

IN THE SUPREME COURT, STATE OF WYOMING

October Term, A.D. 2021

***In the Matter of Amendments to)
Rules 3, 16, and 40.1)
of the Wyoming)
Rules of Civil Procedure)***

**ORDER AMENDING RULES 3, 16, AND 40.1 OF THE WYOMING
RULES OF CIVIL PROCEDURE**

The Permanent Rules Advisory Committee, Civil Division, has recommended the Court amend Rules 3, 16, and 40.1 of the Wyoming Rules of Civil Procedure. This Court finds the proposed amendments should be adopted. It is, therefore,

ORDERED that the amendments to Rules 3, 16, and 40.1 of the Wyoming Rules of Civil Procedure, attached hereto, be and hereby are adopted by the Court to be effective June 1, 2022; and it is further

ORDERED that this order and the attached amendments be published in the advance sheets of the Pacific Reporter; the attached amendments be published in the Wyoming Court Rules Volume; and that this order and the attached amendments be published online at the Wyoming Judicial Branch’s website, <http://www.courts.state.wy.us>, on the “Rule Amendments” page. The amendments shall also be recorded in the journal of this Court.

DATED this 15th day of March, 2022.

BY THE COURT:*

/s/

**KATE M. FOX
Chief Justice**

*Justice Kautz would not approve the amendments to Rule 16.

Wyoming Rules of Civil Procedure

Rule 3. Commencement of Action.

A civil action is commenced by filing a complaint with the court, except when an action has been dismissed pursuant to Rule 4(w). When an action has been dismissed pursuant to Rule 4(w) and a new action is filed, it is commenced by filing a complaint with the court if service is obtained within 90 days of the applicable statute of limitations.

Comment:

One purpose of amending the Wyoming Rules of Civil Procedure is to promote uniformity between the Federal Rules of Civil Procedure and the State Rules of Civil Procedure. However, Wyoming law has a savings statute. Wyo.Stat.Ann. § 1-3-118. Therefore, Rule 3 has been amended to account for Wyoming's Savings Statute and Wyoming Supreme Court interpretations of that statute as it relates to commencement of an action and the applicable statutes of limitations. See Hoke v. Motel 6 Jackson, 2006 WY 38, ¶ 16, 131 P.3d 369, 378 (Wyo. 2006). It is the intent that Rule 3 applies the same as its Federal counterpart. If a matter is dismissed pursuant to Rule 4(w), a plaintiff would still have the remainder of the statute of limitations (plus 90 days) to get the matter served.

Rule 16. Pretrial Conferences; scheduling; management.

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

- (1) expediting disposition of the action;
- (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; and
- (6) exploring removal to chancery court if the action is eligible.

Rule 40.1. Transfer of trial and change of judge.

(b) *Change of Judge.* --

(1) *Peremptory Disqualification.* --

(A) Motion. -- A party may peremptorily disqualify a district judge from acting in a case by filing a motion to disqualify the assigned judge.

(B) Time for Filing Motion by Plaintiff. The motion shall be filed no later than fourteen (14) days after:

- (i) the entry of a notice assigning the judge as described in sub-section (H) or

(ii) the entry of an order re-assigning the matter to another judge ~~following the filing of a motion by a defendant under subsection (b)(1)(C),~~ whichever occurs later.

(C) Time for Filing Motion by Defendant. The motion shall be filed no later than:

(i) The time of filing defendant's first responsive pleading or W.R.C.P. 12 motion;
or

(ii) Fourteen (14) days after the entry of an order re-assigning the matter to another judge ~~following the filing of a motion by a plaintiff under subsection (b)(1)(B) or by a co-defendant under subsection (b)(1)(C),~~ whichever occurs later.
