

IN THE SUPREME COURT, STATE OF WYOMING

OCTOBER TERM, A.D. 2013

In the Matter of the Creation of)
Rule 3.1 of the Wyoming Rules of)
Civil Procedure for Circuit Courts)

**ORDER *NUNC PRO TUNC* CREATING RULE 3.1 OF THE
WYOMING RULES OF CIVIL PROCEDURE FOR CIRCUIT COURTS**

This matter came before the Court upon recommendation of the Board of Judicial Policy and Administration to create Rule 3.1 of the Wyoming Rules of Civil Procedure for Circuit Courts. The Court has determined that Rule 3.1 of the Wyoming Rules of Civil Procedure for Circuit Courts is necessary and proper. This *nunc pro tunc* order is being entered to make stylistic changes to Rule 3.1(a)(2) and to modify the second sentence of Rule 3.1(b)(3). It is, therefore,

ORDERED that Rule 3.1 of the Wyoming Rules of Civil Procedure for Circuit Courts is hereby created as shown on the attachment hereto effective on April 1, 2014. It is further

ORDERED that this Order and the rule amendments be published in the advance sheets of the Pacific Reporter; the rule amendments be published in the Wyoming Court Rules Volume; and this order and the rule amendments be made available online at the Wyoming Judicial Branch’s website, <http://www.courts.state.wy.us>. The amendments shall thereafter be spread at length upon the journal of this Court; and it is further

ORDERED that this Court’s January 7, 2014, “Order Creating Rule 3.1 of the Wyoming Rules of Civil Procedure for Circuit Courts” shall be removed from the Wyoming Judicial Branch’s website and is of no further effect.

DATED this 16th day of January, 2014.

BY THE COURT:

/s/

MARILYN S. KITE
Chief Justice

Rule 3.1. Commencement of action.

(a) How Commenced. A civil action in Circuit Court is commenced:

(1) On the date of filing a complaint with the court so long as service is accomplished within the time periods specified in Rule 3(b) of the Wyoming Rules of Civil Procedure; or

(2) On the date of service of a summons together with a copy of the complaint. If the action is commenced under this subsection, then the complaint, the summons and proof of service must be filed within ten days of such service. If the complaint, summons and proof of service are not filed within ten days of service, the action commenced shall be deemed dismissed and the court shall have no further jurisdiction thereof. In such case the court may, in its discretion, tax a reasonable sum in favor of the defendant to compensate the defendant for expense and inconvenience, including attorney's fees, to be paid by plaintiff or plaintiff's attorney. The ten day filing requirement may be expressly waived by a defendant and shall be deemed waived upon the filing of an answer or motion to the complaint without reserving the issue.

(b) Form of summons.

(1) The summons shall be signed and issued by the Clerk if filed under 3.1(a)(1) or signed and issued by the plaintiff or the plaintiff's attorney if filed under 3.1(a)(2).

(2) The summons shall contain the name and address of the court and the names of the parties to the action. It shall be directed to the defendant, state the name, address and telephone of the plaintiff's attorney, if any, and otherwise the plaintiff's address and telephone number. It shall state the time within which the defendant is required to answer the complaint in writing, and shall notify the defendant that in case of failure to do so, judgment by default may be rendered against the defendant. It shall state either that the complaint is on file with the court or that the complaint will be filed with the court within ten days of service.

(3) If the action is commenced under Rule 3.1 (a)(2), the summons shall state that the defendant need not answer if the complaint is not filed within ten days after service. When the complaint is filed with the court, the plaintiff shall send a notice of filing to the defendant(s), as provided by Rule 5 of the Wyoming Rules of Civil Procedure.