

IN THE SUPREME COURT, STATE OF WYOMING

APRIL TERM, A.D. 2014

In the Matter of the Adoption of)
An Amendment to Rule 26 of the)
Wyoming Rules of Civil Procedure)

**ORDER ADOPTING AMENDMENTS TO RULE 26 OF
THE WYOMING RULES OF CIVIL PROCEDURE**

This matter came before the Court upon recommendation of the Board of Judicial Policy and Administration. The Court has determined that Rule 26 of the Wyoming Rules of Civil Procedure should be amended. It is, therefore,

ORDERED that Rule 26 of the Wyoming Rules of Civil Procedure is hereby amended as shown on the attachment hereto effective on July 1, 2014. It is further

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

DATED this 22nd day of April, 2014.

BY THE COURT:

/s/

MARILYN S. KITE
Chief Justice

Wyoming Rules of Civil Procedure

Rule 26. General provisions governing discovery; duty of disclosure.

(a) *Required disclosures; methods to discover additional matter.*

(1) Initial disclosures. Except in categories of proceedings specified in Rule 26 (a) (1) (E), or to the extent otherwise stipulated in writing or directed by order, a party must, without awaiting a discovery request, provide to other parties:

(A) The name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless solely for impeachment, identifying the subjects of the information;

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

(C) A computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered; and

(D) For inspection and copying as under Rule 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

(E) The following categories of proceedings are exempt from initial disclosure under Rules 26 (a) (1) (A), (B), (C) and (D):

(i) cases arising under Title 14 of the Wyoming Statutes;

(ii) cases in which the court sits in probate;

(iii) divorce actions [for which the required initial disclosures are set forth in Rules 26 (a)(1.1) (A), (B), (C), (D), (E), (F), (G) and (H)] , and custody and support actions where the parties have never been married [for which the required initial disclosures are set forth in Rule 26 (a)(1.2) (A)];

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

(v) a petition for habeas corpus or other proceeding to challenge a criminal conviction or sentence;

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

(vii) an action to enforce or quash an administrative summons or subpoena; and

(viii) a proceeding ancillary to proceedings in the court of original jurisdiction or other courts.

Unless a different time is set by stipulation in writing or by court order, these disclosures must 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 court order. A party must make its initial disclosures based on the information then reasonably

available to it and is not excused from making its disclosures because it has not fully completed its investigation of the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures.

(1.1) Initial disclosures in divorce actions. In divorce actions the following initial disclosures are required in pre-decree proceedings, and in post-decree proceedings to the extent that they pertain to a particular claim or defense:

(A) A schedule of financial assets, owned by the party individually or jointly, such as savings or checking accounts, stocks, bonds, cash or cash equivalents, which schedule shall include: (i) the name and address of the depository; (ii) the date such account was established; (iii) the type of account; (iv) the account number; and (v) whether acknowledged to be a marital asset or asserted to be a non-marital asset and, if asserted to be a non-marital asset, an explanation of the legal and factual basis for such assertion;

(B) A schedule of non-financial assets, owned by the party individually or jointly, which schedule shall include: (i) the purchase price and the date of acquisition; (ii) the present market value; (iii) any indebtedness relating to such asset; (iv) the state of record ownership; (v) whether purchased from marital assets jointly or obtained by gift or inheritance; and (vi) whether acknowledged to be a marital asset or asserted to be a non-marital asset and, if asserted to be a non-marital asset, an explanation of the legal and factual basis for such assertion;

(C) A schedule of all debts owed individually or jointly, identifying: (i) the date any obligation was incurred; (ii) the spouse in whose name the debt was incurred; (iii) the present amount of all debts and the monthly payments; (iv) the use to which the money was put which caused the debt to arise; (v) identification of any asset which serves as security for such debt; and (vi) an acknowledgement of whether each debt is a marital or non-marital debt and, if asserted to be a non-marital debt, an explanation of the legal and factual basis for such assertion;

(D) As to safe deposit boxes: (i) the name and address of the institution where the box is located; (ii) the box number; (iii) the name and address of the individual(s) who have access to the box; (iv) an inventory of the contents; and (v) the value of the assets located therein;

(E) Employment: (i) the name and address of the employer; (ii) gross monthly wage; (iii) payroll deduction(s), specifically identifying the type and amount; (iv) the amount of other benefits including transportation, employer contributions to health care, and employer contributions to retirement accounts; and (v) outstanding bonuses;

(F) Other income: list all sources of other income as defined by Wyo.Stat. Ann. § 20-6-202(a)(ix), including the name and address of the source and the amount and date received;

(G) As to retirement accounts or benefits: (i) the name and address of the institution holding such account or benefits; (ii) the present value if readily ascertainable; (iii) the initial date of any account; (iv) the expected payment upon retirement and the specific retirement date; and (v) the value of the account at the date of the marriage if the account existed prior to marriage;

(H) A party seeking custody or a change in custody shall set forth the facts believed to support the claim of superior entitlement to custody. In addition, as to a

change of custody the party shall set forth any facts comprising a substantial change in circumstances and disclose any supporting documentation.

(1.2) Initial disclosures in custody and support actions where the parties have never been married. In custody and support actions where the parties have never been married, the following initial disclosures are required in original proceedings and in modification proceedings to the extent that they pertain to a particular claim or defense:

(A) A party seeking custody or a change in custody shall set forth the facts believed to support the claim of superior entitlement to custody. In addition, as to a change of custody, the party shall set forth any facts comprising a substantial change in circumstances and disclose any supporting documentation.

These disclosures in divorce actions and actions for custody and support where the parties have never been married must be made within 30 days after the defendant is served unless a different time is set by stipulation in writing or by court order. A party must make its disclosures based on the information then reasonably available to it and is not excused from making its disclosures because it has not fully completed its investigation of the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures.

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