

***IN THE SUPREME COURT, STATE OF WYOMING***

*April Term, A.D. 2011*

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*In the Matter of the Repeal of the Existing )  
Wyoming Rules of Civil Procedure for )  
Circuit Courts and the Adoption of the )  
Wyoming Rules of Civil Procedure for )  
Circuit Courts )*

**ORDER REPEALING THE EXISTING WYOMING RULES OF CIVIL  
PROCEDURE FOR CIRCUIT COURTS  
AND  
ORDER ADOPTING WYOMING RULES OF CIVIL  
PROCEDURE FOR CIRCUIT COURTS**

**This matter** came before the Court upon a recommendation from the Board of Judicial Policy and Administration that this Court completely revise the Wyoming Rules of Civil Procedure for Circuit Courts. In the 2011 General Legislative Session, the Wyoming Legislature made changes to the civil jurisdiction levels for circuit courts. See 2011 Wyo. Session Laws, ch. 196, § 1. Based on those statutory amendments and the recommendation of the Board of Judicial Policy and Administration, this Court finds that the existing Wyoming Rules of Civil Procedure for Circuit Courts should be repealed and the proposed Wyoming Rules of Civil Procedure for Circuit Courts should be adopted. It is, therefore,

**ORDERED** that effective July 1, 2011, the existing Wyoming Rules of Civil Procedure for Circuit Courts shall be repealed; and it is further

**ORDERED** that the Wyoming Rules of Civil Procedure for Circuit Courts, attached hereto, be and hereby are adopted by the Court to be effective July 1, 2011; and it is further

**ORDERED** that this order and the attached rules be published in the advance sheets of the Pacific Reporter and in the Wyoming Court Rules Volume. This order shall also be published online at this Court's website, <http://www.courts.state.wy.us>. The amendments shall thereafter be spread at length upon the journal of this Court.

**DATED** this 18<sup>th</sup> day of May, 2011.

**BY THE COURT:**

/s/

**MARILYN S. KITE**  
Chief Justice

## Wyoming Rules of Civil Procedure for Circuit Courts

### Rule 1. Scope.

The purpose of these rules is to provide maximum access to the Wyoming circuit courts in civil actions; to enhance the provision of just, speedy, and inexpensive determination of civil actions; to provide expedited trial dates; and to focus discovery towards resolution of the issues. These simplified rules should be construed and administered to secure the advantages of simplified procedure as provided herein. Extensions, continuances, and stays are strongly disfavored.

At all times, the court and the parties must address the action in ways designed to assure that the process and the costs are proportionate to the amount in controversy and the complexity and importance of the issues. The factors to be considered by the court in making a proportionality assessment include, without limitation: needs of the case, amount in controversy, parties' resources, and complexity and importance of the issues at stake in the litigation. This proportionality rule is fully applicable to every aspect of these Rules.

#### *Comment:*

*The idea of proportionality is to reverse the default understanding that parties are entitled to discovery of all facts without limit unless and until a court says otherwise, because the monetary and time costs of unlimited discovery reduce access to justice. It is the purpose of this rule to make clear that all facts are not necessarily subject to discovery. Rather, all pre-trial activities must focus on the facts required to appropriately resolve the particular dispute.*

### Rule 2. Applicability.

(a) These Rules shall apply to all civil actions in circuit court pursuant to Wyo.Stat. Ann. § 5-9-128(a)(i)-(iii), (vi), and (vii).

(b) The Wyoming Rules of Civil Procedure will continue to govern the procedure in civil cases in all circuit courts except to the extent that there is an inconsistency, in which case these Rules will take precedence.

(c) Neither these Rules nor the Wyoming Rules of Civil Procedure shall govern proceedings initiated in circuit courts pursuant to the small claims jurisdiction of the circuit courts, the forcible entry and detainer jurisdiction of the circuit courts, or petitions for stalking or family violence orders of protection.

(d) The following rules of the Wyoming Rules of Civil Procedure shall not apply in circuit courts, unless and until circuit courts shall have statutory subject matter jurisdiction of cases in which such relief is requested:

Rule 23, 23.1 and 23.2 – Class Actions.

Rule 52(d) – Reserved Questions to the Supreme Court.

Rule 62(a), (c), and (e) – Stay on Injunction Appeals.

Rule 65 – Injunctions.

Rule 66 – Receivers.

Rule 70 – Specific Performance, Vesting Title.

Rule 71.1 – Condemnation of Property.

Rule 83 – Rules of District Courts.

Rule 84 – Forms.

Rule 85 – Title.

Rule 86(a) – Effective Date.

**Rule 3. Pleadings.**

While notice pleading remains the standard, the party that bears the burden of proof with respect to any claim or affirmative defense should plead all material facts that are known to that party that support that claim or affirmative defense and each remedy sought, including any known monetary damages. A material fact is one that is essential to the claim or defense and without which it could not be supported.

Any statement of fact that is not denied with specificity in any responsive pleading is deemed admitted. General denials of any statement of fact are not permitted and a denial that is based on the lack of knowledge or information shall be so pleaded.

**Rule 4. Compulsory counterclaim, cross-claim, or third-party claim outside court's subject matter jurisdiction.**

(a) When a compulsory counterclaim, cross-claim, or third-party claim requesting relief outside the subject matter jurisdiction of the circuit court is filed in a case properly before the circuit court, the party filing such compulsory counterclaim, cross-claim, or third-party claim shall also file with the circuit court a motion for transfer of the case, as a whole, to the court which would have jurisdiction if the relief requested were to be granted. The circuit court shall order the case transferred to the district court if the proponent of the motion makes a prima facie showing that the claim for relief is outside the jurisdiction of the circuit court and that it is not specious.

(b) The party who files the motion for transfer of the case shall deposit the district court docket fee with the motion in the circuit court, and if the case is ordered to be transferred to the district court the deposited filing fee shall also be sent with the transferred file to the clerk of the district court. If the motion for transfer of the case is denied, the district court docket fee shall be returned to the moving party.

**Rule 5. Disclosures.**

No later than 30 days after service of a pleading defending against a claim for relief, each party shall file with the court a statement listing all persons with information related to the claim for relief and the defenses asserted, and the nature of the information each such individual is believed to possess, whether the information is supportive or harmful. The statement shall also include a certification that the party has available for inspection and copying all reasonably available documents and other physical evidence related to the claims, along with a description by category and subject area of the documents and other physical evidence being disclosed, whether they are supportive or harmful.

Parties shall make disclosures in good faith and may not object to the adequacy of the disclosures until the initial case management conference. Each party has an ongoing duty to supplement the initial disclosures promptly upon becoming aware of the supplemental information.

**Rule 6. Case management.**

The judge to whom the case has been assigned shall hold an initial case management conference no later than 45 days after all responsive pleadings are filed, except when the judge

determines that an initial case management conference is unnecessary. Each *pro se* party or party's counsel shall attend the conference.

As soon as possible after the initial case management conference, the judge to whom the case is assigned shall issue an initial case management order. Discovery permitted by the case management order shall be based on proportionality. The court should consider, but is not bound by, the assessments made by the parties. Modifications to the initial case management order may be made only upon a showing of good cause.

The court shall provide active case management from filing to resolution or hearing on all pending issues. A party may request additional conferences with the court. The court may hold additional status conferences on its own motion. A conference may be held in-person or by telephone or videoconference, at the court's discretion.

#### **Rule 7. Expedited trial setting.**

Cases subject to these Rules will receive an expedited trial date. Trials shall begin within seven months after the action is commenced, absent unavoidable and extraordinary circumstances. The trial date will be set in the initial case management order, or at the earliest practicable time thereafter, and shall not be changed absent extraordinary circumstances. The parties may not stipulate to extensions.

If motions are filed, motions will be resolved forthwith by the court setting a telephonic, video, or in-person hearing for purposes of addressing the motion without need for responsive filings in order to maintain the expedited nature of the case.

#### **Rule 8. Discovery.**

Unless otherwise provided in the case management order, each side may take no more than two depositions limited to three hours each. Each side may propound up to 20 requests for production, 20 interrogatories, and 20 requests for admission. The court may set additional limits or provide for further discovery in the initial case management order, upon a showing of good cause and proportionality.

No other discovery will be permitted absent further court order based on a showing of good cause and proportionality. Discovery shall be limited to matters that would enable a party to prove or disprove a claim or defense or to impeach a witness and shall comport with the factors of proportionality.

#### **Rule 9. Expert testimony.**

In accordance with the deadline set in the case management order, a party seeking to introduce expert testimony shall, for each retained expert and any party or representative of a party who is testifying in part as an expert, furnish a report signed by the expert and with each paragraph initialed by the expert, setting forth the opinions to be offered, and the reasons for them. The substance of each expert's direct testimony shall be fully addressed in the expert's report. Each expert witness report shall, at a minimum, contain:

- (a) a specific statement of the opinions by the expert and the facts and other information which form the basis for each opinion;
- (b) a listing of all of the material relied upon by the expert;
- (c) references to literature which may be used during the witness testimony;

- (d) any then-existing exhibit prepared by, or specifically for, the expert for use at trial;
- (e) witness' curriculum vitae including a list of publications over the last 10 years;
- (f) a list of all trial or deposition testimony given by the witness in the last four years;
- (g) an accounting of all time spent on the case; and
- (h) a fee schedule.

There shall be no depositions or other discovery of experts, except as provided by court order upon a showing of good cause and proportionality. Except in extraordinary circumstances, only one expert witness per side may be permitted to submit a report and testify in any given specialty and/or with respect to any given issue.

**Rule 10. Enforcement.**

For any failure to provide, or for unnecessary delay in providing, required disclosures or discovery, unless justified under the circumstances, the court may order the following:

- (a) a denial of the right to use, for any purpose, the information not disclosed;
- (b) a denial of the right to object to the admissibility of the evidence;
- (c) a dismissal of all or part of any claim or defense;
- (d) assessment of attorney fees and costs; and
- (e) any other sanction the court deems appropriate, including those set forth in Rule 901 of the Uniform Rules for District Courts of the State of Wyoming.

**Rule 11. Title.**

These rules shall be known as the Wyoming Rules of Civil Procedure for Circuit Courts and may be cited as W.R.C.P.C.C.