), in all cases, the judge shall promptly settle or approve the form of the judgment or order and direct that it be entered by the chancery court clerk. Every judgment shall be set forth on a separate document, shall be identified as such, and may include findings of fact and conclusions of law. The names of all parties shall be set out in the caption of all final orders, judgments and decrees. All judgments must specify clearly the relief granted or order made in the action.

(c) Time of Entry. A judgment or final order shall be deemed to be entered whenever a form of such judgment or final order pursuant to these rules is signed and entered by the chancery court through the electronic filing system.

(d) Cost or Fee Awards. Ordinarily, the entry of judgment may not be delayed, nor the time for appeal extended, in order to tax costs or award fees. But if a timely motion for attorney's fees is made under Rule 54(d)(2), the chancery court may act before a notice of appeal has been filed and become effective to order that the motion have the same effect under Wyoming Rule of Appellate Procedure 2.02(a) as a timely motion under Rule 59.

Rule 59. New Trial; Altering or Amending a Judgment.
(a) In General.

(1) *Grounds for New Trial.* The chancery court may, on motion, grant a new trial on all or some of the issues, for any of the following causes:

(A) Irregularity in the proceedings of the chancery court, referee, master or prevailing party, or any order of the chancery court or referee, or abuse of discretion, by which the party was prevented from having a fair trial;

(B) Misconduct of the prevailing party;

(C) Accident or surprise, which ordinary prudence could not have guarded against;

(D) Excessive damages appearing to have been given under the influence of passion or prejudice;

(E) Error in the assessment of the amount of recovery, whether too large or too small;

(F) That the report or decision is not sustained by sufficient evidence or is contrary to law;

(G) Newly discovered evidence, material for the party applying, which the party could not, with reasonable diligence, have discovered and produced at the trial;

(H) Error of law occurring at the trial.

(2) *Further Action After a Trial.* After a trial, the chancery court may, on motion for a new trial, open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new ones, and direct the entry of a new judgment.

(b) Time to File a Motion for a New Trial. A motion for a new trial must be filed no later than 28 days after the entry of judgment.

(c) Time to Serve Affidavits. When a motion for a new trial is based on affidavits, they must be filed with the motion. The opposing party has 14 days after being served to file opposing affidavits, but that period may be extended for up to 21 days, either by the chancery court for good cause or by the parties' written stipulation. The chancery court may permit reply affidavits.

(d) New Trial on the Chancery Court's Initiative or for Reasons Not in the Motion. No later than 28 days after the entry of judgment, the chancery court, on its own, may order a new trial for any reason that would justify granting one on a party's motion. After giving the parties notice and an opportunity to be heard, the chancery court may grant a timely motion for a new trial for a reason not stated in the motion. In either event, the chancery court must specify the reasons in its order.

(e) Motion to Alter or Amend a Judgment. A motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment.

Rule 60. Relief from a Judgment or Order.

(a) Corrections Based on Clerical Mistakes; Oversights and Omissions. The chancery court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. The chancery court may do so on motion or on its own, with or without notice. But after an appeal has been docketed in the Supreme Court, and while it is pending, such a mistake may be corrected only with leave of the Supreme Court.

(b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just terms, the chancery court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect;

(2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);

(3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;

(4) the judgment is void;

(5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or

(6) any other reason that justifies relief.

(c) Timing and Effect of the Motion.

(1) *Timing.* A motion under Rule 60(b) must be made within a reasonable time--and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order or the date of the proceeding.

(2) *Effect on Finality.* The motion does not affect the judgment's finality or suspend its operation.

(d) Other Powers to Grant Relief. This rule does not limit a chancery court's power to:

(1) entertain an independent action to relieve a party from a judgment, order, or proceeding;

(2) grant relief as provided by statute; or

(3) set aside a judgment for fraud on the chancery court.

(e) Bills and Writs Abolished. Not applicable.

Rule 61. Harmless Error.
Unless justice requires otherwise, no error in admitting or excluding evidence--or any other error by the chancery court or a party--is ground for granting a new trial or for vacating, modifying, or otherwise disturbing a judgment or order. At every stage of the proceeding, the chancery court must disregard all errors and defects that do not affect any party's substantial rights.

Rule 62. Stay of Proceedings to Enforce a Judgment.
(a) Automatic Stay; Exceptions for Injunctions, and Receiverships. Except as stated in this rule or otherwise provided by statute or chancery court order, no execution may issue on a judgment, nor may proceedings be taken to enforce it, until 14 days have passed after its entry. But unless the chancery court orders otherwise, an interlocutory or final judgment in an action for an injunction or a receivership is not stayed after being entered, even if an appeal is taken.

(b) Stay Pending Disposition of a Motion. On appropriate terms for the opposing party's security, the chancery court may stay the execution of a judgment--or any proceedings to enforce it--pending disposition of any of the following motions:

(1) Not Applicable ;

(2) under Rule 52(b), to amend the findings or for additional findings;

(3) under Rule 59, for a new trial or to alter or amend a judgment; or

(4) under Rule 60, for relief from a judgment or order.

(c) Injunction Pending an Appeal. While an appeal is pending from an interlocutory order or final judgment that grants, dissolves, or denies an injunction, the chancery court may suspend, modify, restore, or grant an injunction on terms for bond or other terms that secure the opposing party's rights.

(d) Stay with Bond on Appeal. If an appeal is taken, the appellant may obtain a stay by supersedeas bond, except in the limitations contained in the Wyoming Rules of Appellate

Procedure and an action described in the last sentence of Rule 62(a). The bond may be given upon or after filing the notice of appeal or after obtaining the order allowing the appeal. The stay takes effect when the chancery court approves the bond.

(e) Stay Without Bond on Appeal by the State, Its Officers, or Its Agencies. The chancery court must not require a bond, obligation, or other security from the appellant when granting a stay on an appeal by the State, its officers, or its agencies.

(f) Supreme Court's Power Not Limited. This rule does not limit the power of the Supreme Court or one of its justices:

(1) to stay proceedings--or suspend, modify, restore, or grant an injunction--while an appeal is pending; or

(2) to issue an order to preserve the status quo or the effectiveness of the judgment to be entered.

(g) Stay with Multiple Claims or Parties. A chancery court may stay the enforcement of a final judgment entered under Rule 54(b) until it enters a later judgment or judgments, and may prescribe terms necessary to secure the benefit of the stayed judgment for the party in whose favor it was entered.

Rule 62.1. Indicative Ruling on a Motion for Relief that is Barred by a Pending Appeal.
(a) Relief Pending Appeal. If a timely motion is made for relief that the chancery court lacks authority to grant because of an appeal that has been docketed and is pending, the chancery court may:

(1) defer considering the motion;

(2) deny the motion; or

(3) state either that it would grant the motion if the appellate court remands for that purpose or that the motion raises a substantial issue.

(b) Notice to the appellate court. The movant must promptly notify the Clerk of the appellate court if the trial court states that it would grant the motion or that the motion raises a substantial issue.

(c) Remand. The chancery court may decide the motion if the appellate court remands for that purpose.

Rule 63. Judge's Inability to Proceed.
(a) If a judge conducting a hearing or trial is unable to proceed, any other judge may proceed upon certifying familiarity with the record and determining that the case may be completed without prejudice to the parties. The successor judge must, at a party's request, recall any witness whose testimony is material and disputed and who is available to testify again without undue burden. The successor judge may also recall any other witness.

(b) *After filing of findings of fact and conclusions of law*. If by reason of death, sickness, or other

disability, a judge before whom an action has been tried is unable to perform the duties to be performed by the chancery court under these rules after findings of fact and conclusions of law are filed, then any other judge sitting in or assigned, or any active or retired district judge, or supreme court justice designated by the supreme court may perform those duties; but if the successor judge cannot perform those duties because the successor judge did not preside at the trial or for any other reason, the successor judge may grant a new trial.

Rule 64. Seizing a Person or Property.
At the commencement of and during the course of an action, all remedies provided by statute for seizure of person or property for the purpose of securing satisfaction of the judgment ultimately to be entered in the action are available under these rules.

Rule 65. Injunctions and Restraining Orders.
(a) Preliminary Injunction.

(1) *Notice.* The chancery court may issue a preliminary injunction only on notice to the adverse party.

(2) *Consolidating the Hearing with the Trial on the Merits.* Before or after beginning the hearing on a motion for a preliminary injunction, the chancery court may advance the trial on the merits and consolidate it with the hearing. Even when consolidation is not ordered, evidence that is received on the motion and that would be admissible at trial becomes part of the trial record and need not be repeated at trial.

(b) Temporary Restraining Order.

(1) *Issuing Without Notice.* The chancery court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if:

(A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and

(B) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

(2) *Contents; Expiration.* Every temporary restraining order issued without notice must state the date and hour it was issued; describe the injury and state why it is irreparable; state why the order was issued without notice; and be promptly filed in the chancery court clerk's office and entered in the record. The order expires at the time after entry--not to exceed 14 days--that the chancery court sets, unless before that time the chancery court, for good cause, extends it for a like period or the adverse party consents to a longer extension. The reasons for an extension must be entered in the record.

(3) *Expediting the Preliminary-Injunction Hearing.* If the order is issued without notice, the motion for a preliminary injunction must be set for hearing at the earliest possible time, taking precedence over all other matters except hearings on older matters of the same character. At the hearing, the party who obtained the order must proceed with the motion; if the party does not, the chancery court must dissolve the order.

(4) *Motion to Dissolve.* On 2 days' notice to the party who obtained the order without notice--or on shorter notice set by the chancery court--the adverse party may appear and move to dissolve or modify the order. The chancery court must then hear and decide the motion as promptly as justice requires.

(c) Security. The chancery court may issue a preliminary injunction or a temporary restraining order only if the movant gives security in an amount that the chancery court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained.

(d) Contents and Scope of Every Injunction and Restraining Order.

(1) *Contents.* Every order granting an injunction and every restraining order must:

(A) state the reasons why it issued;

(B) state its terms specifically; and

(C) describe in reasonable detail--and not by referring to the complaint or other document--the act or acts restrained or required.

(2) *Persons Bound.* The order binds only the following who receive actual notice of it by personal service or otherwise:

(A) the parties;

(B) the parties' officers, agents, servants, employees, and attorneys; and

(C) other persons who are in active concert or participation with anyone described in Rule 65(d)(2)(A) or (B).

Rule 65.1. Proceedings against a Surety.

Whenever these rules require or allow a party to give security, and security is given through a bond or other undertaking with one or more sureties, each surety submits to the chancery court's jurisdiction and irrevocably appoints the chancery court clerk as its agent for receiving service of any papers that affect its liability on the bond or undertaking. The surety's liability may be enforced on motion without an independent action. The motion and any notice that the chancery court orders may be served on the chancery court clerk, who must promptly mail a copy of each to every surety whose address is known.

Rule 66. Receivers.

An action wherein a receiver has been appointed shall not be dismissed except by order of the chancery court. The practice in the administration of estates by receivers shall be in accordance with the practice heretofore followed in the chancery court of Wyoming. In all other respects the action in which the appointment of a receiver is sought or which is brought by or against a receiver is governed by these rules.

Rule 67. Deposit into Chancery Court.

(a) Depositing Property. If any part of the relief sought is a money judgment or the disposition of a sum of money or some other deliverable thing, a party--on notice to every other party and by

leave of chancery court--may deposit with the chancery court all or part of the money or thing, whether or not that party claims any of it. The depositing party must deliver to the chancery court clerk a copy of the order permitting deposit.

(b) Investing and Withdrawing Funds. Money paid into chancery court under this rule shall be held by the clerk of the chancery court subject to withdrawal in whole or in part at any time upon order of the chancery court or written stipulation of the parties. The money shall be deposited in an interest-bearing account or invested in a chancery court-approved, interest-bearing instrument.

(c) Prior to the disbursement of the funds, all information necessary for the chancery court clerk to make a proper disbursement shall be provided by the party seeking disbursement, in a form that complies with the Rules Governing Redaction From Court Records.

Rule 68. Offer of Settlement or Judgment.
(a) Making an Offer; Acceptance of Offer. At any time more than 60 days after service of the complaint and at least 28 days before the date set for trial, any party may serve on an opposing party an offer to allow settlement or judgment on specified terms, with the costs then accrued. If, within 14 days after being served, the opposing party serves written notice accepting the offer, either party may then file the offer and notice of acceptance, plus proof of service.

(b) Unaccepted Offer. An unaccepted offer is considered withdrawn, but it does not preclude a later offer. Evidence of an unaccepted offer is not admissible except in a proceeding to determine costs. As used herein, "costs" do not include attorney's fees.

(c) Offer After Liability is Determined. When one party's liability to another has been determined but the extent of liability remains to be determined by further proceedings, the party held liable may make an offer of judgment. It must be served within a reasonable time not less than 14 days before the date set for a hearing to determine the extent of liability.

(d) Paying Costs After an Unaccepted Offer. If the judgment that the offeree finally obtains is not more favorable than the unaccepted offer, the offeree must pay the costs incurred after the offer was made.

Rule 69. Execution.
(a) Money Judgment; Applicable Procedure. A money judgment is enforced by a writ of execution, unless the chancery court directs otherwise.

(b) Obtaining Discovery. In aid of the judgment or execution, the judgment creditor or a successor in interest whose interest appears of record may obtain discovery from any person--including the judgment debtor--as provided in these rules.

Rule 70. Enforcing a Judgment for a Specific Act.
(a) Party's Failure to Act; Ordering Another to Act. If a judgment requires a party to convey land, to deliver a deed or other document, or to perform any other specific act and the party fails to comply within the time specified, the chancery court may order the act to be done--at the disobedient party's expense--by another person appointed by the chancery court. When done, the act has the same effect as if done by the party.

(b) Vesting Title. The chancery court--instead of ordering a conveyance--may enter a judgment divesting any party's title and vesting it in others. That judgment has the effect of a legally executed conveyance.

(c) Obtaining a Writ of Attachment or Sequestration. On application by a party entitled to performance of an act, the chancery court clerk must issue a writ of attachment or sequestration against the disobedient party's property to compel obedience.

(d) Obtaining a Writ of Execution or Assistance. On application by a party who obtains a judgment or order for possession, the chancery court clerk must issue a writ of execution or assistance.

(e) Holding in Contempt. The chancery court may also hold the disobedient party in contempt.

Rule 71. Enforcing Relief for or against a Nonparty.
When an order grants relief for a nonparty or may be enforced against a nonparty, the procedure for enforcing the order is the same as for a party.

Rules 72 to 76. [Reserved]

Rule 77. Chancery Courts and Clerks; Notice of an Order or Judgment.
(a) Chancery Court Always Open. The chancery courts shall be deemed always open for the purpose of filing an initial pleading or other paper, of issuing and returning any mesne or final process, and of making and directing all interlocutory motions, orders and rules.

(b) Trials and Hearings; Orders in Chambers. All trials upon the merits shall be conducted in open court and, so far as convenient, in a regular courtroom. Any other act or proceeding may be done or conducted electronically, in chambers without the attendance of the chancery court clerk or other chancery court officials and at any place within the state.

(c) The Chancery Court Clerk's Office Hours; Clerk's Orders.

(1) *Hours.* The chancery court clerk's office, with the clerk or a deputy in attendance, must be open during all business hours every day except Saturdays, Sundays, and legal holidays (by designation of the legislature, appointment as a holiday by the governor or the chief justice of the Wyoming Supreme Court, or any day designated as such by local officials).

(2) *Orders.* All motions and applications in the chancery court clerk's office for issuing mesne process, for issuing final process to enforce and execute judgments, for entering defaults or judgments by default, and for other proceedings which do not require allowance or order of the chancery court are grantable of course by the chancery court clerk; but the chancery court clerk's action may be suspended, altered or rescinded by the chancery court upon cause shown.

(d) Service of Orders or Judgments.

(1) *Service.* Immediately upon the entry of an order or judgment the chancery court clerk shall provide and serve a copy thereof to every party who is not in default for failure to appear. The chancery court clerk shall record the date of service and the parties served in the docket.

Service by the chancery court clerk may be accomplished by mail or electronic means. The chancery court clerk shall provide envelopes and postage for the mailings. Any party may in addition serve a notice of such entry in the manner provided in Rule 5(b) for the service of papers.

(2) *Time to Appeal Not Affected by Lack of Notice.* Lack of notice of the entry by the chancery court clerk does not affect the time to appeal or relieve, or authorize the chancery court to relieve, a party for failure to appeal within the time allowed, except as permitted by the Wyoming Rules of Appellate Procedure.

Rule 78. Hearing Motions; Decision on Briefs.
(a) Providing a Regular Schedule for Oral Hearings. A chancery court may establish regular times and places for oral hearings on motions.

(b) Providing for Decision on Briefs. The chancery court may provide for submitting or deciding motions on briefs, without oral hearings.

Rule 78.1 Remote Hearings.
The court may make such orders regarding appearance of counsel, parties, and witnesses by remote communication as it shall deem appropriate.

Rule 79. Books and Records Kept by the Chancery Court Clerk.
(a) Books and Records. Except as herein otherwise specifically provided, the clerk of chancery court shall keep books and records as provided by statute.

(b) Other Books and Records. The clerk of chancery court shall also keep such other books, records, data and statistics as may be required from time to time by the Supreme Court or the chancery court judge.

Rule 79.1 Records of the Court.
(a) Access to Public Court Records. Cases filed are available for remote electronic review. To access an electronic case file, users must first register with File & Serve Xpress, LLC. Registration and public access information is available on the chancery court's website, www.courts.state.wy.us/chancery-court/. Lengthy exhibits and other supporting materials that cannot be converted to electronic format are accessible in the chancery court clerk's office.

(b) Sealed Records. Submissions or documents ordered sealed by the chancery court or otherwise confidential are not public records.
Rule 80. Stenographic Transcript as Evidence.
If stenographically reported testimony at a hearing or trial is admissible in evidence at a later trial, the testimony may be proved by a transcript certified by the person who reported it.

Rule 81. Applicability in General.
Statutory provisions shall not apply whenever inconsistent with these rules, provided:

(a) that in special statutory proceedings any rule shall not apply insofar as it is clearly inapplicable; and

(b) where the statute creating a special proceeding provides the form, content, time of service or filing of any pleading, writ, notice or process, either the statutory provisions relating thereto or these rules may be followed.

Rule 82. Jurisdiction and Venue Unaffected.
These rules do not extend the jurisdiction of the chancery courts or the venue of actions in the chancery court.

Rule 83. Rules by Courts of Record; Judge's Directives.
(a) Uniform Rules.

(1) *In General.* The chancery court, with approval of the Supreme Court, may adopt and amend uniform rules governing its practice. A uniform rule must be consistent with--but not duplicate--Wyoming statutes and rules. A uniform rule takes effect on the date specified by the Supreme Court and remains in effect unless amended. Approved uniform rules shall be published in the Wyoming Chancery Court Rules volume.

(2) *Requirement of Form.* A uniform rule imposing a requirement of form must not be enforced in a way that causes a party to lose any right because of a nonwillful failure to comply.

(b) Procedure When There is No Controlling Law. A judge may regulate practice in any manner consistent with state law, rules, and the uniform rules. No sanction or other disadvantage may be imposed for noncompliance with any requirement not in state law, state rules, or the uniform rules unless the alleged violator has been furnished in the particular case with actual notice of the requirement.

Rule 84. Forms.
No forms are provided with these rules.

Rule 85. Title.
These rules shall be known as the Wyoming Rules of Civil Procedure for the Court of Chancery and may be cited as W.R.C.P.Ch.C.

Rule 86. Effective Dates.
(a) In General. These rules take effect on December 1, 2021. They govern:

(1) proceedings in an action commenced after their effective date; and

(2) proceedings after that date in an action then pending unless:

(A) the Supreme Court specifies otherwise; or

(B) the chancery court determines that applying them in a particular action would be infeasible or work an injustice.

(b) Amendments and additions. Amendments or additions to these rules shall take effect on dates to be fixed by the supreme court subject to the exception above set out as to pending actions. If no

date is fixed by the supreme court, the amendments or additions take effect 60 days after their publication in the Pacific Reporter Advance Sheets.

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Uniform Rules for the Court of Chancery

Rule 100. Title.
These rules may be known and cited as the Uniform Rules for the Court of Chancery. (U.R.Ch.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.

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. 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, mailing address, email address and telephone number of counsel or, if pro se, the party. All notices filed conventionally shall be mailed to the address provided. All notices filed electronically shall be delivered through the electronic filing system to the registered users on the case. Each party or counsel shall give notice in writing of any change of email or mailing 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.

Rule 103. [Reserved].

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 electronically filed by local counsel in accordance with W.R.C.P.Ch.C. 5.

(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).

Rule 105. [Reserved].

Rule 106. [Reserved].

Rule 106. Court security.

(a) The chancery court has the inherent authority to ensure that adequate courtroom security measures are in place. The chancery 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.

Rule 201. Continuances.

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

Rule 202. Time limits.

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

Rule 203. Default; dismissal for lack of prosecution.

(a) Entry of default in accordance with Rule 55(a), W.R.C.P.Ch.C., 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) Dismissal with prejudice shall be in conformity with the Wyoming Rules of Civil Procedure for the Court of Chancery.

Rule 301. [Reserved].

Rule 302. Proof of service.
(a) Except as may be otherwise provided in the Wyoming Rules of Civil Procedure for the Court of Chancery, 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.Ch.C.

(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.

Rule 303. Removal of files.
(a) Files that are not available electronically 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.

Rule 304. Form of orders, notices of motion and discovery requests.
Counsel shall set forth on separate sheets of paper demands, 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].

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 8 ½ 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;

(4) Be clearly legible; and,

(5) If filed electronically, comply with the Wyoming State Court of Chancery, Electronic Filing Administrative Policies and Procedures Manual, available on the chancery court website, www.courts.state.wy.us/chancery-court/.

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

(c) Reserved.

(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.

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 and fees for services of process. (Wyo. Stat. Ann. § 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 court as provided in Rule 32(a)(3), W.R.C.P.Ch.C.;

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 Wyo. Stat. Ann. § 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.Ch.C., 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) Reserved.

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.Ch.C. The notice shall state that the deposition will be recorded by audio-visual means as required under Rule 30(b)(3), W.R.C.P.Ch.C.

Rule 503. Late settlement or mistrial.
(a) Reserved.

(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 and bailiffs for their attendance.

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(c)(2), W.R.C.P.Ch.C., 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(c)(2), W.R.C.P.Ch.C., 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.Ch.C. 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. Ann. § 1-12-101, the privilege for psychologists at Wyo. Stat. Ann. § 33-27-123, 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(c)(2), and 30(d)(2), W.R.C.P.Ch.C., are equally applicable to all attorneys participating in depositions, whether such attorneys are appearing on behalf of a party or a non-party deponent.

Rule 701. Juror interrogation. **[Reserved].**

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 chancery court 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 for the Court of Chancery, 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.

Rule 802. Use of telephone conference calls.
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.

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 for the Court of Chancery.

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.

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.

Rule 903. Retrieval or disposition of exhibits.
After time for appeal has expired, counsel shall retrieve all exhibits. Exhibits not retrieved by counsel within 60 days after the time for appeal has expired, shall be disposed of by the court reporter.

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.

Rule 905. [Reserved].

Rule 906. [Reserved].

Rule 907. [Reserved].

Rule 908. Rules for court reporters; retention of stenographic notes; certification and continuing education of official court reporter; equipment and supplies; payment of fees.

I. Stenographic notes.
(a) All Official Court Reporters shall maintain or cause to be maintained a log of all stenographic notes of any chancery 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. If both paper notes and electronic notes are made at the time of the proceeding, then both shall be reflected on the log.

(1) All notes, paper and/or electronic, as well as the log shall be maintained in the offices of the court, in a location known to the Chancery Court Judge.

(2) All notes, paper and/or electronic, shall be considered the property of the chancery 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 court, in a location known to the Chancery Court Judge, and such electronic copy of the ‘‘Personal Dictionary’’ shall be considered the property of the chancery court.

(c) The 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) In addition to the foregoing, the Chancery 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.

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) Having graduated from an accredited court reporting school and passing a five-minute, two-voice dictation test at 225 words per minute at 95% accuracy (65 errors). Such test will be taken from a National Court Reporters’ Examination Tape and administered by a

committee of no less than two persons appointed by the Chancery Court Judge. (This tape is to be held by a designated member of the Wyoming Professional Court Reporters Association.)

(3) Passing a certification test from any other certifying state in which the requirements for certification meet the standards outlined in (a)(2) above; or

(4) 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) or (3) 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 a designated member of the Wyoming Professional Court Reporters Association.)

III. Equipment and supplies.

(a) All Official Court Reporters shall provide the equipment necessary to report and create transcripts of court proceedings. This equipment may include, but need not be limited to, 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 court proceedings. These items may include, but need not be limited to, stenograph paper, printer paper and toner.

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.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 chancery 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.

Chancery Court of the State of Wyoming Electronic Filing Administrative Policies and Procedures Manual

Version 1.0
Month day, 2021

1. Introduction

The following policies and procedures govern the electronic filing and serving of documents in chancery court proceedings.

2. Definitions

A. "Conventional filing" means submitting a filing to the clerk in paper or other tangible form.

B. "Document" means answers, affidavits, attachments, briefs, complaints, declarations, exhibits, judgments, memoranda, motions, notices, papers, pleadings, petitions, orders, responses, exhibits and any other filing with or entry by the chancery court.

C. "Electronically file" and "eFile" mean uploading a document directly from the registered user's computer to the electronic filing system to file that document in the chancery court's case file.

D. "Electronically serve" and "eServe" mean uploading a document directly from the registered user's computer to the electronic filing system to serve that document on parties in a chancery court case through the electronic filing system.

E. "Electronic filing system" and "EFS" mean the web-based user interface system provided by the Wyoming Supreme Court for registered users to electronically submit documents and serve parties in chancery court matters.

F. "Filer," "registered user," and "user" mean an individual who has registered with the EFS and obtained a unique username and password to eFile and eServe documents in chancery court matters via the EFS.

G. "Notice of Filing" means a notice generated by the EFS that a document is filed with or entered by the chancery court.

H. "Online inbox" means a registered user's online inbox accessible via the EFS. Registered users will receive Notice of Filings through their online inboxes.

I. ".pdf" means Portable Document Format, a proprietary file format developed by Adobe Systems, Inc.

J. "Technical failure" means a malfunction of the EFS or chancery court hardware, software, or telecommunications facility that prevents a registered user from eFiling or eServing a document. It does not include failure of a registered user's equipment, software, hardware, telecommunications facility, or internet service.

3. Use of EFS

A. Eligibility

The persons identified below may electronically file and serve documents once registered and trained.

i. Attorneys who are active members in good standing of the Wyoming State Bar, or who are admitted pro hac vice in an applicable matter.

ii. Eligible attorneys' paralegals or legal assistants under Rule 5.3 of Rules of Professional Conduct.

iii. Self-represented individuals who are not licensed attorneys.

iv. A magistrate or master appointed under the W.R.C.P.Ch.C.

B. Registration, Training, and Compliance

Any eligible person intending to electronically file or serve a document in a chancery court proceeding must do the following.

i. Complete training in use of the EFS and pass an eFiling proficiency exam. A link to a schedule of live training sessions, self-study training materials, and dedicated help resources is available at: https://www.fileandservexpress.com/wyoming-resources/

ii. Register to use EFS. A link to online registration is available at: https://os.fileandservexpress.com/web/ui/welcomepage.aspxinsert.

iii. Agree to be bound by the terms and conditions of the EFS user agreement.

iv. Comply with the policies and procedures contained in this manual.

v. Comply with the Rules Governing Redactions from Court Records and all other applicable filing rules.

vi. Maintain a current and functioning email address through which the filer agrees to accept electronic notification from the EFS.

C. Consent to eService and Notification

Registration permits filing and retrieval of documents and constitutes consent to receive electronic notifications and service. Counsel and self-represented parties who intend to participate in a chancery court case should promptly register as EFS users to ensure service of documents.

D. Use of Username and Password

Each eligible person who completes registration will be issued one login and password. A registered attorney is responsible for all documents filed under his or her unique login and password or by his or her paralegals or assistants. If a registered user believes

the security of a password has been compromised, the user must change the password immediately and notify the clerk.

4. eFiling of Documents

A. eFiling is Mandatory

Each filing must be electronic unless otherwise ordered by the chancery court upon exceptional cause shown. Examples of exceptional cause include that eFiling the document would violate state or federal law or that a tangible thing cannot be converted to .pdf and eFiled due to size. If the chancery court permits conventional filing, the filer must conventionally file the document, eFile notice of the conventional filing, and eServe all parties with such notice.

B. Format of eFiled Documents

Each eFiled document must satisfy the below requirements.

i. Each eFiled document must be filed in .pdf format, except that a proposed order must be filed in editable Microsoft Word format with a blank header that extends at least 2 inches from the top of the first page.

ii. Documents should be directly converted to a text-searchable .pdf rather than scanned if possible. An attachment or exhibit (not a motion, brief, memorandum, etc.) that is a scanned image of its original form, may be in standard .pdf format and need not be text searchable.

iii. To the extent practicable, each eFiled document must be formatted in accordance with all applicable rules governing formatting of paper documents**.** For example, before conversion to .pdf, each pleading must be 8 ½ " x 11" in its original form. And any attachments or appendices that are larger or smaller, should be reduced or enlarged to 8 ½ " x 11".

iv. The size of any eFiled document must not exceed 10 megabytes. A document that exceeds the size limit must be broken down and submitted as separate files that do not exceed 10 megabytes each and 50 megabytes per transaction. Separate files under this section must include in the "Note to Clerk" field for each submission a description that clearly identifies the part of the document that the file represents, for example, "Motion for Summary Judgment, part 1 of 2."

v. A document that is not an attachment or exhibit must not be embedded inside another .pdf. For instance, a precipe for summons, a summons, and a complaint should not be combined and eFiled as one .pdf. Yet, a document that is an exhibit to a motion may be filed together with the motion as one combined .pdf.

vi. All eFiled documents relating to a single pleading or document must be "electronically stapled" using the EFS's "main" and "supporting" functionality. In this way, multiple related documents, although filed separately, are logically connected, and are identified as a single transaction. An example of linking related documents is eFiling a motion as a main document and electronically stappling a proposed order as a supporting document.

vii. Any eFiled document responding to a previously eFiled document must be linked to the previous filing using the EFS's "link document" feature. This feature connects a new filing to a related earlier filing, even though the documents are filed separately as part of different transactions. As an example, counsel for Plaintiff Steamboat, Inc. would link the new document "Plaintiff Steamboat Inc.'s Response to Defendant Cowboy Corporation's Motion for Summary Judgment" to the previously eFiled "Defendant Cowboy Corporation's Motion for Summary Judgment against Plaintiff Steamboat, Inc." The difference between the "electronically stapled" and "link document" features is that "electronically stapled" documents belong to a single transaction, but "linked documents" belong to separate transactions.

viii. Filers must leave a blank 3-inch by 3-inch space at the top right-hand corner of the first page of each eFiled document for use by the EFS and clerk.

ix. The electronic file name for each document eFiled must clearly identify its contents, including identifying the party or parties filing the document, the party or parties against whom relief is sought, and the relief sought—for example, "Defendant Cowboy Corporation's Motion for Summary Judgment against Plaintiff Steamboat, Inc."

x. Filers must verify that all documents are legible before eFiling the documents.

C. Initiating Documents

Complaints or other initiating documents must be submitted with the docket number blank. The clerk will assign an appropriate docket number after the registered user has eFiled the action.

D. Diligence of Filers

Counsel and self-represented parties appearing before the chancery court must become familiar with and competent in using the EFS. Filers must exercise diligence to ensure that the description of the document entered during the efiling process accurately and specifically describes the document being filed. Filers should pay

particular attention to the accuracy of the caption, docket number, parties, dates, and signatures.

E. Timing and Acceptance of an eFiling

A document will be considered filed at the time of electronic transmission to the EFS, unless the clerk rejects the filing as set forth below.

The clerk may reject an eFiled document only for the following reasons:

i. The user eFiled information that should have been redacted or filed under seal.

ii. The user eFiled the document in the wrong case.

iii. The user eFiled the document under a "new case," even though a current case exists.

iv. The user eFiled a document with an incorrect docket number, case type, case category, filing code, or party name.

v. The attorney or self-represented individual failed to sign the document.

If the clerk rejects a document for any of these reasons, the clerk will notify the filer and request resubmission within 24 hours of the request. If the filer fails to timely correct and resubmit the document, the document will be deemed to have not been filed. If the filer correctly and timely resubmits the document, it will be deemed filed on the original date and time that the filer first attempted to eFile the document.

F. Time of eFiling

A document will be deemed timely filed if eFiled before 5:00 p.m. Mountain Time on the due date, unless the chancery court specifies otherwise.

G. eFiling Fees

Filing fees will be billed through the EFS at rates approved by the Wyoming Supreme Court. When registering to use the EFS, participants must provide all information necessary to pay filing fees.

5. eService of Documents

A. eService is Mandatory

Every eFiled document must be eServed unless the chancery court orders otherwise or unless the document is an initial pleading subject to the requirements of W.R.C.P.Ch.C. 4.

B. Service is Complete when the EFS Delivers a Notice of Filing

When a user eFiles a document and selects parties to receive eService of the document, the EFS will generate and deliver a Notice of Filing to the online inboxes of all parties selected for eService. Issuance of the Notice of Filing constitutes service and additional paper service is unnecessary. Accordingly, parties should actively monitor their online inboxes accessible on the EFS to receive Notices of Filing.

The EFS will offer an "email notification" feature allowing a user to receive an email notification at his or her personal email addresses that a document has been eServed and is available for viewing in the user's online inbox. The "email notification" feature does not constitute official service and is provided by the EFS solely as a convenience.

C. Certificate of Service is Still Required

The Notice of Filing does not replace the certificate of service required by the Rules of Civil Procedure for Chancery Court. A certificate of service may appear on or be appended to the eFiled document.

D. eService of Discovery Documents

Unless the chancery court orders otherwise, formal responses to discovery requests must be eServed through the EFS's "serve only" function. This function eServes documents on parties without eFiling the documents with the chancery court. If responsive documents are incapable of eService through the EFS, they may be served using some other methodology agreed upon by the parties and approved by the chancery court.

6. Electronic Signatures

An eFiled document requiring a signature must be electronically signed by including a conformed signature (a typed name preceded by the symbol "/s/.") on all eFiled documents.

A document executed by multiple parties must bear the conformed signature of each signatory. By filing a document with multiple electronic signatures, the counsel (or self-represented individual), who uses his or her username to eFile the document, or who causes his or her paralegal or legal assistant to eFile the document, certifies that each signatory has authorized the use of his or her signature

Electronic notarization may be used for eFiled documents so long as the electronic notarization satisfies Wyoming law and meets any rules promulgated by the Wyoming Secretary of State under Wyo. Stat. Ann. § 32-3-125.

7. Notice and Entry of Orders, Judgments, and Other Matters

The chancery court will enter all orders, judgments, notices, and other matters electronically through the EFS. Each matter entered by the court will bear an official eFiling stamp with an official date and time of entry and either a conformed signature or a digital image of a signature. The chancery court will provide notice of entered matters through Notice of Filings.

8. Technical Failure

If a document cannot be filed due to a technical failure, the chancery court may, upon satisfactory proof, permit the filing date of the document to relate back to the date the filer first attempted to file the document. And, if appropriate, the chancery court may adjust the schedule for responding to the documents or appearing at a hearing on the matter.

A filer who resubmits a document due to a technical failure must include in the "Note to Clerk" field the following text: "Resubmission of filing, initial filing unsuccessful due to technical failure, request filing date relate back to _____, date of original submission." In the resubmission, the filer should include supporting exhibits substantiating the technical failure. This resubmission and request must be eFiled within one business day after the technical failure is resolved.

Registered users should direct technical and operational questions about the EFS and requests for documentation substantiating a technical failure to File & Serve Xpress at its toll-free hotline, 1-888-529-7587.

9. Protected Information

A. eFiling Redacted Documents

The filer must ensure that protected personal data identifiers are omitted or redacted from documents in compliance with the Rules Governing Redactions from Court Records and Rules Governing Public Access to Court Records.

When these rules require a party to file both a redacted and unredacted version of a document, the user should eFile:

i. A redacted version designated as "public" in the EFS;

ii. An unredacted version designated as "sealed" in the EFS; and

iii. The State of Wyoming Confidential Information Form designated as "sealed" in the EFS.

The Confidential Information Form and unredacted version must be electronically stapled, filing the form as the main document and the unredacted version as the supporting document. Although a separate transaction, the redacted version should be linked to the form and unredacted document using the "link document" feature.

B. eFiling Documents Entirely under Seal

A user eFiling a document subject to the protections of Wyo. Stat. Ann. § 4-10-205, must designate the document as "sealed" in the EFS and need not file a motion to seal under Rule 8 of the Wyoming Rules Governing Access to Court Records.

A user wishing to eFile any other type of document entirely under seal, must eFile a motion to seal under Rule 8 of the Wyoming Rules Governing Access to Court Records unless an order specifies otherwise. This motion must be designated as

"public" in the EFS and any documents that are subject to a motion to seal will be designated as "sealed" in the EFS. The documents will remain protected from public access until and unless the chancery court rules against the motion.

C. Removal of Noncompliant Documents

If the clerk discovers that an eFiled document does not comply with the Rules Governing Redactions from Court Records, he or she will remove the document from the public docket and instruct the filer to refile the document within one business day. If the document is not correctly refiled within the required time, it will not be considered timely filed. If the document is correctly and timely refiled, it will be deemed filed on the original date and time that the filer first attempted to eFile the document.

10. Ex Parte Filings

A user intending to eFile a document ex parte when allowed by law must designate the document as "file only" and "in camera" in the EFS. These two designations will ensure that only the chancery court will receive the eFiled document.

11. Judicial Discretion to Remedy Errors

In circumstances where the interests of fairness and justice demand a departure from these policies and procedures, the chancery court judge may use his or her discretion to provide relief for eFiling and eService errors upon good cause shown.

12. Revisions to Manual

A. Changes

The chancery court may modify or amend this Electronic Filing Administrative Policies and Procedures Manual at any time without prior notice. The Manual will be posted on the chancery court's website, https://www.courts.state.wy.us/chancery-court.

B. Record of Changes

Version	Date	Changes
1.0	00.0.2021	Released Version 1.0 of Manual

Rules for Fees and Costs for the Court of Chancery

Rule 1. Appellate Filing Fees.

The chancery court shall charge $100.00 for all transcripts and records in cases appealed or certified to the Supreme Court, including certificates, seals and transmission.

Rule 2. Record Check.

All requests for a record check shall be submitted in writing by the applicant. Response to the request for a record check shall be made by the court in writing as soon as practicable after the written request is received by the court.

The fee for checking district court records shall be $10.00. Payment of the $10.00 fee for each record check shall be made in cash or check payable to the court.

Only one fee shall be charged for a record check involving a particular name and any reasonable derivation or other spelling of that name. However, a separate record check fee will be charged for each and every alias which is dissimilar to the original name submitted.

No charge shall be made for checking chancery court records if requested by an employee of a governmental agency.

Any request for copies of documents shall be billed separately as allowed by these rules above and beyond any fee charged as set forth herein.

This rule and the charge provided only applies to services required from court personnel to check and/or abstract court records. This rule has no application to the personal examination of any non-confidential court records including indexes by any individual desiring information from these public records.

Rule 3. Fee for Copies.

The fee for making copies shall be $1.00 for the first page and $.50 for each subsequent page.

Rule 4. [Reserved].

Rule 5. Original Filing Fees.

The chancery court shall charge an original filing fee of $610.00 to be paid by the filing party. This fee shall apply to original actions commenced in chancery court, actions removed or transferred to chancery court from another court, and to actions that are reopened after a final decree previously has been entered. Of the original filing fee, $100.00 shall be for court automation and $10.00 shall be for indigent civil legal services. Both shall be remitted as provided in Wyo. Stat. Ann. § 5-13-202.

Rule 6. [Reserved].

Rule 7. Fee for Exemplification of Court Documents.

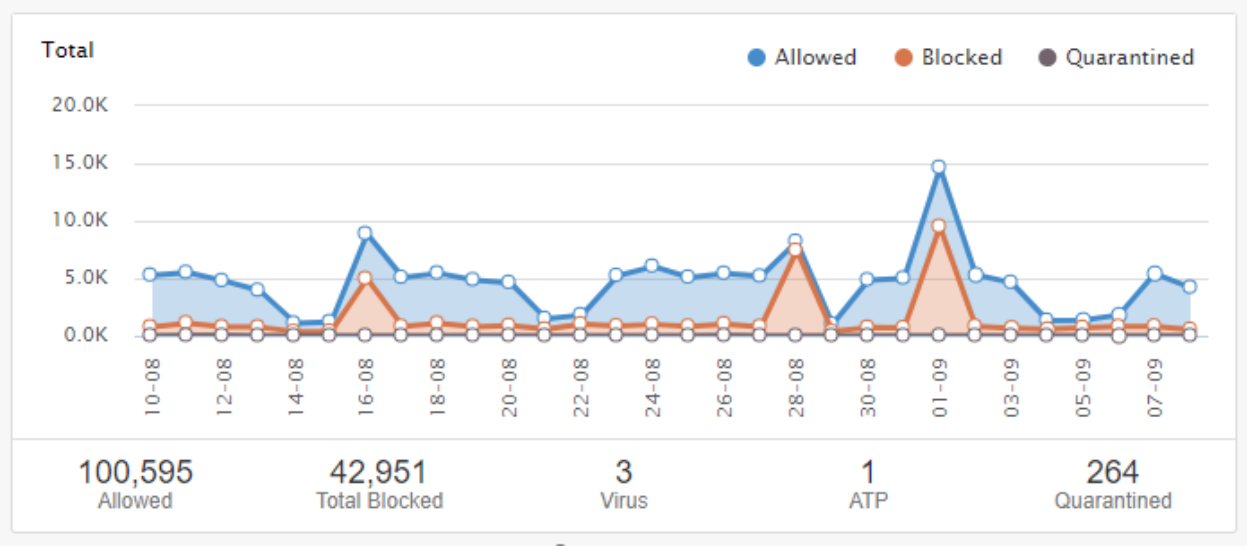
The fee for exemplification of court documents shall be $5.00.

*****

Inbound email last 30 Days (8/8/21):

144,174 Emails Received.

42,951 or 30% Blocked



ATP LOG Example

Status	Time	From	To	Subject	File Name	File Type
Infected	2021-08-24 11:01:50	[redacted]	[redacted]	[redacted]	[redacted]	rar

File Metadata

Extension	rar
Mime Type	application/x-rar-compressed
Size	26,955 bytes
SHA-256	6d97a4130da6078f418edc94f45f13a21fbde4b87c75c05c102efb207c1e0f3c
SHA-1	08bc70ca9b0e68df8278b5f5f315046ea521251e
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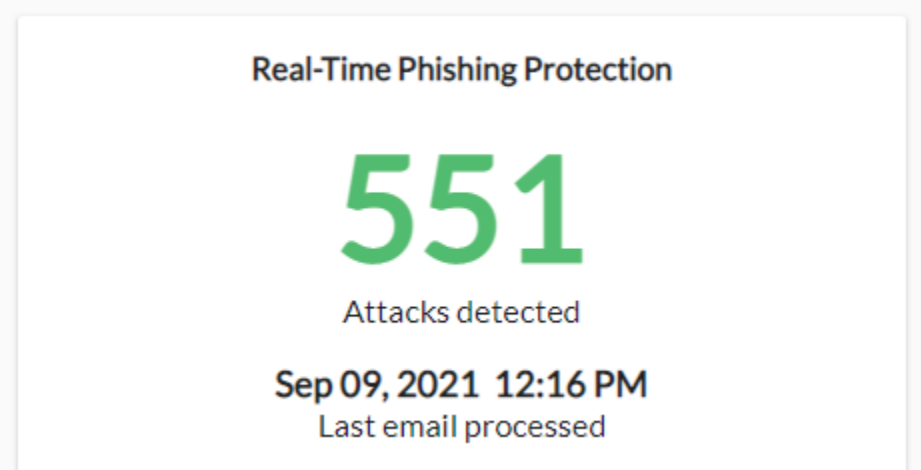
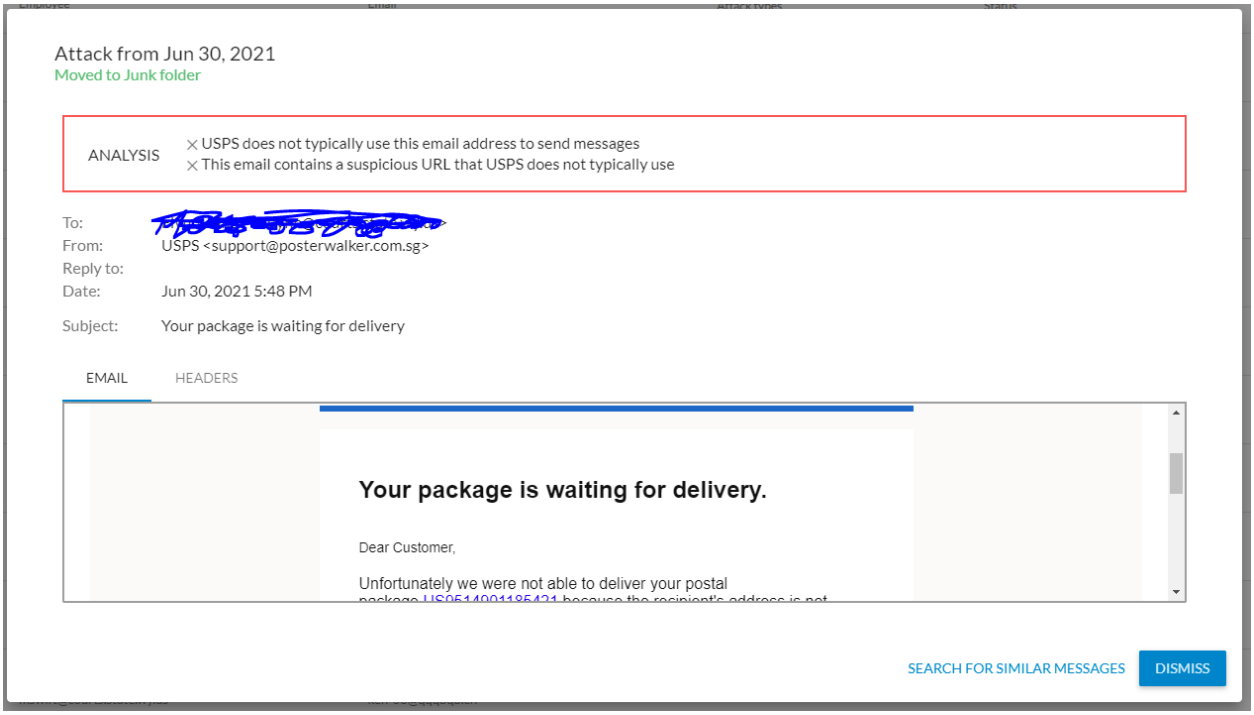
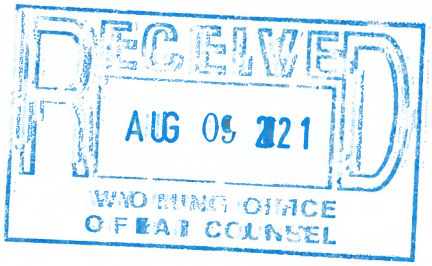
Inbound email last 180 Days (8/8/21):





Theriault Law, LLC



August 4, 2021

Mark W. Gifford
Office of Bar Counsel
P.O. Box 109
Cheyenne, WY 82003

Re: Wyoming Guardianship Policy and Practice

Dear Mark:

Thank you for taking time to talk with Jonathan Martinis and me regarding our concerns about Wyoming guardianship policy and practice. We appreciate you volunteering to liaison with the Board of Judicial Policy and Administration (BJPA). This letter will provide you and BJPA with more details about our concerns.

As we discussed, we have observed that proposed wards in guardianship cases are routinely denied the due process and other protections set out in Wyoming Law and Rules. While there are legislative changes that could and should be made to improve Wyoming's guardianship statutes, we believe that the most egregious problems can be solved through simple policy and practice revisions applying the current statutes.

Our primary concerns focus on three areas that directly impact fundamental due process protections: (1) "Ghost Hearings"; (2) Failure to appoint Guardians *ad Litem;* and (3) Failure to appoint counsel.

1. **<u>"Ghost Hearings"</u>**

We have come to learn that "ghost hearings" in involuntary guardianship cases are those set for zero (0) minutes, where no evidence other the pleadings are introduced, and respondents may not receive verifiable notice of the hearing. In conversations with attorneys and others involved in the guardianship system, we have been told that ghost hearings are common, and may even be the norm.

In our opinion, such hearings are contrary to Wyoming law and violate fundamental due process protections afforded all citizens. For example, Wyo. Stat. § 3-2-103 states that all guardianship cases "are governed by the Wyoming Rules of Civil Procedure and the Wyoming Rules of Evidence." In addition, Wyo. Stat. § 3-2-104 states, "The

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Cheyenne, WY 820[illegible]1
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court may appoint a guardian if the allegations of the petition as to the status of the proposed ward and the necessity for the appointment of a guardian are proved by a preponderance of the evidence." (emphasis added).

Accordingly, under existing Wyoming Law and Rules, Courts must not put people in guardianship unless the petitioner introduces actual, admissible evidence in a hearing held consistent with the Wyoming Rules of Civil Procedure and Evidence. Hence, if a Court appoints a guardian in a ghost hearing set for zero minutes, without receiving documentary or testimonial evidence beyond the pleadings, and without the respondent having notice and an effective opportunity to be heard, it would violate the above-cited statutes as well as the person's fundamental right to due process.[1]

We have seen one specific instance of a person being Ordered into guardianship after a hearing set for zero minutes. In addition, as stated, attorneys and others have assured us that such ghost hearings occur frequently. Therefore, we are conducting research in an attempt to confirm the extent of this practice.

To that end, Jonathan requested all notices, requests, and Orders setting hearings for adult guardianships for the last two years in Uinta and Sweetwater County. The Courts forwarded the request to the Wyoming Supreme Court. Unfortunately, Ronda Munger, the Deputy State Court Administrator declined the request on the grounds that "it is very time consuming, if not impossible, to sort data in the manner [he has] requested."

Consequently, Jonathan and I are traveling to Sweetwater and Uinta Counties next week (Jonathan is traveling from Virginia) to request access to the Courts' guardianship files so that we may review and copy relevant records ourselves. We are also working with College of Law students with the expectation that they will conduct additional research on ghost hearings in Laramie and other Counties using our parameters and guidance.

2. Failure to Appoint Guardians *ad Litem*

Pursuant to Wyo. Stat. § 3-1-205(a)(iv), proposed wards of any involuntary guardianship are entitled to "have a guardian ad litem appointed in accordance with Rule 17(c) of the Wyoming Rules of Civil Procedure."

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[1] See, *e.g., Gideon v. Wainwright,* 372 U.S. 335, 344 (1963) (Courts must ensure "procedural and substantive safeguards designed to assure fair trials before impartial tribunals in which every [person] stands equal before the law."); *Joint Anti-Fascist Refugee Committee v. McGrath*, 341 U.S. 123, 170-172 (Frankfurter, J., concurring) (1951) (due process "can rarely be obtained by secret, one-sided determination of facts").

Accordingly, respondents in guardianship cases must be appointed a Guardian *ad Litem* to help protect their rights and ensure that the Court receives relevant evidence to determine whether it should appoint a guardian for the person.

In one specific case we reviewed, the Court waived the respondent's right to a Guardian *ad Litem* on motion of the counsel for the petitioner. There was no record in the file that notice of the motion was served on the respondent or that the Court held a hearing or otherwise provided the respondent an opportunity to be heard on the issue. In addition, from conversations with people involved in the Guardian *ad Litem* system and in guardianship practice, we are informed that Guardians *ad Litem* are infrequently appointed in guardianship cases. We are conducting further research, as above, to determine if this is true.

3. **Failure to Appoint Counsel**

Finally, under Wyo. Stat. § 3-1-205(a)(iv), proposed wards are entitled "to have counsel appointed upon order of the court."

In one specific case we reviewed, the respondent was not appointed an attorney and there is no evidence in the Court's file that the Judge even considered doing so. In addition, from conversations with attorneys and others involved in the guardianship system, we are informed that attorneys are rarely, if ever, appointed in guardianship cases. We are conducting further research, as above, to determine if this is true.

It should be noted that we have been told that *if* a party appears at a ghost hearing to contest the guardianship, the Court will reset the matter for an evidentiary hearing. As noted above, typically proposed wards have no counsel to appear for them or advise them on the importance (or availability) of objecting at a ghost hearing. Indeed, if ghost hearings are being set without notice or appointment of a Guardian *ad Litem*, a proposed ward would not have a meaningful opportunity to object or request counsel.

If these processes occur as frequently as we are told (and fear), vulnerable Wyomingites are being divested of their rights without appropriate due process and statutory protections. We believe, though, that these serious problems may be solved relatively easily. As you know, BJPA "sets policies for the Judiciary, exercises administrative supervision over the courts in the state, and . . . promulgates rules of practice and procedure for all courts."[2] Consequently, in its policy setting and supervisory role, BJPA may bolster adherence to current Wyoming Law by implementing policies to: (1) Cease any practice of conducting ghost hearings in guardianship cases; (2) Ensure that proposed wards are appointed Guardians *ad Litem;* and (3) Ensure that proposed wards are appointed counsel. These solutions, which require nothing more than compliance with existing Law, will ensure that proposed wards receive the

[2] See, https://www.courts.state.wy.us/judicial-committees-and-boards/board-of-judicial-policy-administration-bjpa/

"fundamental requisite of due process,"[3] and Wyoming Courts preserve, protect, and project "the appearance and reality of fairness."[4]

Thank you again for all your support in this matter. I look forward to discussing these issues more with you and the BJPA.

Most sincerely,

Melissa R. Theriault
Theriault Law, LLC

cc: Jonathan Martinis, jgmartinisllc@gmail.com

[3] *Goldberg v. Kelly,* 397 U.S. 254, 267 (1970).
[4] *Marshall v. Jerrico, Inc.,* 446 U.S. 238, 242 (1980) (internal punctuation and citation omitted).

Theriault Law, LLC

August 18, 2021

Mark W. Gifford
Office of Bar Counsel
P.O. Box 109
Cheyenne, WY 82003
electronically delivered

Re: Wyoming Guardianship Policy and Practice

Dear Mark:

Thank you, again, for taking time to talk with Jonathan Martinis and me regarding our concerns about Wyoming guardianship policy and practice. I am writing to update you on our concerns and recent research.

As stated in my letter of August 4, we have observed and been informed that proposed wards in guardianship cases are routinely denied the due process and other protections set out in Wyoming Law and Rules. Last week, Jonathan and I traveled to the District Courts in Uinta and Sweetwater Counties. There, we reviewed the 11 guardianship case files available on Uinta County's public records terminal (many cases were inaccessible) and the physical case files of all 34 guardianship cases filed in Sweetwater County in 2020.

We summarize our findings and continuing concerns, below.

1. **Failure to Appoint Guardians *ad Litem* (GALs)**

   Pursuant to Wyo. Stat. § 3-1-205(a)(iv), proposed wards of any involuntary guardianship are entitled to "have a guardian ad litem appointed in accordance with Rule 17(c) of the Wyoming Rules of Civil Procedure." Nevertheless, of the 11 cases we reviewed in Uinta County, GALs were appointed in only 3, or 27%. In Sweetwater County, GALs were appointed in only 2 of the 34 cases we reviewed, or 6%.

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2. **Failure to Appoint Counsel**

Under Wyo. Stat. § 3-1-205(a)(iv), proposed wards are entitled "to have counsel appointed upon order of the court." Nevertheless, attorneys were not appointed in any of the 45 guardianship cases we reviewed in Uinta and Sweetwater Counties. Indeed, we found no evidence that the Courts even considered appointing attorneys in any of the cases.

3. **"Ghost Hearings"/Failure to Conduct Hearings**

Under Wyo. Stat. § 3-1-205(a)(ii), proposed wards of involuntary guardianships are entitled to "an opportunity for a hearing." In addition, Wyo. Stat. § 3-2-103 states that all guardianship cases "are governed by the Wyoming Rules of Civil Procedure and the Wyoming Rules of Evidence" and Wyo. Stat. § 3-2-104 states, "The court may appoint a guardian if the allegations of the petition as to the status of the proposed ward and the necessity for the appointment of a guardian are proved by a preponderance of the evidence." (emphasis added). Accordingly, under existing Wyoming Law and Rules, Courts must not put people in involuntary guardianship unless the petitioner introduces actual, admissible evidence in a hearing held consistent with the Wyoming Rules of Civil Procedure and Evidence.

Nevertheless, we found that hearings were held in only 1 of the 11 cases we reviewed in Uinta County, or 9%. In Sweetwater County, hearings were held in only 10 of 34 cases, or 29%. Instead, in the vast majority of cases the Court would enter a guardianship Order without giving the proposed ward notice of the proceeding or an opportunity to present evidence in his or her defense.

For example, in one involuntary guardianship case in Sweetwater County, the petitioner's attorney requested a hearing on the Petition, and gave his first available date as January 19, 2021. On January 5th – 14 days before the hearing date requested – the Court simply entered an Order putting the proposed ward in guardianship, writing:

> The Court having considered all pleadings and papers on file herein . . . finds that the proposed ward is in need of a guardian and conservator and that good cause is shown for the appointment of a guardian and conservator and that no further notice of these proceedings is required by law and appropriate under the circumstances.

In other words, in this case – and others we reviewed – the Court: (1) Did not provide the proposed ward with a GAL or attorney as required by Wyoming Law; (2) Ordered the proposed ward into guardianship without providing notice or an opportunity to be

heard; and (3) Relied upon hearsay, inadmissible under the Wyoming Rules of Evidence, to Order the proposed ward into guardianship.

4. **<u>Failure to Comply with Wyoming Law in Emergency Guardianship Proceedings</u>**

Under Wyo. Stat. § 3-2-106, when a petitioner requests an emergency guardianship, "[i]mmediately upon receipt of the petition the court shall appoint a guardian ad litem to represent the proposed ward's best interests in the proceeding." Nevertheless, in Sweetwater County, we reviewed 7 cases where the petitioner requested an emergency guardianship. Despite the mandatory language of Wyo. Stat. § 3-2-106, a GAL was appointed in only 1 case.

Worse, our review indicates that the Court was aware that it must appoint a GAL, but simply decided not to in almost all cases. We reach this conclusion because, in one case, the Court denied an emergency guardianship, stating:

> Regarding the request for an emergency guardianship, the requirements given in 3-2-106(d) and (e) have not been met. No proposed Guardian ad Litem order has been provided. . . .

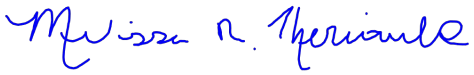
Hence, in that case, the Court showed a knowledge of the requirements of Wyoming Law and held the petitioner to them. Unfortunately, in 6 other emergency petitions, it did not – resulting in 6 proposed wards arbitrarily being denied the protection of a GAL promised by Wyoming Law.

While we continue to collect data in additional jurisdictions, our reviews in Uinta and Sweetwater Counties confirmed the concerns we raised in our last letter and show that vulnerable Wyomingites are being divested of their rights without appropriate due process and statutory protections. Therefore, we believe the time is right to address these ongoing problems and ensure that all citizens have access to the opportunities and protections set forth in state law.

We appreciate your offer to liaison with the Board of Judicial Policy and Administration and respectfully request that you share our letter and findings with the Board. We believe that the Board can, and should, in its policy setting and supervisory role for Wyoming Courts, bolster adherence to current Wyoming Law by implementing policies to ensure that: (1) Proposed wards are appointed Guardians *ad Litems;* (2) Proposed wards are appointed counsel; (3) Proposed wards are only Ordered into involuntary guardianships after appropriately conducted hearings and upon admissible evidence; and (4) Emergency guardianship proceedings are conducted in compliance with Wyoming Law. Finally, we would be happy to discuss our findings and concerns with the Board, and request an opportunity to do so.

Thank you again for all your support in this matter. If you or the Board have any questions or would like to schedule a time to talk or meet, please feel free to contact me at 307.459.0074 or Melissa@Theriaultlaw.Com.

Most sincerely,



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