UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF WYOMING

LOCAL CIVIL RULES

Revised February 6, 2012

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I SCOPE OF LOCAL RULES

Rule 1.1 TITLE, CITATION AND SCOPE OF RULES

(a) Citation. These Rules shall be known as the Local Rules of the United States District Court for the District of Wyoming. They may be cited as "U.S.D.C.L.R."

(b) Applicability. These Rules shall apply in all proceedings in civil and criminal actions.

(c) Title of Court. This Court is known as the "United States District Court for the District of Wyoming."

(d) Seal of Court. The Seal shall contain the words "United States District Court for the District of Wyoming" in a circular design with an eagle in the center thereof.

II COMMENCEMENT OF ACTION

Rule 3.1 CIVIL COVER SHEET

(a) Civil Cover Sheet. Every complaint or other document initiating a civil action shall be accompanied by a completed civil cover sheet form available from the Clerk of Court. This requirement is solely for administrative purposes and has no legal effect in the action.

If the complaint or other document is filed without a completed civil cover sheet, the Clerk of Court shall promptly give notice of the omission to the party filing the document.

Persons filing civil cases *pro se* are exempt from the foregoing requirements.

Rule 4.1 SUMMONS

(a) Preparation of Summons. Summons shall be prepared by counsel or pro se parties upon forms supplied by the Clerk of Court and **may** be presented for issuance **on or after** the filing of a complaint or pleading commencing the action.

(b) Civil Summons - Return of Service. Every party causing a summons or subpoena to be served shall file the return of service with the Clerk of Court immediately following receipt thereof from the process server, and no later than within the time during which the person served must respond to the process. (See Fed. R. Civ. P. 4(g).)

Rule 5.1 FILING WITH THE COURT

(a) Pleading Format. Pleadings shall be typed, either double-spaced or one and one-half (1½) spaced on white paper of standard weight and eight and one-half (8½) x eleven (11) inches in size. They shall be filed without backing. Attachments or exhibits shall be tabbed at the bottom. As used in these Rules, "pleadings" means all papers, including briefs, filed in a case. A sufficient space shall be reserved on the first page, in proximity to the title of the case and on the right hand side, for the filing stamp of the Clerk of Court and the case number. The first line of every page shall commence not less than two (2) inches from the top of the page to accommodate filing by the Clerk of Court.

When counsel is ordered to prepare proposed orders, each proposed order shall state what the order is concerning, e.g., order granting motion to compel.

(b) Number of Copies. All pleadings, motions, applications and briefs tendered to the Clerk of Court for filing shall consist of an original plus one copy.

(c) Identification of Counsel in Pleadings. The caption of every pleading shall conform with Fed. R. Civ. P. 10(a) and the front page on all pleadings shall contain the name, firm name (if any), address and telephone and facsimile number (if any) of the attorney(s) in active charge of the case, which shall be placed in the upper left hand corner four (4) spaces above name of Court.

(d) Identification of Complex Cases. (See Local Rule 16.4.)

(e) Prepayment of Fees. Prepayment of all fees collectible by the Clerk of Court and prescribed by statute or by the Judicial Conference may be required by the Clerk of Court before furnishing the service therefor.

(f) Failure to Pay Fees. Except for notices of appeal and prisoner petition matters, the Clerk of Court is authorized to refuse to docket or file any suit or proceeding, writ or other process, or any paper or papers in any suit or proceeding until the filing fees are paid.

(g) Proof of Service. Except as otherwise provided in the Federal Rules of Civil Procedure, or by order of the Court, proof of service of any pleading, motion or other paper required to be served shall be made by a certificate of service in accordance with Fed. R. Civ. P. 5(d). Such certificate or affidavit shall be served with the pleading or paper served, or shall be endorsed upon the pleading or papers served. The proof of service shall show the date, place and manner of service. (See Local Rule 26.1(d) re: filing of discovery pleadings.)

(h) Facsimile Filing. All papers shall be filed with the Clerk of Court as originals, signed in accordance with the Federal Rules of Civil Procedure. Papers

transmitted by facsimile shall not be accepted for filing.

(i) Facsimile Service. Service upon an attorney or upon a party may be made by facsimile transmission in addition to but not in lieu of the procedures set forth in Fed. R. Civ. P. 5(b). The procedures required by Fed. R. Civ. P. 5(b) shall control the time of service.

(j) Failure to Comply. Documents which fail to comply with the provisions of this Rule shall be filed but may be subject to being stricken by the Court.

(k) Place of Filing. The City of Cheyenne in the District of Wyoming is hereby designated as the place where the records for this District Court shall be maintained. All suits and proceedings commenced in this Court, together with all pleadings, motions and other papers shall be filed with the Clerk of Court in the Cheyenne or Casper offices of the Clerk. However, when the Court is in session elsewhere in the District, such documents may then be filed with the Clerk of Court or the Court at the place where court is being held.

5.2 Filing by Electronic Transmission

(a) Electronic Filing Authorized. A party may file a document by electronic transmission in accordance with guidelines established by the Court (see CM/ECF Procedures Manual for Wyoming at http://www.wyd.uscourts.gov Filing by facsimile is not permitted . Unless otherwise ordered by the court, an electronic document is considered filed on the date of the electronic transfer, including weekends and holidays. A filing day is defined as 12:00:00 a.m. to 11:59:59 p.m. The time and date of actual filing are reflected in the Court's digital file stamp.

(b) Documents of Record. A document filed electronically and stored in the Court's server is the official document of record. Affidavits and other documents requiring an original verified signature may be filed electronically. By electronically filing an affidavit or other verified document, the filing party or attorney certifies that the original signed paper will be kept and will be produced on request or at the direction of the Court.

5.3 Service by Electronic Transmission

(a) By the Court. The Court or Clerk may serve and give notice by electronic transmission, in lieu of service and notice by mail, to any person who has a written request, on file with the Clerk, to receive service and notice by electronic transmission. The request remains

effective in all subsequent litigation in this District involving the person who filed the request; however, any person may withdraw authorization for electronic filing by sending written notice to the Clerk.

(b) Between Parties. In addition to means of service specified in Fed. R. Civ. P. 5(b), parties may agree to service between themselves by electronic transmission, including transmission through the Court's server.

Electronic service under subdivisions (a) and (b) is equivalent to service by mail in accordance with Fed. R. Civ. P. 5(b)(2), 5(E), 5(b)(3) and 77(d).

Rule 6.1 TIME

(a) Computation of Time Limits. All time limits imposed by the Local Rules of this Court shall be computed in accordance with the applicable Federal Rules of Civil Procedure.

(b) Extensions of Time. All parties shall strictly comply with all time limits as provided by the Local Rules and the Federal Rules of Civil Procedure. Motions for extensions of time of not more than fifteen (15) days within which to:

(1) answer or move to dismiss the complaint;

(2) answer or object to interrogatories under Fed. R. Civ. P. 31 or Fed. R. Civ. P. 33;

(3) respond to requests for production or for inspection under Fed. R. Civ. P. 34;

(4) respond to requests for admissions under Fed. R. Civ. P. 36;

may be granted where serious circumstances demonstrate that an extension should be granted. After consultation with and approval by opposing counsel, counsel seeking an extension of time for the first time shall, upon oral motion, request an immediate ruling from the Magistrate Judge. The hearing may be by telephone conference call or in person. The Magistrate Judge shall cause the Clerk of Court to enter the decision on the docket sheet as a minute order and no further order shall be entered on the motion.

(c) All other requests for continuances or extensions of time under these rules or the Fed. R. Civ. P. shall be presented to the Court by written motion.

III PLEADINGS AND MOTIONS

Rule 7.1 MOTIONS

(a) Motion Days. Motion days are not regularly scheduled by the Court. Each judge, at the request of counsel or upon the judge's own motion, shall set motions upon which the judge deems oral argument to be helpful. Motions which require written memoranda will be resolved upon the written memoranda unless the Court, in its discretion, orders otherwise. All other motions will, at the judge's discretion, be resolved upon oral argument or written memoranda as required by the Court. However, oral argument upon motions for summary judgment will be allowed upon the request of any party.

(b) Filing of Written Briefs.

(1) Non-Dispositive Motion.

(A) Duty of Counsel to Confer. Except as otherwise ordered, the Court will not entertain any nondispositive motion unless counsel for the moving party has conferred orally, in person or by telephone, and has made reasonable good faith efforts to resolve the dispute with opposing counsel prior to the filing of the motion. Counsel for the moving party shall set forth in writing all good faith efforts undertaken to resolve the dispute and the Court will not consider the motion until said information is provided.

(B) Briefs. A party who files a non-dispositive motion shall include in the motion a short, concise statement of the arguments and authorities in support of the motion. In the alternative, a separate written brief may be filed with the motion, if counsel so desires. Each party opposing the motion shall, within **fourteen (14)** days after service of said motion, serve upon all parties a written response containing a short, concise statement of the argument and authorities in opposition to the motion. Failure of a responding party to serve a response within the **fourteen (14)** day time limit, or such other time limit as the Court may direct, may be deemed by the Court in its discretion as a confession of the motion.

(C) Page Limitation. Briefs in support of and in opposition to all non-dispositive motions are limited to a maximum of ten (10) pages. Motions seeking permission to file briefs containing more than ten (10) pages will be granted only when complex or numerous legal issues justify such relief. The motion shall state how many pages the brief will contain. A proposed order shall be submitted with the motion.

(2) Dispositive Motion.

(A) Briefs. A party who files a dispositive motion shall serve and file with the motion a written brief containing a short, concise statement of the arguments and authorities in support of the motion, together with proposed findings of fact and conclusions of law in accordance with United States District Court Local Rule 7.1(b)(2)(D). Affidavits and other supportive papers shall be filed together with the motion and brief. Each party opposing the motion shall, within **fourteen (14)** days after service of said motion, serve upon all parties a written brief containing a short, concise statement of the argument and authorities in opposition to the motion, together with proposed findings of fact and conclusions of law in accordance with United States District Court Local Rule 7.1(b)(2)(D). In the event a motion for summary judgment is filed, the parties shall include in their respective briefs a list of all claimed undisputed and disputed facts, together with a short statement of evidence and any other basis which supports a claim that a fact is disputed or undisputed. Failure of a responding party to serve a response within the **fourteen (14**) day time limit may be deemed by the Court in its discretion as a confession of the motion.

(B) Page Limitation. Briefs in support of and in opposition to all dispositive motions are limited to a maximum of twenty-five (25) pages. Motions seeking permission to file briefs containing more than twenty-five (25) pages will be granted only when complex or numerous legal issues justify such relief. The motion shall state how many pages the brief will contain.

(C) Reply Briefs. Parties shall not file reply briefs for any motion set for oral hearing. Reply briefs may be filed for motions to be determined without oral argument if the reply brief is filed **seven (7)** days within service of the response brief.

(D) Proposed Findings and Conclusions. Counsel for the parties shall submit to the Court, together with their briefs, proposed findings of fact and conclusions of law, and orders supported by the record which reflect the positions to be taken by the parties at the hearing. Counsel are required to comply with this Rule although a magistrate judge or bankruptcy judge has submitted proposed findings of fact and recommendations.

The time requirements and sequence of filing by counsel of dispositive motions and briefs may be determined by the magistrate judge at the initial pretrial conference.

(c) Rulings on Dispositive Motions.

(1) Oral Hearings. The Court shall make every reasonable effort to rule on dispositive motions from the bench at the conclusion of the oral hearing. The Court may adopt the prevailing party's proposed order submitted in accordance with (b)(2)(iv) above, or may require the prevailing party to submit a new order, in accordance with the Court's ruling.

(2) Submission on Briefs. The Court will make every reasonable

effort to rule on dispositive motions submitted on briefs within fourteen (14) days after the filing of the last responsive brief.

(d) Motions in Limine. Motions in Limine shall be filed and heard, as provided in Local Rule 43.1 infra.

(e) Attendance at Hearings. Any party, either proposing or opposing a motion or other application, who does not intend to actively urge or oppose the same, shall immediately notify all counsel of record, the Clerk of Court and the secretary of the judge in order that the judge and counsel are not required to devote unnecessary attention to the matter. Unless excused by the Court from attendance, failure of counsel to be present at the hearing noticed for any motion, or to attend at the time to which the hearing is continued, shall be deemed either a waiver of the motion or other pleading, if such counsel represents the moving party, or a consent to the sustaining of the motion or objection, or the granting of the motion or other application, if such counsel represents the responding party.

RULE 8.2. EXCLUSION OF CERTAIN PERSONAL DATA FROM PLEADINGS

In compliance with the policy of the Judicial Conference of the United States and the E-Government Act of 2002, and in order to promote the electronic access to case files, while protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall redact, where inclusion is necessary, the following personal data identifiers from their pleadings, including exhibits thereto, unless otherwise ordered by the Court.

- Social Security Numbers. If an individual's social security number must be included, only the last four digits of that number should be used.

- Names of Minor Children. If the involvement of a minor child must be mentioned, only the initials of that child should be used.

- Dates of Birth. If an individual's date of birth must be included, only the year of birth should be used.

- Financial Account Numbers. If a financial account number is relevant, only the last four digits of such numbers should be used.

- Home Addresses. If home address must be included, only the city and state should be listed.

The responsibility for redacting these personal data identifiers rests solely with counsel and the persons filing the documents with the Court. The Clerk will not review papers for compliance with this rule.

Rule 15.1 MOTIONS TO AMEND

(a) Motions to Amend Pleadings. Motions to amend pleadings pursuant to Fed. R. Civ. P. 15(a) shall include a representation that the movant conferred with the opposing party to determine if the opposing party objected to the motion. The motion shall also include a representation whether or not the opposing party has an objection to the motion. If the motion states the opposing party has no objection, the movant shall furnish the Court with a proposed order which the Court will sign. If the motion indicates there is an objection, the Court will **consider the objection after response is filed and may decide the matter upon the pleadings or upon hearing**.

Rule 16.1 PRETRIAL CONFERENCES

The Court recognizes that the commencement of an action transforms a private dispute into public business, which necessitates judicial regulation through calendar control and explicit rules regarding discovery matters and pretrial conferences, in order to avoid unnecessary delays and to accommodate the public's interest in swift administration of justice consistent with high standards of judicial quality. Pretrial conferences are fundamental to that process. The Court will fully implement Fed. R. Civ. P. 16 in scheduling and managing all complex and non-complex cases, except appeals from the bankruptcy court, appeals from decisions of administrative agencies and other cases where the action of the Court is limited to review of a previously prepared record, habeas corpus proceedings and *pro se* prisoner cases. Scheduling orders shall comply with Fed. R. Civ. P. 16(b).

(a) Rule 26(f) Conference and Pretrial Scheduling Conference in Non-Complex Cases. The Court, in its discretion and upon its own initiative, shall set a pretrial scheduling conference with the attorneys for the parties before a magistrate judge or a district judge of the Court.

(1) The Court will set an initial pretrial conference no sooner than thirty-five (35) days after the last pleading pursuant to Fed. R. Civ. P. 7 or a dispositive motion is filed with the court. Counsel must meet and confer together in accordance with Fed. R. Civ. P. 26(f) no later than twenty (20) days after the last pleading pursuant to Fed. R. Civ. P. 7 or a dispositive motion is filed with the court. (See Appendix D)

(2) Counsel shall comply with Fed. R. Civ. P. 26(a)(1) and shall submit a written or oral discovery plan at the initial pretrial conference.

(b) Initial Pretrial Conference Preparation. Counsel shall be prepared to present and discuss the following matters at the initial pretrial conference:

(1) Counsel must report to the Court the results of the Fed. R. Civ. P. 26(f) conference in accordance with Local Rule 26.1(c)(2).

(2) Counsel shall discuss their respective factual and legal contentions which they believe are material to the case.

(3) Counsel shall exchange initial disclosures (self-executing routine discovery) in accordance with Local Rule 26.1(d)(2).

(4) Counsel shall name all witnesses then known to be called to testify at trial, to the extent that counsel at that stage of the case are able to do so. Additional witnesses and summaries of testimony shall be submitted by each party to

the opposing party as their names and addresses are ascertained, and at the final pretrial conference.

(5) Counsel shall list the exhibits to be used at trial and display to each other all exhibits (other than those to be used for rebuttal or impeachment) tentatively intended to be offered in evidence at trial, to the extent that counsel are able to do so at that stage of the case. Additional exhibits shall be listed and tendered to opposing counsel when discovered and at the final pretrial conference.

(6) Counsel shall discuss with the Court a proposed plan and schedule for discovery, including dates for completion of discovery, depositions, the filing of interrogatories and answers thereto, and the production and inspection of documents.

(7) Counsel shall exchange proposals for stipulations and agreement upon facts to avoid discovery.

(8) Counsel shall discuss a schedule for taking of expert depositions. (See Local Rule 26.1(**g**)).

(9) The Court will schedule a date for a final pretrial conference and a date for trial of the case.

(c) Cases Exempt from Scheduling Conferences. The following categories or proceedings are exempt from scheduling conferences:

(1) Bankruptcy appeals and withdrawals;

(2) Deportation actions;

(3) Equal access to justice actions;

(4) Food stamp denials;

(5) Forfeiture and statutory penalty actions;

(6) IRS third party and customer actions;

(7) Prisoner actions for violation of civil rights, to vacate sentence, for habeas corpus, or for mandamus;

(8) Selective service actions;

(9) Social security reviews; and

(10) Summons/subpoenas--proceedings to enforce/contest government summons and private party depositions;

(d) Additional Pretrial Conferences. The Court, or any party at any time, may request the Court to schedule one or more additional scheduling conferences in any case in which it is necessary to expedite the case, to assist the Court in identifying the issues or to prevent unnecessary delay or costs.

(e) Treatment of Complex Cases. When the Magistrate Judge determines that a case is complex, the case shall be placed on the calendar for complex cases. Trials shall be set in complex cases after consultation with the parties, allowing sufficient time for pretrial discovery, presentation of legal issues and such scheduling conferences as may be reasonably required to allow time for adequate development of the case for presentation at trial. The Magistrate Judge may establish any of the following procedures which in the discretion of the Court may be necessary to allow proper management of the case:

(1) multiple scheduling conferences;

(2) phased discovery;

(3) joint discovery;

(4) bifurcation of legal or factual issues;

(5) early alternative dispute resolution efforts, including a settlement conference, or other methods as may be agreed upon by the parties;

(6) involvement of the trial judge assigned to the case;

(7) use of the Manual for Complex Litigation.

When, upon motion of a party, or in the discretion of the presiding judicial officer, it is determined by the Court that the case no longer need be treated as a complex case, the trial judge shall be notified and the case shall be moved to the non-complex calendar and assigned the earliest available trial date, in accordance with Local Rule 40.1.

(f) Magistrate Judge. The District Court may designate a United States Magistrate Judge to hold scheduling or discovery conferences or any pretrial conference, but the District Court will conduct the final pretrial conference in all contested cases, unless unforeseen circumstances prevent it from doing so. The United States Magistrate Judge located in Cheyenne, Wyoming is hereby granted authority to conduct initial and final pretrial conferences as set by the Court.

Rule 16.2 FINAL PRETRIAL CONFERENCE

(a) Final Pretrial Conference. A final pretrial conference shall be held when ordered by the Court. Counsel who will try the case shall attend, unless excused by the Court, shall submit a pretrial conference memorandum, as herein required, and shall be prepared on all of the items covered by the pretrial notice and check list approved by the Circuit Committee on Pretrial of the Judicial Conference of the Tenth Circuit. (See Appendix A). The pretrial order shall be prepared by the Court or the Magistrate Judge, except when otherwise directed by the Court (in a form similar to Appendix B).

(b) Final Pretrial Conference Preparation. **Seven (7)** days prior to the date fixed for the final pretrial conference, counsel for the parties herein shall:

(1) submit to the Court, with a copy to the opposing counsel, a pretrial conference memorandum containing a brief statement of the issues, legal theories and positions of the parties; a list of the names and addresses of the witnesses whom the parties intend to call to testify at the trial, together with a complete and specific statement of the testimony intended to be elicited from each witness in the trial; a list of all the exhibits which that party proposes to use in the trial of the case and further reporting on all other matters referred to in the approved form of pretrial order. **(See Appendices A and B)** If depositions have been taken of a witness listed, counsel may refer to the deposition rather than to repeat a summary of that witness's testimony.

(2) be prepared to specify which of the listed witnesses may be called, and which of such witness will definitely be present for the trial. The opposing party shall not be required to subpoena witnesses who will be produced by an opponent.

(3) list and mark each exhibit intended to be offered at the pretrial conference. Counsel for the plaintiff(s) shall list and mark each exhibit with numerals and the number of the case, and counsel for the defendant(s) shall list and mark each exhibit intended to be offered at the pretrial conference with letters and the number of the case, e.g., Civil No. _____, Plaintiff's Exhibit 1; Civil No. _____, Defendant's Exhibit A. In the event there are multiple parties, plaintiff or defendant, the surname or abbreviated names of the parties shall precede the word "Exhibit," e.g., Defendant Jones Exhibit A, Defendant Smith Exhibit A, etc. In cases where defendant's exhibits are numerous, the defendant may use a combination of letters and numerals to designate such exhibits. Although exhibits are marked and numbered at a pretrial conference, they shall again be offered in the course of the trial.

If such exhibits have been shown to opposing counsel prior to the pretrial conference and no objection will be made thereto, it shall not be necessary to exhibit such documentary evidence at the pretrial conference.

Absent good cause shown, no exhibit shall be received in evidence at the trial which was not marked and exhibited as required herein, nor shall any witness be

permitted to testify unless his name and address appear on the witness list, together with a complete and specific statement of all of his testimony, as required by *Smith v. Ford Motor Company*, 626 F.2d. 784 (10th Cir. 1980).

(4) notify the court reporter immediately upon receipt of the notice setting the conference, if counsel wish to have the pretrial conference reported. If no such request is received, it will be understood that the parties agree that the pretrial conference will be conducted without the presence of the court reporter.

In all cases to be tried before a jury, the Court, in consultation with counsel during the final pretrial conference, will determine the number of jurors to be empaneled and the number of peremptory challenges the Court will allow. The Court will set forth its determination in its final pretrial order.

(c) Telephone Conference Calls. Out of town counsel may participate in any pretrial conference by telephone conference call, but shall first notify the Court, and shall deliver to the Court and opposing counsel any documents required to be presented at such conference, e.g., the pretrial conference memorandum, photocopies of exhibits, briefs, instructions, etc. It is the responsibility of the attorneys to coordinate with one another and arrange for a telephone conference call to the Court and to place the call at the time set for hearing. (See Local Rule No. 83.5)

Rule 16.3 ALTERNATIVE DISPUTE RESOLUTION

(a) Voluntary Dispute Resolution. The Court urges the parties to strongly consider voluntary alternative dispute resolution (ADR) in all non-exempt civil cases as a means of expeditiously resolving a dispute prior to trial. ADR procedures include settlement conferences, summary jury trials, court annexed arbitration, early neutral evaluation, and other dispute resolution techniques.

(1) Stipulated Agreement and Motion for Referral to ADR. The parties may request from the Clerk of Court a form for a Stipulated Agreement and Motion for Referral to ADR for a voluntary ADR procedure in all non-exempt civil actions. The parties shall file the Stipulated Agreement and Motion for Referral to ADR with the Clerk of Court indicating, therein, the ADR procedure selected and the neutral selected to conduct the ADR procedure. The Clerk of Court shall forward a copy of the Stipulated Motion and Agreement for Referral to the ADR Administrator for processing.

(2) Notification of Neutral and Acceptance or Rejection. The ADR Administrator shall notify the selected neutral that litigants are requesting to conduct the ADR procedure. The ADR Administrator shall also provide to the selected neutral copies of the Stipulated Agreement and Motion for Referral to ADR and the case docket sheet. The neutral shall check for conflicts of interest and notify the ADR Administrator within five (5) days from the date of notice, whether the referral will be accepted or rejected. If the referral is accepted by the neutral, the neutral shall immediately notify the ADR Administrator of such and the ADR Administrator shall seek an order from the trial judge approving the same. Once an order of approval is filed with the Clerk of Court, the neutral shall be responsible to contact the parties and make all necessary arrangements to conduct the ADR procedure.

(3) Notice by Neutral of ADR Procedure Outcome. Immediately after the conclusion of an ADR procedure, the neutral shall contact the Clerk of Court and advise of the outcome of the proceeding. The Clerk of Court shall then likewise notify the trial Judge and the ADR Administrator.

(4) Report of Neutral. The neutral, within ten (10) days after the conclusion of the ADR proceeding, shall fill out and return to the ADR Administrator, the Neutral ADR Report previously provided.

(5) Referral to ADR Neutrals. The parties may request the referral of a case to a specific neutral listed below, or the Court, within its discretion, may refer a case to a specific neutral listed below:

(i) Court-Connected Judicial Officer;

(ii) Panel Neutral;

(iii) Other Neutrals Approved by the Court.

The parties may request the Clerk of Court to provide a current list of neutral panel members, qualified and approved by the Court to conduct ADR.

(b) Mandatory Dispute Resolution. The Court may, in its discretion, require the parties to engage in non-binding ADR procedures. The Court may require the parties to participate in such proceedings at any time after all the parties have appeared in the action.

(c) Additional Criteria and Procedures Pertaining to Settlement Conferences.

(1) Attendance and Authority to Settle.

(i) Attendance by Counsel. Except with leave of court, counsel who will try the case shall be present at the settlement conference. A person possessing full settlement authority shall also be present.

(ii) Attendance of Parties. The parties to the litigation shall be present in person or through an authorized corporate/governmental representative.

(iii) Plaintiff's Authority to Settle. A plaintiff, or authorized representative, shall have full and final authority to authorize dismissal of the case with prejudice, or to accept a settlement amount down to the amount of the defendant's last offer.

(iv) Defendant's Authority to Settle. A defendant, or authorized representative, shall have full and final settlement authority to pay a settlement amount up to the amount of the plaintiff's prayer (excluding punitive damage prayers in excess of $100,000.00) or up to the plaintiff's last demand, whichever is lower. The purpose of these requirements is to have parties or representatives present who can settle the case during the course of the conference without consulting a superior who is not in attendance.

(v) Board/Committee Approval. If board/committee approval may be required to authorize settlement, the approval of the board/committee must be obtained in advance of the conference, and the attendance of at least one sitting member of the board/committee having the full authority of the board/committee to settle (preferably the Chairman) is required.

(vi) Failure to Appear. Counsel appearing without their clients (whether or not counsel has been given settlement authority) will cause

the conference to be canceled and rescheduled. The noncomplying party, attorney, or both may be assessed the costs and expenses incurred by other parties and the Court, as a result of such cancellation. Additional sanctions may be imposed as deemed appropriate by the judge to whom the case is assigned.

(vii) Insurance Representatives. Any insurance company that may be a party or is contractually required to defend or to pay damages, if any, must have an authorized settlement representative present at the conference. Such representative shall have final settlement authority to commit the company to pay, in the representative's discretion, any amount up to the policy limits. The purpose of this requirement is to have an insurance representative present who can settle the outstanding claim or claims during the course of the conference without consulting a superior who is not in attendance. An insurance representative authorized to pay, in his/her discretion, up to the plaintiff's last demand will also satisfy this requirement. Failure to fully comply with this requirement may result in the imposition of appropriate sanctions by the district judge assigned to the case.

(viii) Attendance by Telephone. No participant shall appear and participate by telephone without prior permission of the neutral. Participation by telephone will be allowed only when exigent circumstances exist.

(2) Confidentiality.

(i) Confidential Settlement Conference Memoranda. The parties are required to submit to the neutral memoranda or position papers prior to the settlement conference. The parties will be advised by the neutral of the information to be included in the memoranda and when it is to be submitted. The memoranda shall be submitted to the neutral and not filed with the Court. The neutral will treat settlement conference memoranda as strictly confidential and will destroy all settlement conference memoranda after the conclusion of the conference.

(ii) Confidentiality of Settlement Conference. All communications, representations, evidence and transcripts regarding negotiations and agreements made during a settlement conference shall be held to be strictly confidential and are not subject to disclosure, pursuant to Rule 408 of the Federal Rules of Evidence or as otherwise provided by law. Disputes between parties concerning the terms or enforcement of the terms of a settlement agreement may be excepted from above.

(3) Reporting of Settlement Conference Negotiations. No transcript shall be made of any settlement conference negotiations.

(4) Reporting of Settlement Conference Agreement. A neutral

may require at the conclusion of a settlement conference, that a court reporter report the outcome of the conference and the terms of any settlement reached by the parties. No transcript of the Court Reporter's notes shall be made without the prior written permission of the Court.

(d) Referral to Arbitration. A district court will allow referral to arbitration of any civil action, including any adversary proceeding in bankruptcy, when the parties consent, except in cases alleging violation of a constitutional right, when jurisdiction is based in whole or part on 28 U.S.C. § 1343, or when the relief sought consists of money damages greater than $150,000.

(e) Cases Exempt from ADR. The following cases are hereby exempt from ADR:

(1) *Pro se* cases;
(2) Preliminary injunctions/TRO's;
(3) Cases challenging the constitutionality of a statute;
(4) Social security cases;
(5) Freedom of Information Act cases;
(6) Privacy Act cases;
(7) Immigration cases;
(8) Prisoner 1983 cases, post conviction §2255 cases, and habeas proceedings.

(f) Private ADR. Parties are free, at any time, to engage in private ADR proceedings independent of or in addition to ADR with a court-connected Judicial Officer or panel neutral.

(g) Notice to Court of Private ADR. The parties shall give notice to the Court of an agreement to engage in private ADR proceedings in order to assist the Court in managing its docket.

(h) ADR Neutrals

(1) Panel of Neutrals. The Court shall maintain a panel of individuals qualified and approved by the Court to conduct ADR.

(2) Qualifications of Neutrals. To be eligible for listing on the panel of neutrals, the following minimum qualifications must be met:

(i) Member in good standing of the bar of the United States District Court for the District of Wyoming and the State of Wyoming;

(ii) Fifteen (15) years experience practicing law;

(iii) Completion of at least ten (10) hours of training in ADR technique courses approved by the Wyoming State Bar Board of Continuing Legal Education;

(iv) Conduct at least one ADR proceeding every calendar year to remain qualified. Failing this, a neutral will be required to again complete ten (10) hours of training as required in (2)(iii) above by the end of March of the following year to remain on the panel of neutrals. Any neutral removed from the panel must reapply and meet the qualifications set forth above;

(v) All neutrals will remain on the panel for five (5) years if the above-qualifications are met every year. After five (5) years, neutrals must reapply for inclusion on the panel.

(3) ADR Advisory Neutral Selection Panel. The Chief Judge of the Court shall appoint a minimum of three members to the ADR Advisory Neutral Selection Panel. At least one member of the panel shall be a district judge or a magistrate judge.

(i) Panel Duties. Duties of the ADR Advisory Neutral Selection Panel shall include the review of all neutral application forms to determine eligibility, qualifications, training and experience of each applicant. The panel shall recommend qualified applicants to the Chief Judge for final approval of membership on the list of neutrals.

(4) Disqualification of Neutrals. All neutrals are subject to disqualification pursuant to 28 U.S.C. § 455.

(5) Applications. Applications for inclusion on the list of panel neutrals shall contain the following information:

(i) The areas of the law in which the neutral asserts to have expertise, together with a comprehensive description of that expertise;

(ii) The ADR methods the neutral agrees to conduct;

(iii) A summary of training, experience and qualifications for the ADR method(s) the neutral seeks to conduct;

(iv) The neutral's fee schedule;

(v) A commitment to accept cases for a reduced fee or *pro bono*;

(6) Fees. The neutrals and the parties may determine for

themselves the fees to be paid for ADR services. The Court reserves the right to review the reasonableness of the fees.

(i) ADR Administrator. The Court shall select an individual in the Court system to act as ADR Administrator.

(1) Duties. The ADR Administrator shall assist the Court in the implementation, administration and evaluation of the ADR Plan.

(2) Annual Report. The ADR Administrator shall report to the Chief Judge and the Clerk of Court annually, on or before March 1, the number of cases referred to ADR, the methods of ADR employed and the percentage of cases resolved by referral to ADR.

Rule 16.4 COMPLEX CASES

(a) Notification of Complex Cases. At the time of filing of the first pleading, counsel for the party filing shall notify the Court, on a form provided by the Clerk of Court, as to the complexity of the action.

(1) Counsel for the plaintiff shall file such form at the time of filing of the Complaint.

(2) Counsel for each responding party shall file a form in compliance with this Rule at the time of filing of the first responsive pleading.

(b) Criteria for Determination of Complex Cases. A case may be determined to be complex if it meets one or more of the following criteria:

(1) difficult and unsettled factual or legal issues;

(2) more than twenty (20) witnesses;

(3) more than one hundred (100) exhibits;

(4) a large number of parties;

(5) trial time will exceed two (2) weeks.

(c) Determination of Complexity. The magistrate judge who conducts the initial pretrial conference shall make the determination of complexity based upon both the pleadings and the information provided by counsel for the parties, and shall notify the parties of his determination.

(d) Appeal of Determination. Any party who believes the Magistrate Judge has mistakenly classified a case as complex or non-complex may appeal that determination, in accordance with Local Rule 74.1(a).

IV PARTIES

Rule 24.1 NOTIFICATION OF CLAIM OF UNCONSTITUTIONALITY

(a) Notification to Court. In any action, suit or proceeding to which the United States or any agency, officer or employee thereof is not a party and in which the constitutionality of any Act of Congress affecting the public interest is drawn in question, or in any action, suit or proceeding in which a state or any agency, officer or employee thereof is not a party, and in which the constitutionality of any statute of that state affecting the public interest is drawn in question, the party raising the constitutional issue shall notify this Court of the existence of the question either by checking the appropriate box on the civil cover sheet and by stating on the pleading that alleges the unconstitutionality, immediately following the title of that pleading, "Claim of Unconstitutionality" or the equivalent.

(b) Notification to Parties. In accordance with the provisions of Title 28 U.S.C. § 2403 and Fed. R. Civ. P. 24, the Court shall notify the Attorney General of the United States or the Attorney General of the State of the pendency of the constitutional claim so that the United States or the State will have an opportunity to intervene on the issue of constitutionality of a statute.

V DISCOVERY

Rule 26.1 DISCOVERY

(a) Applicability. This Rule is applicable to all cases filed in this District except where modified by Court order.

(b) Stay of Discovery. Formal discovery, including oral depositions, service of interrogatories, requests for production of documents and things, and requests for admissions, shall not commence until the parties have complied with Fed. R. Civ. P. 26(a)(1).

(c) Initial Disclosure **(**Self-Executing Routine Discovery Exchange**)**. It is the policy of this District that discovery shall be open, full and complete within the parameters of the Federal Rules of Civil Procedure.

(1) Initial Disclosures. [Excerpted from Fed. R. Civ. P. 26(a)(1)(A)-**(E)**] Except in categories of proceedings specified in Fed. R. Civ. P. 26(a)(1)**(B)**, or to the extent otherwise stipulated 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, data compilations, 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. In cases where it is impractical due to the volume or nature of the documents to provide such copies, parties shall provide a complete description by category and location in lieu thereof;

(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.

(d) Rule 26(f) Meeting of Counsel; Initial Disclosure Exchange. The Court will set an initial pretrial conference no sooner than thirty-five (35) days after the last pleading pursuant to Fed. R. Civ. P. 7 or a dispositive motion is filed with the Court.

(1) Counsel must meet and confer in person or by telephone in accordance with Fed. R. Civ. P. 26(f) no later than twenty (20) days after the last pleading pursuant to Fed. R. Civ. P. 7 or a dispositive motion is filed with the Court. (See Appendix D)

(2) Counsel on behalf of the parties must exchange the initial disclosures (self-executing routine discovery), pursuant to Local Rule 26.1(c)(1) above, no later than thirty (30) days after the last pleading filed pursuant to Fed. R. Civ. P. 7 or a dispositive motion is filed with the Court.

(3) Counsel may either submit a written report or report orally on their discovery plan at the initial pretrial conference.

(e) Computer-Based Discovery. Prior to a Fed. R. Civ. P. 26(f) conference, counsel should carefully investigate their client's information management system so that they are knowledgeable as to its operation, including how information is stored and how it can be retrieved. Likewise, counsel shall reasonably review the client's computer files to ascertain the contents thereof, including archival and legacy data (outdated formats or media), and disclose in initial discovery (self-executing routine discovery), the computer based evidence which may be used to support claims or defenses.

(1) Duty to Notify. A party seeking discovery of **electronically stored information** shall notify the opposing party immediately, but no later than the Fed. R. Civ. P. 26(f) conference of that fact and identify as clearly as possible the categories of information which may be sought.

(2) Duty to Meet and Confer. The parties shall meet and confer regarding the following matters during the Fed. R. Civ. P. 26(f) conference:

(A) **Electronically stored information** (in general). Counsel shall attempt to agree on steps the parties will take to segregate and preserve **electronically stored information** in order to avoid accusations of **spoliation**;

(B) E-mail information. Counsel shall attempt to agree as to the scope of e-mail discovery and attempt to agree upon an e-mail search protocol. This should include an agreement regarding inadvertent production of privileged e-mail messages;

(C) Deleted information. Counsel shall confer and attempt to agree whether or not restoration of deleted information may be necessary, the extent to

which restoration of deleted information is needed, and who will bear the costs of restoration; and

(D) Back-up data. Counsel shall attempt to agree whether or not back-up data may be necessary, the extent to which back-up data is needed and who will bear the cost of obtaining back-up data.

(f) Filing of Discovery Pleadings.

(1) Initial disclosures (self-executing routine discovery exchange pursuant to Local Rule 26.1 c), interrogatories under Fed. R. Civ. P. 33, and answers thereto, requests for production or inspection under Fed. R. Civ. P. 34, requests for admissions under Fed. R. Civ. P. 36, and responses thereto shall be served upon other counsel or parties, but shall not be filed with the Court. Certificates or notices of compliance are not required and shall not be filed with the Court. If relief is sought under Fed. R. Civ. P. 26(c) or 37 concerning any interrogatories, requests for production or inspection, requests for admissions, answers to interrogatories or responses to requests for admissions, copies of the portions of the interrogatories, requests, answers or responses in dispute shall be filed with the Court contemporaneously with any motion filed under Fed. R. Civ. P.26(c) or 37. If interrogatories, requests, answers or responses are to be used at trial, the portions to be used shall be filed with the Clerk of Court at the outset of the trial, insofar as their use reasonably can be anticipated.

(2) Parties may agree to produce any or all documents electronically, rather than by other means.

(g) Discovery of Expert Testimony.

(1) The parties are limited to the designation of one expert witness to testify for each particular field of expertise.

(2) A party may depose any person who has been identified and designated as an expert whose opinions may be presented at trial. An expert witness is one who may be used at trial to present evidence under Fed. R. Evid. 702, 703 or 705 including, but not limited to, expert witnesses who have knowledge of facts and hold opinions which were acquired or developed in anticipation of litigation or for trial.

(3) At the time of the initial pretrial conference, the presiding judicial officer shall, unless good cause appears to the contrary:

(A) establish deadlines by which any party shall designate all of their expert witnesses and provide opposing counsel with a complete written designation of the testimony of each witness;

(B) require the party designating the expert witnesses to indicate in reasonable detail the areas and fields of expertise and the qualifications of the witness as an expert in said areas and fields.

(4) The written designation of expert witness opinions shall include a comprehensive statement of each of the opinions of such witness and the factual basis for each opinion and shall be filed with the Court. See *Smith v. Ford Motor Company*, 626 F.2d. 784 (10th Cir. 1980). The written designation shall include the following:

(A) A written report prepared and signed by the expert witness as set forth in Fed. R. Civ. P. 26(a)(2)(B); or a written report prepared and signed by counsel for the party;

(B) The party designating the expert shall provide a current resume or curriculum vitae including a list of all publications authored by the witness within the preceding ten years and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years; [Fed. R. Civ. P. 26(a)(2)(B)];

(C) require the party designating the expert witness to set forth all special conditions or requirements which the designating party or the expert witnesses will insist upon with respect to the taking of their depositions, including the amount of compensation the expert witness will require and the rate per unit of time at which said compensation will be payable. In the event counsel is unable to obtain such information to include in the designation, the efforts to obtain the same and the inability to obtain such information shall be set forth in the designation.

(5) In the event a designation of an expert witness fails to set forth the compensation to be paid by a party for the deposition of the expert, or fails to set forth the efforts to obtain such information for designation, any adverse party shall be entitled to depose such witness at the fee provided by the Federal Rules of Civil Procedure.

(6) In the event the amount and rate of the compensation is designated for the expert witness, and the deposition of that expert witness is taken without further action, discussion or agreement between counsel, then the amount described in the designation shall be paid by the party or parties taking the deposition.

(7) Nothing herein contained shall prevent the parties involved from agreeing to other terms and conditions and amount of compensation following the designation.

(8) In all cases where there is a dispute as to the proper compensation or other conditions relative to the taking of an expert discovery deposition, or an inability to obtain information concerning compensation, a party may file a motion with the Court pursuant to Fed. R. Civ. P. 26(b)(4) and (c) or Fed. R. Civ. P. 45(c), as the case may

be. The Court will, thereafter, issue its order setting forth the terms, conditions, protections, limitations and amounts of compensation to be paid by the party taking the deposition.

(h) Discovery Time Limit. Whenever possible, discovery proceedings in all civil actions filed in this Court shall be completed within ninety (90) days after joinder of issue or after such issues may have been determined at the initial pretrial conference. Exceptions hereto may be granted, upon good cause shown and upon timely application, and the time for completion of such discovery proceedings therein extended by order of this Court.

(i) Stay of Self-Executing Routine Discovery Exchange. The filing of pretrial dispositive and non-dispositive motions, including motions for protective order, shall not stay the requirement that the parties exchange routine discovery as prescribed by U.S.D.C.L.R. 26.1(c), absent an order of the Court granting a stay of self-executing routine discovery.

Rule 26.2 ELECTRONICALLY STORED INFORMATION (ESI)

(a) Guideline subject matters to be discussed at Rule 26(f) conference

- **the definition of relevant ESI**
- **the scope (both "temporal" and "geographic") of preservation of relevant ESI**
- **the identification of the custodians of relevant ESI**
- **the manner in which relevant ESI will be collected**
- **the manner in which relevant ESI will be processed**
- **the search methodology to be employed in processing**
- **the form in which relevant ESI is to be produced**
- **the use of so-called "clawback" or "quick peek" agreements**
- **the use of nonwaiver orders under Rule 502 of the Federal Rules of Evidence should the presiding judge entertain such orders in a given litigation**
- **cost sharing**
- **the admissibility of ESI on motions and at trial.**

Rule 30.1 DEPOSITIONS

(a) Reasonable Notice. Unless otherwise ordered by the Court, "reasonable notice" for the taking of depositions under Fed. R. Civ. P. 30(b)(1) shall be not less than **seven (7)** days. Fed. R. Civ. P. 6 governs the computation of time.

(b) Telephonic Depositions. The motion of a party to take the deposition of an adverse party by telephone will presumptively be granted. Where the opposing party is a corporation, the term "adverse party" means an officer, director, managing agent or corporate designee, pursuant to Fed. R. Civ. P. 30(b)(6).

(c) Depositions of Witnesses Who Have No Knowledge of the Facts. Where an officer, director or managing agent of a corporation or a government official is served with a notice of deposition or subpoena regarding a matter about which he has no knowledge, he shall submit, reasonably before the date noticed for the deposition, an affidavit so stating and identifying a person with the corporation or government entity having knowledge of the subject matter involved in the pending action.

The noticing party may, notwithstanding such affidavit of the noticed witness, proceed with the deposition, subject to the witness's right to seek a protective order.

(d) Directions Not to Answer. Repeated directions to a witness not to answer questions calling for non-privileged answers are symptomatic that the deposition is not proceeding as it should. When direction is given to a witness not to answer, it should be made only on the ground of privilege.

Where a direction not to answer such a question is given and honored by the witness, either party may seek an immediate ruling from the Magistrate Judge as to the validity of such direction. If the witness refuses to answer questions calling for non-privileged answers and the attorney giving such direction does not withdraw such direction, the Court may require the attorney to pay all costs associated with retaking the deposition.

If a prompt ruling cannot be obtained, the direction not to answer made on grounds of privilege may stand pending a ruling and the deposition shall continue until (1) a ruling is obtained or (2) the problem resolves itself. A direction not to answer on any ground except privilege shall not stand and the witness shall answer.

(e) Suggestive Deposition Objections. Objections in the presence of the witness which are used to suggest an answer to the witness are presumptively improper. If the objection to a deposition question is one that can be obviated or removed if presented at the time, the proper objection is "objection to the form of the question," and the problem with the form shall be identified. If the objection is on the ground of privilege, the privilege shall be stated and established.

(f) Conferences Between Non-Party Deponent and Defending Attorney. An attorney defending at a deposition of a non-party deponent shall not engage in a private conference with the deponent during the actual taking of a deposition, except for the purpose of determining whether a privilege should be asserted.

(g) Assertion of a Privilege or Qualified Immunity From Discovery. Where a claim of privilege or qualified immunity from discovery is asserted during a deposition, the attorney asserting the privilege or qualified immunity from discovery shall identify during the deposition the nature of the privilege or qualified immunity from discovery which is being claimed.

(h) Establishment of Privilege or Qualified Immunity From Discovery. After a claim of privilege or qualified immunity from discovery has been asserted, the attorney seeking disclosure shall have reasonable latitude during the deposition to question the witness to establish other relevant information concerning the assertion of the privilege or qualified immunity from discovery, including:

(1) the applicability of the particular privilege or qualified immunity being asserted;

(2) circumstances which may constitute an exception to the assertion of the privilege or qualified immunity;

(3) circumstances which may result in the privilege or qualified immunity having been waived; and

(4) circumstances which may overcome a claim of qualified privilege or qualified immunity from discovery.

(i) Filing of Depositions. Deposition transcripts shall not be filed with the Clerk of Court until such time as they are published during a hearing or trial.

(j) Return of Depositions. At the time that files are retired to the Federal Records Center, the Clerk shall deliver any depositions filed in said case to the counsel representing the party taking said deposition.

Rule 31.1 DEPOSITIONS UPON WRITTEN EXAMINATION

Absent good cause shown there shall be no limit on the number or length of depositions upon written questions.

Rule 33.1 INTERROGATORIES

(a) Service of Interrogatories with Complaint. Interrogatories shall not be served by any party prior to the completion of routine self-executing discovery pursuant to Local Rule 26.1(c).

(b) Additional Interrogatories. Any party desiring to serve additional interrogatories shall file a written motion setting forth the proposed additional interrogatories and the reasons establishing good cause for their use.

(c) Format of Discovery Requests. The party serving interrogatories, pursuant to Fed. R. Civ. P. 33, serving request for production of documents or things, pursuant to Fed. R. Civ. P. 34, or serving requests for admission, pursuant to Fed. R. Civ. P. 36, shall provide a space after each such interrogatory, request or admission, for the answer, response or objection thereto. The party answering, responding or objecting to written interrogatories, requests for production of documents or things, or requests for admission shall either set forth the answers, response or objection in the space provided or shall quote each such interrogatory or request in full immediately preceding the statement of any answer, response or objection thereto. The parties shall also number each interrogatory, request, answer, response or objection sequentially, regardless of the number of sets of interrogatories or requests.

Rule 34.1 PRODUCTION OF DOCUMENTS AND THINGS

(a) Service of Requests for Documents. Requests for production of documents shall not be served by any party prior to the completion of routine self-executing discovery pursuant to Local Rule 26.1(c). Attorneys requesting documents pursuant to Fed. R. Civ. P. 34 and 45 shall have reviewed the request or subpoena to ascertain that it is specifically applicable to the facts and contentions of the particular case. A form request or subpoena which is not specifically directed to the facts and contentions of the particular case is prohibited.

(1) Requests for Documents and Subpoenas Duces Tecum Shall be Drafted and Read Reasonably. Requests for production and subpoenas duces tecum shall be drafted reasonably, clearly and concisely and be limited to documents discoverable pursuant to Fed. R. Civ. P. 26(b) and 45(a)(1)(C).

(b) Reasonable Request. A request for production or subpoena duces tecum shall be read reasonably in the recognition that the attorney serving it generally does not have knowledge of the documents being sought and the attorney receiving the request or subpoena generally has such knowledge or can obtain it from the client.

(c) Documents. A party asserting a privilege or qualified immunity from the production of a document shall furnish all parties the following information:

(1) the type of document, e.g., letter or memorandum;

(2) the general subject matter of the document;

(3) the date of the document;

(4) the author, addressee and all other recipients of the document, their titles, positions and specific job-related duties, and the relationship of the author and all recipients to one another;

(5) the specific objection or privilege asserted and an explanation of how it applies;

(6) such other information sufficient to identify the document for a subpoena duces tecum.

(d) Oral Communications. A party asserting a privilege or qualified immunity to the disclosure of oral communications shall furnish the following information:

(1) the name of the person making the communication; the name of all persons present when the communication was made, their titles, positions and specific job-related duties, and the relationship of all people present to one another;

(2) the date and place of communication; and

(3) the general subject matter of the communication.

Rule 36.1 REQUESTS FOR ADMISSION

Requests for admissions shall not be served by any party prior to the completion of routine self-executing discovery pursuant to Local Rule 26.1(c).

Rule 37.1 FAILURE TO MAKE OR COOPERATE IN DISCOVERY

(a) Privilege Asserted in Response to Written Discovery Requests. When a claim of privilege or qualified immunity from discovery is asserted in response to written discovery requests, including interrogatories, requests for documents and requests for admissions, the attorney asserting the privilege or qualified immunity from discovery shall specifically identify the nature of the privilege or qualified immunity which is being claimed and indicate the rule being invoked. Counsel shall further disclose the information set forth in Local Rule 34.1(c), as the case may warrant.

(b) Duty of Counsel to Confer. Except as otherwise ordered, the Court will not entertain any motions relating to discovery disputes unless counsel for the moving party has conferred orally, in person or by telephone, and has made reasonable good faith efforts to resolve the dispute with opposing counsel prior to the filing of the motion. Counsel for the moving party shall set forth in writing all good faith efforts undertaken to resolve the dispute and the Court will not consider the motion until this information is provided.

(c) Discovery Hearing Before Magistrate Judge. Motions to compel discovery under Fed. R. Civ. P. 37(a) shall be referred to the Magistrate Judge in Cheyenne, Wyoming for disposition. The Magistrate Judge shall have full authority to enter appropriate orders granting such motions and compelling discovery. In addition, the Magistrate Judge may make such protective order as the Court would have been empowered to make on any motion pursuant to Fed. R. Civ. P. 26(c). The Magistrate Judge shall not, however, enter any order which is dispositive of a substantive issue in the case. The Magistrate Judge may award the expense of a motion pursuant to Fed. R. Civ. P. 37(a). (The provisions of 28 U.S.C. § 636(b)(1)(A) cover review of magistrate judges' orders.)

(d) Failure to Make Self-Executing Discovery Exchange. If a party fails to make a disclosure required by Local Rule 26.1(c), any other party may move to compel disclosure and for appropriate sanctions. The motion must include a certification that the movant has in good faith conferred or attempted to confer with the party not making the disclosure in an effort to secure the disclosure without court action.

Rule 37.2 DISCOVERY MOTIONS

(a) Motion to Quash Deposition Notice and Motion for Protective Order. Pending resolution of any motion under Fed. R. Civ. P. 26(c), 30(d), or 45(c), neither the objecting party, witness nor any attorney is required to appear at the deposition to which a motion to quash is directed until the motion is ruled upon. The filing of a motion under any of these Rules shall stay the discovery to which the motion is directed pending further order of the Court. Any motion for relief under Fed. R. Civ. P. 26(c) directed to a deposition must be filed and served as soon as practicable after receipt of the deposition notice, but in no event less than **five (5)** days prior to the scheduled depositions. Counsel seeking such relief shall request the Court for a ruling or a hearing thereon promptly after the filing of such motion, so that discovery shall not be unnecessarily delayed in the event the motion is denied.

(b) Motions to Compel. Motions under Fed. R. Civ. P. 26(c) or 37(a), directed at interrogatories or requests under Fed. R. Civ. P. 33 or 34, or at the responses thereto, shall set forth the interrogatory, request or response constituting the subject matter of the motion.

VI TRIALS

Rule 40.1 ASSIGNMENT OF CASES FOR TRIAL

(a) Trial Settings.

(1) Cases shall be set for trial by the District Court in consultation with the Magistrate Judge who conducted the initial pretrial conference. (See Local Rule 16.1(c).)

(2) When more than one case is set for trial on the same date (stacked), each case set for that date shall be listed in the order in which the District Court intends for them to proceed to trial. The setting of criminal trials will always be given priority over previous civil trial settings.

(3) Notice of the stacked setting, and the position of the case in the stack, shall be included in the initial pretrial conference order.

(4) The Clerk of Court shall maintain and make available on request the trial schedule of each judge, including the order of any stacked settings. Due to the requirement to give priority to the setting of criminal trials over civil trials, all counsel are required to monitor continually the Court's trial calendar to determine any changes made in the order of stacked cases.

(5) In the event that the first case set for trial in a stack is not removed from the trial docket (by settlement or otherwise), five (5) calendar days prior to trial, counsel for the trailing cases may be excused from appearing at trial, and that case shall be removed from the trial docket. If a case set first in the stacked settings is removed from the trial docket less than five (5) days before the date it is set for trial:

(i) counsel for the parties in the trailing cases (in the order in which they have been set) may, after consultation with the Court, elect to proceed to trial at the time originally set for the case.

(ii) the parties in a late settling case may be assessed costs, in accordance with Local Rule 54.4.

(b) Continuances. Cases may not be continued upon stipulation of counsel unless approved by order of the Court. Unless good cause is shown, no continuances shall be allowed.

(c) Calendars. Each judge shall maintain an individual civil calendar. Effort will be made to avoid conflicts of counsel with all earlier firm trial court settings made known to the judge. In the absence of compelling, extraordinary circumstances, trailing calendars or uncertain settings by this Court will not be permitted to interfere with firm

settings in other courts. Firm trial dates in this Court will not be vacated to defer to trailing calendars or uncertain settings in other trial courts. In the event that a firm trial date of this Court conflicts with a firm trial date of another court, the trial date first set shall prevail.

Rule 40.2 ASSIGNMENT OF CASES

(a) Assignment Of Cases. It is the policy of this Court, insofar as practicable and efficient, to provide for the assignment of cases among the Judges of this District by random selection. It is the further policy of the Court to provide for parity of work among the active judges of this District. In order to implement these policies, the following procedures shall obtain:

(1) Filing and Assignment of Civil Cases.

(i) The Clerk of Court shall provide a civil cover sheet which shall be completed by the person filing any civil case. The person filing the civil cover sheet shall indicate whether the case is related to any other action pending or determined within the previous twelve (12) months and the nature of the relationship. If no such relationship is indicated, the case shall be assigned as provided in paragraph (A) below. If such relationship is indicated, the case shall be assigned as provided in paragraph (B) below.

(A) The Clerk of Court shall maintain a computerized Case Assignment Card Deck program for the random selection and assignment of civil cases to District Judges in an equal apportionment for each judge, except as may be determined by the Chief Judge.

At the time of filing a new case, the Clerk or designate shall publicly draw a judge by means of the computerized program.

Appeals from decisions of magistrate judges and bankruptcy judges, in previously unassigned cases, shall be assigned to district judges, in accordance with these procedures.

In cases of an emergency nature requiring immediate attention by a judge, the Clerk of Court shall determine the availability of a judge to act who, having acted, shall promptly return the case to the Clerk of Court for assignment or advise the Clerk of Court that he intends to keep the case. Should the judge elect to keep the case, the Clerk of Court shall remove one of that judge's cards from the block of assignment cards then in use. The Clerk of Court shall determine such availability by contacting each judge, on a rotating basis. Any judge may notify the Clerk of Court of his or her availability for the handling of emergency matters. The Clerk of Court may direct the emergency matter to that judge without further or additional inquiry.

(B) If it is indicated that a relationship to a pending case or one terminated within the previous twelve (12) months exists, the Clerk of Court shall deliver the case file to the judge assigned to the earlier related case or cases. That judge shall promptly review the determination of relationship and return the file to the Clerk of Court for random assignment, if such relationship does not exist. If the judge

determines that such relationship does exist, the case shall be assigned to that judge and the Clerk of Court shall remove one of that judge's cards from the block of assignment cards then in use.

(2) Recusal and disqualification of a judge shall be by formal order setting forth the reasons for that action. Upon such recusal or disqualification, the Chief Judge shall order the case to be redrawn. After the redrawing, the Clerk of Court shall add an additional assignment card bearing the name of the recusing judge to the block of assignment cards then in use.

(3) It shall be the responsibility of the Chief Judge to review, at least annually, the pending case loads of the judges in service and to suggest reassignment when it is determined that there is an imbalance which is adversely affecting litigants. In considering the question of such reassignment, this Court will consider the categories of cases for which Congress has mandated priorities. All reassignments or transfers of cases from one judge to another shall be only with the approval of the Chief Judge.

(b) Assignment Register and Reports.

(1) The Clerk of Court shall maintain an assignment register, in a form as approved by the Court, containing an account of all civil, criminal and appeal cases assigned to each of the judges of the Court or to any visiting judge, and containing all reassignments among judges.

(2) At the end of each month, the Clerk of Court shall prepare a report showing the number of cases assigned to and pending before each judge, and such other information as the Chief Judge may direct.

Rule 41.1 DISMISSAL OF CASES

(a) Dismissal of Settled Cases. Upon notice to the Court or to the Clerk of Court that an action has been settled, counsel shall file within thirty (30) days thereafter, unless otherwise directed by written order, such pleadings as are necessary to terminate the action. Upon failure to do so promptly, the Court may order the action to be placed on the Court's calendar and set for trial.

(b) Dismissal for Lack of Prosecution. If no action has been taken in any case by a party for three (3) months or the case is not at issue by that time, the Court shall direct the Clerk of Court to notify counsel of record, or the parties if their addresses are known, and if they are not represented by counsel of record, by certified mail return receipt requested, that said case shall be dismissed for lack of prosecution thirty (30) days from the date of said notice. If no action is taken within said thirty (30) days after such notice has been given, the Court may, in its discretion, enter the order of dismissal. Said order shall be mailed to counsel of record or to the parties.

Rule 42.1 DETERMINATION OF MOTIONS TO CONSOLIDATE

Whenever a motion to consolidate is filed in a civil or criminal action, the decision to grant or deny the motion shall be made by the judge to whom the oldest numbered case involved in the requested consolidation is assigned. Rulings on motions to consolidate shall be given priority by the deciding judge.

Cases not consolidated shall be returned to the judge before whom they were pending at the time the motion to consolidate was filed.

Rule 43.1 MOTIONS IN LIMINE

Motions in Limine or motions relating to the exclusion of evidence shall be filed and brought to the Court's attention for ruling no later than **seven (7)** working days prior to the commencement of trial, unless otherwise ordered by the Court. Motions in Limine will be considered on the written submissions without oral argument, unless otherwise
ordered by the Court.

Rule 43.2 EXCLUSION OF WITNESSES

At the request of a party, the Court shall order witnesses excluded from the courtroom so that they cannot hear the testimony of other witnesses. The Court may make the order on its own motion. This Rule does not authorize exclusion of: a party who is a natural person; an officer or employee of a party that is not a natural person but who is designated as its representative by its attorney; or a person whose presence is shown by a party to be essential to the presentation of the cause, including expert witnesses. The excluded witnesses need not be sworn in advance, but may be ordered not to discuss their testimony with anyone except counsel during the progress of the case. Unless otherwise directed by the Court for special reasons, witnesses who have testified may remain in the courtroom, even though they may be recalled on rebuttal. Upon motion of counsel, witnesses once examined and permitted to step down from the stand shall be deemed excused. By reason of the inconvenience of exclusion and delays that are encountered thereby, counsel are encouraged not to make requests for exclusion routinely, but only when a valid purpose may be thereby served. (See Fed. R. Evid. 615.)

Rule 43.3 COURTROOM DECORUM

(a) Conduct of Counsel. Counsel shall conduct and demean themselves in the courtroom with dignity and propriety. All statements and communications to the Court shall be clearly and audibly made from the counsel table or, if the Court is equipped with an attorney's lectern, from a standing position behind the lectern facing the Court. Counsel shall not approach the bench unless requested to do so by the Court or unless permission is granted upon the request of counsel.

(b) Examination of Witnesses. Examination of witnesses shall be conducted from the lectern in the courtroom, except when it shall be necessary to approach the witness, Clerk of Court or reporter's table for the purpose of presenting or examining exhibits.

(c) Number of Participating Counsel. Only one attorney for each party may examine or cross-examine a witness. Not more than two attorneys for each party may argue the merits of the action unless the Court otherwise permits.

(d) Courtroom Standards. To maintain decorum in the courtroom when Court is in session, counsel shall abide strictly by the following rules:

(1) counsel shall appear in appropriate professional attire.

(2) counsel shall stand when addressing the Court and when examining and cross-examining witnesses.

(3) counsel shall not address questions or remarks to opposing counsel without first obtaining permission from the Court to do so. Appropriate and quiet informal consultations among counsel off the record are not precluded so long as this does not delay or disrupt the progress of the proceedings.

(4) the examination and cross-examination of witnesses shall be limited to questions addressed to the witnesses. Counsel shall refrain from making statements, comments or remarks prior to asking a question or after a question has been answered.

(5) in making an objection, counsel shall state plainly and briefly the specific ground of objection and shall not engage in argument, unless requested or permitted by the Court to do so.

(6) only one attorney for each party shall make objections to the testimony of a witness when being questioned by an opposing party. The objection shall be made by the attorney who has conducted or is to conduct the examination of the witness.

Rule 43.4 OPENING STATEMENTS

Opening statements to the Court or a jury shall not exceed thirty (30) minutes to a side, unless the Court has consented to a longer period in advance of the commencement of the trial. Opening statements shall consist of brief, concise statements of the facts to be proved at trial by the party.

Rule 43.5 CLOSING ARGUMENTS

The party having the primary burden of proof shall open and close the final arguments, unless the Court otherwise directs. The party having the right to open and close the final argument may reserve a designated portion of the total allotted time for rebuttal. Closing arguments shall not exceed thirty (30) minutes for a side, unless the Court has consented in advance to a longer period of time.

Rule 43.6 MARKING AND LISTING EXHIBITS

Counsel for each party shall mark and list the identification of each exhibit permitted by the Final Pretrial Order which is proposed to be offered in evidence or to be otherwise tendered to any witness during trial, in accordance with Local Rule 16.2(b)(3).

Counsel for each party shall prepare a final list of the previously authorized exhibits with a descriptive notation sufficient to identify each exhibit, and furnish a copy of the exhibit list to the Court and opposing counsel three (3) days prior to the commencement of trial.

Rule 43.7 LIST OF WITNESSES

Counsel for the parties shall list the names of every witness permitted by the Final Pretrial Order including experts, who will testify at trial and also list the names of every witness who may testify at trial. Counsel shall also designate on this witness list whether the witness testimony will be in person, by deposition or by video tape. A copy of this final witness list as previously authorized by the Final Pretrial Order shall be furnished to the Court and opposing counsel three (3) days prior to the commencement of trial.

Rule 43.8 VERDICTS

(a) Verdict Reached During Recess. The Court may be recessed during jury deliberations and, if the jury reaches a verdict during such recess, the jury may seal the verdict and deliver it to the bailiff. In such event, the jury shall return to Court at a predetermined time for the opening and reading of the verdict.

(b) Presence of Parties and Attorneys Upon Receiving Verdict. In all jury trials, it shall be the duty of parties and attorneys to be present in Court when the jury is ready to return its verdict or when the jury requests further instructions. If parties or attorneys upon call cannot be reached at the telephone number given by them to the Clerk of Court, or are more than thirty (30) minutes away from the Court, they shall be deemed to have waived their presence at the return of the verdict or in regard to giving supplemental instructions requested by the jury. Parties and attorneys in the immediate vicinity of the Court shall be notified, but the return of the verdict or the giving of supplemental instructions will not be delayed in excess of thirty (30) minutes because of their absence. The absence of a party or attorney from the immediate vicinity of the courtroom will be deemed a waiver of that person's presence upon the return of the verdict or the giving of further instructions.

Rule 45.1 SUBPOENAS

(a) Issuance of Subpoena. Each litigant or his counsel desiring the issuance of a subpoena or a subpoena duces tecum, shall complete the subpoena in accordance with Fed. R. Civ. P. 45. Subpoena duces tecum shall specify clearly and concisely the documents required to be produced. (See Local Rule 34.1.) Counsel shall provide all parties with copies of all subpoenas duces tecum at the same time they are issued.

Rule 47.1 VOIR DIRE EXAMINATION

Subject to the provisions of Fed. R. Civ. P. 47 and Fed. R. Crim. P. 24, examination of prospective jurors shall be by the Court and by counsel as may be permitted by the Court. Insofar as counsel can reasonably anticipate a need for specific questions, such questions shall be submitted to the Court in writing prior to the commencement of the trial in accordance with the time limits set in the initial pretrial order.

Rule 47.2 COMMUNICATIONS WITH TRIAL JURORS

(a) Before or During Trial. Absent an order of court and, except in the course of in-court proceedings, no party, or any party's attorney, or their agents or employees, shall communicate with or cause another to communicate with a juror,a prospective juror, or his family before or during trial.

(b) After Trial. No juror has any obligation to speak to any person about any case and may refuse all interviews and comments. No person may make repeated requests for interviews or comments after a juror has expressed a desire not to be interviewed or questioned. If any person violates this prohibition against repeated requests of a juror for interviews or comments after the juror's refusal, the juror or jurors involved shall promptly advise the Court of the facts and circumstances. The Court shall take such action as it deems appropriate, which may include a contempt citation to the offending party or parties.

(c) Voluntary Interviews or Comments. If any juror consents to be interviewed after trial, under no circumstances shall such juror disclose or be asked to disclose any information with respect to the specific vote of any juror, other than the juror being interviewed or with respect to the deliberations of the jury.

(d) Conduct of Counsel. Following the rendition of a verdict by a jury, counsel in the case shall not thank the jury for their verdict.

(e) Court's Advice to Jurors. At the time that a jury is discharged from further consideration of a case upon return of a verdict or the declaration of a mistrial or otherwise, and when jurors are excused or discharged after commencement of a trial, the Court shall advise all jurors so discharged or excused of the provision of this Rule.

Rule 48.1 NUMBER OF JURORS

(a) Number of Jurors in Civil Cases. Except as is otherwise expressly provided by law, in all civil cases the jury shall consist of no less than six (6) members unless the parties stipulate to a lesser number.

(b) Impaneling Civil Jury. Unless the Court otherwise specifically directs, jurors in a civil case shall be impaneled in the following manner:

(1) **fourteen (14)** jurors shall be called to the jury box for voir dire examination;

(2) if any juror is excused for cause, another juror will be called;

(3) after the panel of **fourteen (14)** jurors is accepted for cause, counsel for each party shall approach the Clerk of Court's desk and, starting with the Plaintiff, shall alternately write on a form provided by the Clerk of Court their peremptory challenges. Each side shall exercise all of its peremptory challenges and the remaining **eight (8)** jurors shall constitute the jury.

Rule 51.1 INSTRUCTIONS

The parties shall tender to the Court and exchange with each other proposed jury instructions and verdict forms via e-mail seven (7) days prior to trial in both civil and criminal cases. The instructions must be formatted as a single document for WordPerfect or Word and must include citations of authority.

The Court's e-mail addresses are as follows:

wyojudgewfd@wyd.uscourts.gov - Honorable William F. Downes
cabjuryinstructions@wyd.uscourts.gov - Honorable Clarence A. Brimmer
wyojudgeabj@wyd.uscourts.gov - Honorable Alan B. Johnson
wyojudgewcb@wyd.uscourts.gov - Honorable William C. Beaman

Rule 52.1 PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

In all non-jury cases to be tried, counsel for each party shall prepare and hand to the Court, at the commencement of trial, proposed findings of fact and conclusions of law, consistent with the theory of the submitting party and the facts expected to be proved. Proposed findings should be concise and direct, should recite ultimate rather than mere evidentiary facts, and should be suitable in form and substance for adoption by the Court should it approve the contentions of the particular party. Proposed findings will also serve as a convenient recitation of contentions of the respective parties. This is helpful to the Court as it hears and considers the evidence and arguments and relates such evidence, or lack of it, to the salient contentions of the parties. After the trial of all civil non-jury cases, the Court may direct counsel to prepare and submit for consideration additional proposed findings of fact, conclusions of law and judgment.

Rule 53.1 SPECIAL MASTER REFERENCES

A magistrate judge may be designated by a district judge to serve as a special master in appropriate civil cases, in accordance with 28 U.S.C. § 636(b)(2) and Fed. R. Civ. P. 53. Upon the consent of the parties, a magistrate judge may be designated by a district judge to serve as a special master in any civil case, notwithstanding the limitations of Fed. R. Civ. P. 53(b).

VII JUDGMENT

Rule 54.1 PREPARATION OF ORDERS AND JUDGMENTS

(a) Orders in Open Court. Unless otherwise determined by the Court, orders announced in open Court in civil cases will be prepared and entered by the Court.

(b) Orders and Judgments. Unless otherwise determined by the Court, all orders and judgments shall be prepared and entered by the Court.

(c) Notice of Entry of Orders and Judgments. The mailing by the Clerk of Court to attorneys of record, or to parties appearing *pro se*, of copies of orders or judgments showing the date such orders or judgments were entered by the Clerk of Court shall constitute notice of the entry, pursuant to Fed. R. Civ. P. 77(d). The date of such mailing shall be indicated by the Clerk of Court on the appropriate docket sheet.

(d) Final Order Journal. The Clerk of Court shall enter in the Journal of the Court final judgments or appealable orders affecting title to or lien upon real or personal property and any other order which the Court may direct to be kept, as well as such proceedings which the federal statutes require to be kept. Said journal shall embrace the civil order book provided for by Fed. R. Civ. P. 79(b).

(e) Proposed Judgment and Orders Prepared by Counsel. In all civil cases, when required by the Court, counsel shall prepare and submit to the Court for signature all proposed judgments and orders and, without being required by the Court, shall submit such other orders as those extending time to plead, orders for appointment of special process servers, orders of dismissal and like orders usually granted without a hearing.

(f) Format for Orders and Judgments. All orders and judgments shall be separate documents, endorsed with the name of the Court, the title of the case and a heading sufficiently describing the document to identify its contents.

(g) Preparation of Judgment. Where the Court directs the entry of judgment following a civil jury trial, the judgment shall be prepared by the Clerk of Court for entry in the journal unless otherwise directed by the Court.

(h) Miscellaneous Orders. All other miscellaneous orders shall be prepared by the Clerk of Court unless the Court directs otherwise.

Rule 54.2 TAXATION OF COSTS

(a) Filing of Certificate of Costs. After entry of the final judgment allowing costs to the prevailing party, said party shall prepare and file a certificate of costs within twenty (20) days which shall contain an itemized schedule of costs incurred and a statement that such schedule is correct and that the charges were actually and necessarily incurred. The original certificate shall be filed with the Clerk of Court and a copy served upon opposing counsel.

(b) Objections to Cost Bill. If no objections are filed within twenty (20) days after service of the cost bill, the Clerk of Court shall tax the costs which appear properly claimed. If objections are filed, the Clerk of Court shall consider the objections and shall tax costs subject to review by the Court, as provided by Fed. R. Civ. P. 54(d).

(c) Witnesses and Experts. Where witnesses, both fact and expert, appear voluntarily or are subpoenaed by the regular service of subpoena within the District, or outside the District as allowed by law, they shall be entitled to fees provided by statute to be taxed as costs in the case. In all civil cases, witness fees shall be taxed only upon the certificate of counsel for the prevailing party requesting the same. Said certificate shall contain the following information:

(1) the name of the witness;

(2) the place of residence or the place where subpoenaed, or the place from which the witness voluntarily traveled without a subpoena to attend upon said case;

(3) the number of days the witness actually testified in Court;

(4) the number of days the witness traveled to and from the place of trial or hearings and the exact number of miles traveled; and

(5) the manner of travel, that is, whether by air, railroad, bus or private automobile.

(d) Clerk of Court Taxing Witness Fees. The Clerk of Court shall tax the witness fees after the certificate is filed, provided the information contained therein corresponds with the facts upon the records of the Court. If, however, there is a discrepancy between said certificate and the Court records, the Clerk of Court shall tax the witness fees in accordance with the official records.

(e) Costs in Removed Cases. In cases removed from state courts, the costs incurred in the state courts shall be taxed in favor of the prevailing party upon the filing with the Clerk of Court of a certificate of counsel or other documentary evidence in support of such costs.

(f) Items Taxable as Costs. It shall be the policy of the Court to allow certain items of costs and disallow other items, as specified in any special order of the Court.

(1) Fees of the Clerk of Court and United States Marshal. The filing fees paid to the Clerk of Court either, for an original filing or for removal, shall be taxable.

Fees of the United States Marshal, as set forth in 28 U.S.C. § 1921, shall be taxable. The costs for service by a sheriff or other authorized person shall be taxable, except that counsel have the duty to mitigate costs by having process served by a person located as closely as possible to the person to be served, in order to minimize mileage fees.

(2) Fees of Court Reporter.

(A) When a transcript is obtained for purposes of appeal the cost of the original is taxable if the appeal is successful.

(B) Transcripts of trial proceedings obtained for the purposes of preparing proposed findings of fact and conclusions of law, when directed by the Court in trials to the Court, shall be taxable as a matter of course to the successful party.

(C) Daily transcripts of trial proceedings obtained for the convenience of counsel are not taxable as costs unless advance authority has been sought and obtained from the Court.

(D) Costs of depositions are taxable if the depositions or portions thereof were read into evidence at trial in lieu of the appearance of the deponent; or if the deposition is used at trial to impeach a witness on the witness stand with his/her prior testimony; or it is necessary during the course of the trial that a witness's recollection be refreshed from his/her deposition testimony; or the deposition is used in support of or in opposition to any dispositive motion. Costs of the taxing party's copies of depositions taken by the opponent and utilized or read into evidence at trial in lieu of the appearance of a witness are taxable. This Court has entered an order setting the transcript rates which are allowed for official transcripts in this Court. Those fees are hereby adopted as the maximum taxable transcription fees notwithstanding what fee may have been charged to the party by the shorthand reporter. A copy of the order setting the transcription rates may be obtained from the Clerk of Court.

The attendance fee of the reporter is taxable. Extra fees charged by reporters for attendance, mileage, per diem, expeditious handling, etc., shall not be taxable unless advance authorization was sought and received from the Court.

(3) Witness Fees. Witness fees are allowed, pursuant to statute, per each day of testimony and necessary attendance at trial and for each day of necessary

travel. Counsel shall be expected to justify the witness fee for any days which the courtroom minutes do not reveal that a particular witness testified. In addition, a subsistence fee may be allowed for each day that the witness is so far removed from his residence as to prohibit return thereto from day-to-day. Such subsistence shall be determined pursuant to the governmental rate in effect at the time.

Taxation may be made for the cost of each day the witness is necessarily in attendance and is not limited only to those costs incurred for the actual day upon which the witness testified. Fees shall be limited, however, to the days of actual testimony and the days required for travel if no showing is made that the witness necessarily attended for a longer time. Witness fees are taxable whether or not a subpoena was issued.

(A) Witnesses attending in this Court or before any person authorized to take their depositions, if within the jurisdiction of this Court, are entitled to a mileage fee for going to and from their place of residence. The mileage fee shall be equal to the mileage fee which government employees would be entitled to at the time the expense was incurred by the witness.

(B) Witnesses attending from outside the jurisdiction shall be allowed the same mileage fee as set forth in (6)(C) above, up to the maximum amount of five hundred (500) miles, one way, which is the approximate maximum mileage which may be assessed within the jurisdiction.

(C) Provided, however, that witnesses shall be allowed the cost of common carrier transportation if such mode of travel does not exceed the maximum amount which could be allowed for mileage.

(4) Exemplification and Copies of Papers. Fees for exemplification and copies of papers necessarily obtained for use in the case shall be limited to those documents used at the trial and received in evidence. Consequently, it will be incumbent upon counsel to assure that all documents necessarily obtained for use in the case are offered and received in evidence. Should an objection be made to the Clerk of Court's bill of costs, the Court will entertain evidence of necessity at the resultant hearing. The costs of copies of an exhibit are taxable when copies are admitted into evidence in lieu of originals which are not available for introduction into evidence. The costs of copies submitted in lieu of originals because of convenience of offering counsel are not taxable. The costs of copies obtained for counsels' own use are not taxable. The fee of an official for certification or proof of nonexistence of a document is taxable.

(5) Maps, Charts, Models, Photographs, Summaries, Computations and Statistical Summaries. The cost of photographs, eight (8) x ten (10) inches in size or less, is taxable, if the photographs are admitted into evidence. Enlargements greater

than eight (8) x ten (10) inches are not taxable except by order of the Court. Costs of models are not taxable except by order of the Court. The cost of compiling summaries, computations and statistical comparisons is not taxable.

(6) Docket Fees to Attorneys. The statutory docket fees for counsel are taxable costs. (See 28 U.S.C. § 1923.) Attorney costs are not taxable except by order of the Court. If attorney fees are allowable in an amount greater than Twenty Dollars ($20.00), as set forth in 28 U.S.C. § 1923(a), it is incumbent upon the prevailing attorney to bring this fact to the Clerk of Court's attention by including the proper citation in the verification of costs incurred.

(7) Fees to Masters, Receivers and Commissioners. Fees to masters, receivers and commissioners are taxable as costs, unless otherwise ordered by the Court. When costs are sought for items not listed in 28 U.S.C. § 1920, the procedure best followed is an application to the Court in advance of trial for an approving order.

(g) Costs Taxed by Appeals Court [Fed. R. App. P. 39(d)]. Any costs taxed in the mandate of the Circuit Court shall be forthwith entered by the Clerk of Court.

(h) Costs on Appeal in District Court [Fed. R. App. P. 39(e)]. All costs taxable under Fed. R. App. P. 39(e) shall be deemed waived unless the party entitled thereto files a bill of costs, in accordance with paragraph (a)(1) of this Local Rule, within twenty (20) days of the issuance of the mandate by the Circuit Court.

Rule 54.3 ATTORNEY'S FEES

(a) Statement of Consultation. The Court will not consider a motion to award attorney's fees until moving counsel shall first advise the Court in writing that, after consultation, the parties are unable to reach an agreement with regard to the fee award. The statement of consultation shall set forth the date of the consultation, the names of the participating attorneys and the specific results achieved.

(b) Agreed Upon Award. If the parties reach an agreement, they shall file an appropriate stipulation and request for an order.

(c) Motion for Award. If the parties are unable to agree then, within fourteen (14) days of final judgment, the moving party shall file the statement of consultation required of this Rule and a motion setting forth the statutory or contractual authority for the request, and the factual basis for each criterion which the Court is asked to consider in making an award. The motion shall be supported by time records, affidavits and other evidence showing the amount of time spent on the case, the hourly fee claimed by the attorney and the hourly fee usually charged by the attorney, if this differs from the amount claimed in the case. The motion shall also be supported by a memorandum brief supporting the party's entitlement to attorney's fees. Discovery shall not be conducted in connection with motions for award of attorney's fees, unless permitted by the Court upon motion and for good cause shown.

(d) Service of Motion. The original and one copy of such motion, together with supporting affidavits and other evidence and memorandum brief, shall have endorsed thereon proof of service upon the opposing party.

(e) Objections to Award. The opposing party shall file objections to the fee request, supported by affidavits or other evidence, within fifteen (15) days after filing of the claim for attorney's fees. The opposing party shall submit with such objection a memorandum brief supporting such party's objections. The objection and memorandum shall have endorsed thereon proof of service upon the moving party.

(f) Waiver. Failure to file timely a motion for an award of attorney's fees shall constitute a waiver thereof unless, for good cause shown, the Court grants relief from the waiver.

(g) Motion for Interim Award. A party claiming to be entitled to an award of interim attorney's fees shall submit a motion supported as set forth above. When filed, the requirements of this Rule shall apply, with respect to time for objections, supported as set forth above.

(h) Oral Argument. When all of the requirements above set forth have been met, the Court shall enter an appropriate order upon the motion and objections. The Court, only if it determines it is necessary, may order oral arguments upon any or all of

the issues raised at a hearing before the Court.

Rule 54.4 JURY COST ASSESSMENT

Whenever any civil action scheduled for jury trial is settled or otherwise disposed of in advance of the actual trial then, except for good cause shown, jury costs, including Marshal's fees, mileage and per diem, shall be assessed equally against the parties and their counsel, or otherwise assessed as directed by the Court unless the Clerk of Court is notified before twelve o'clock noon five (5) calendar days before the time when the action is scheduled for trial, in time to advise the jurors that it will not be necessary for them to attend. Likewise, when any civil action, proceeding as a jury trial, is settled at trial in advance of the verdict, then, except for good cause shown, jury costs, including Marshal's fees, mileage and per diem, shall be assessed equally against the parties and their counsel, or otherwise assessed as directed by the Court. (See Martinez v. Thrifty Drug & Discount Co., 593 F. 2d 992 (10th Cir. 1979)).

Rule 55.1 JUDGMENT BY DEFAULT

(a) By the Clerk. Judgment by default may be signed and entered by the Clerk of Court in such circumstances as are specified in Fed. R. Civ. P. 55(b)(1), accompanied by an affidavit, except in the case of a corporate defendant, that the person against whom judgment is sought is neither an infant, an incompetent person nor in the armed forces within the meaning of the Soldiers' and Sailors' Civil Relief Act of 1940, 50 U.S.C. § 520(l). Upon application of the party applying for default judgment, the Clerk of Court shall make and file a certificate of entry of default as to any party in default, for the convenience of the Court or of the party applying for the default judgment.

(b) By the Court. When application for a default judgment is made to the Court under Fed. R. Civ. P. 55(b)(2), unless the Court otherwise orders, the Clerk of Court shall set the case for the taking of evidence before the Court and shall give notice to counsel for an ensuing motion day. If the party against whom judgment by default is sought has appeared in the action or proceeding, both the party seeking the default and the Clerk of Court shall give due notice of the hearing to counsel for said party, as required by Fed. R. Civ. P. 55(b)(2). With leave of Court, proof may be submitted by affidavit, but the Court may order such further hearing or reference as appears proper. Nothing herein shall authorize judgment by default against the United States of America, except as permitted by Fed. R. Civ. P. 55(e).

Rule 59.1 NEW TRIAL

(a) Motion for a New Trial. In the event any party or attorney for a party or parties has good cause to question the propriety of the jury's actions or deliberations, the provisions of Fed. R. Civ. P. 59 shall be followed and such discovery under Fed. R. Civ. P. 26 to 37 (inclusive) shall be allowed as the Court, upon application of the moving party, shall direct.

VIII PROVISIONAL AND FINAL REMEDIES

Rule 65.1 BONDS

An attorney in any case or a party in a civil case, or the spouse of a party in a civil case, shall not be accepted as a personal surety on any bond filed in that case.

Where the surety on a bond is a surety company approved by the United States Department of the Treasury, a power of attorney showing the authority of the agent signing the bond shall be on file with the Clerk of Court.

No person, firm, association or corporation may act as his or its own surety in a civil case.

Rule 67.1 DEPOSITS AND WITHDRAWALS IN THE REGISTRY OF THE COURT

(a) Court Ordered Investments. A party depositing money into the Court registry shall file and serve the Clerk of Court or his designated financial deputy with a signed court order. That order shall specify the amount to be invested, the type of investment to be made and the name of the depository (one approved by the Treasury of the United States under Circular 176) where the funds are to be deposited. The Clerk of Court shall deposit the funds only in an interest-bearing account or accounts, as designated in the order. Parties may suggest specific institutions where the money is to be deposited, however, the selection of any such institution shall be made by the judge to whom the matter is assigned.

(b) Registry Fee. The order shall also contain language which directs the Clerk of Court to deduct from the income earned on the investment, a fee not exceeding that authorized by the Judicial Conference of the United States and established by the Director of the Administrative Office.

(c) Maturity of Investments. When investments mature, it shall be the responsibility of the parties to advise the Clerk of Court by serving written notice on the Clerk or his designated Financial Deputy, three (3) days in advance of maturity, which notice gives complete instructions for the reinvestment or disbursement of such funds. If the parties fail to so advise the Clerk of Court, the funds shall be deposited by the Clerk of Court in the Civil Registry checking account and interest shall accrue on behalf of the United States.

(d) Withdrawals. Withdrawal of funds which have been deposited in the registry of the Court, pursuant to Fed. R. Civ. P. 67 shall be allowed only upon an order of the Court (28 U.S.C. § 2042). Any registry funds which were deposited into an interest-bearing account or instrument, as required by Fed. R. Civ. P. 67, may be withdrawn only after the party seeking the funds provides a separate document (W-9) which sets forth the Social Security number or tax identification number of the ultimate recipient of the funds. All motions and proposed orders for withdrawal shall include the amount to be paid out, to whom it should be paid, as well as the deduction of the registry fee. The order shall be forwarded by the Clerk directly to the institution holding the funds.

(e) Non-Interest Bearing Deposits. Criminal cash bail, cost bonds and other cash bonds such as admiralty cost bonds, injunction cost bonds, civil garnishments, etc., are not governed by the Federal Rules of Civil Procedure and, therefor, are not required to be deposited in interest-bearing accounts.

IX SPECIAL PROCEEDINGS

Rule 72.1 HEARINGS BEFORE MAGISTRATE JUDGES

(a) Determination of Non-Dispositive Pretrial Matters [28 U.S.C. § 636 (b) (1) (A)]. A magistrate judge may hear and determine non-dispositive motions or other pretrial matters in a civil or criminal case, including final pretrial conferences, when requested by a trial judge.

(b) Assignment of Pretrial Dispositive Motions by the Court [28 U.S.C. § 636 (b) (1) (B)]. The District Court hereby designates magistrate judges to conduct hearings, including evidentiary hearings, and submit to a trial judge findings and recommendations for the final disposition by a district judge of the following matters:

(1) motions for injunctive relief, including temporary restraining orders and preliminary and permanent injunctions;

(2) motions for judgment on the pleadings;

(3) motions for summary judgment;

(4) motions to dismiss or permit the maintenance of a class action;

(5) motions to dismiss for failure to state a claim upon which relief may be granted;

(6) motions to involuntarily dismiss an action;

(7) motions for review of default judgments;

(8) motions to dismiss or quash an indictment or information made by a defendant; and

(9) motions to suppress evidence in a criminal case.

Rule 72.2 PRISONER PETITIONS FOR POST-TRIAL RELIEF INCLUDING RELIEF UNDER 28 U.S.C. § 2241, 2254 AND 2255.

(a) Magistrate Duties. A Magistrate Judge may perform any or all of the duties imposed upon a district judge in proceedings involving petitions for post-trial relief made by individuals convicted of criminal offenses. In so doing, a Magistrate Judge may issue any preliminary orders and conduct any necessary evidentiary hearing, or other appropriate proceeding, and may submit to a District Judge findings of fact and recommendations for final disposition of the petition by a District Judge. Any order disposing of the petition may be made only by a District Judge.

(b) Review of Post-Trial Petition. The District Judge shall make an initial review of the post-trial petition to determine if the petition is frivolous on its face. If the petition does not appear to be frivolous, the District Judge may either retain the case or may refer the case to the Magistrate Judge.

(1) Frivolous Petitions. If the District Judge refers a petition for post-trial relief to the Magistrate Judge, the Magistrate Judge shall also review the petition to determine whether the claims are frivolous. In the event that the Magistrate Judge determines that a petition is frivolous on its face, findings and recommendations shall be prepared and served on the parties and submitted to the District Judge assigned to the case.

(2) Non-frivolous Petitions. If the Magistrate or District Judge determines that a petition is not frivolous on its face, upon order of the court, the Clerk of Court shall immediately serve the petition on the named respondent. The respondent shall file a response within **twenty-one (21)** days after service of the petition. The respondent shall file a motion to dismiss, together with the response, when it appears to the respondent that the petition may be deficient under the law. In the event the respondent files a motion to dismiss, a brief in support of the motion shall be filed at the same time.

(c) Evidentiary Hearing. A District or Magistrate Judge may set and conduct an evidentiary hearing after the filing of an answer or motion to dismiss. The petitioner and out-of-town witnesses shall appear at hearings by telephone, unless exigent circumstances exist. The parties may be required to submit proposed findings of fact and conclusions of law.

(d) Filing Fees. Except for petitions under 28 U.S.C. §2255, before a petition is reviewed by the District or Magistrate Judge, the prisoner must pay the appropriate filing fee or file a motion for leave to proceed in forma pauperis pursuant to 28 U.S.C. §1915. No filing fee is required for petitions under 28 U.S.C. §2255.

(e) Forms. The clerk of court shall make available upon request forms for petitions for a writ of habeas corpus, motions to vacate, set aside or correct a sentence

under 28 U.S.C. §2255, and motions for leave to proceed in forma pauperis.

Rule 72.3 PRISONER CASES CHALLENGING CONDITIONS OF CONFINEMENT, INCLUDING CASES UNDER 42 U.S.C. § 1983

(a) Magistrate Duties. A Magistrate Judge may perform any or all of the duties imposed upon a District Judge in proceedings involving challenges by a prisoner to conditions of confinement. In so doing, a Magistrate Judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding, and may submit to a District Judge findings of fact and recommendations for final disposition of an action by a District Judge. Any order disposing of the case may be made only by a District Judge.

(b) Civil Rights Review. The District Judge shall make an initial review of the complaint to determine whether the action is frivolous. If the complaint appears to state a claim for relief, the District Judge may either retain the case or may refer the case to the Magistrate Judge.

(1) Frivolous Complaints. If the district court refers the case to the Magistrate Judge, the Magistrate Judge shall also review the complaint to determine whether or not the claims are frivolous. In the event the Magistrate Judge determines the complaint to be frivolous on its face, findings and recommendations shall be prepared and served on the parties and submitted to the district judge assigned to the case.

(2) Non-frivolous Petitions. If the District or Magistrate Judge determines that a complaint is not frivolous on its face, upon order of the court, the Clerk of Court shall serve the complaint and a waiver of service or a summons on the defendant.

The defendant shall file an answer within **twenty-one (21)** days after being served with the summons and complaint, or if service of summons has been timely waived on request under Fed. R. Civ. P. 4(d), within sixty (60) days after the date when the request for waiver was sent. The defendant shall file a motion to dismiss, together with an answer, when it appears to the defendant that the complaint may be deficient under the law. In the event the defendant files a motion to dismiss, a brief in support of the motion shall be filed at the same time.

(c) Evidentiary Hearing. A District or Magistrate Judge may set and conduct an evidentiary hearing after the filing of an answer or motion to dismiss. The plaintiff and out-of-town witnesses shall appear at hearings by telephone, unless exigent circumstances exist. The parties may be required to submit proposed findings of fact and conclusions of law.

(d) Filing Fees. Before an action challenging conditions of confinement is reviewed by the District or Magistrate Judge, the prisoner must pay the appropriate filing fee or file a motion for leave to proceed in forma pauperis pursuant to 28 U.S.C.

§1915. If the court grants the motion for leave to proceed in forma pauperis, the prisoner shall be required to pay the filing fee in the manner set forth in 28 U.S.C. §1915.

(e) Forms. The Clerk of Court shall make available upon request forms for civil rights complaints under 42 U.S.C. §1983 and motions for leave to proceed in forma pauperis.

Rule 73.1 DUTIES OF MAGISTRATE JUDGES

(a) Duties Under 28 U.S.C. § 636(a). Each United States Magistrate Judge of this Court is authorized to perform the duties prescribed by 28 U.S.C. § 636(a), as well as exercise all the powers and duties conferred or imposed upon magistrate judges by statute and rules, administer oaths and affirmations, impose conditions of release under 18 U.S.C. § 3146, and take acknowledgments, affidavits and depositions, and conduct extradition proceedings in accordance with 18 U.S.C. § 3184.

(b) Conduct of Trials and Disposition of Civil Cases Upon Consent of the Parties [28 U.S.C. § 636(c)].

(1) Consent. The Magistrate Judge located in Cheyenne, Wyoming, or such other magistrate judge as may be designated by the Court, may conduct any or all proceedings in any civil case which is filed in this Court, including the conduct of a jury or non-jury trial, and may order the entry of a final judgment, in accordance with 28 U.S.C. § 636(c). In the course of conducting such proceedings upon consent of the parties, such magistrate judge may hear and determine any and all pretrial and post-trial motions which are filed by the parties, including case dispositive motions.

(2) Notice to Parties. The Clerk of Court shall notify the parties in all civil cases that they may consent to have a magistrate judge conduct any or all proceedings in the case and order the entry of a final judgment. Notice shall be handed to or mailed to the plaintiff or his representative at the time an action is filed. Notice shall be attached to copies of the complaint and summons to be served on defendants. Additional notice may be furnished to the parties at later stages of the proceedings and may be included with pretrial notices and instructions.

(3) Consent Form. It is not necessary for one consent form to be executed by all the parties; each party may separately sign a consent form and file it individually with the Clerk of Court. Each party shall serve a copy of the executed consent form on all other parties at the time of filing. In the event one or more of the parties fail to file a consent form, the matter shall proceed before a district judge, unless leave of court to proceed before a magistrate judge is first obtained. No consent form will be made available, nor will its contents be made known to any judge or magistrate judge, unless all parties have consented to reference to a magistrate judge.

(4) After Consent Form Executed. After the consent form has been executed and filed, the Clerk of Court shall transmit it to the trial judge to whom the case has been assigned for order of referral of the case to a magistrate judge. Thereafter, a magistrate judge shall have the authority to conduct any and all proceedings to which the parties have consented and to direct the Clerk of Court to enter a final judgment in the same manner as if a district judge had presided, provided consent for such action has been given.

(c) Referral of Government Small Claim Cases. Pursuant to general order of the District Court, the Magistrate Judge located in Cheyenne, Wyoming is hereby authorized to conduct any and all proceedings, including evidentiary hearings, and submit to the Court proposed findings of fact and recommendations for the disposition by the Court of the following civil cases wherein the amount in controversy does not exceed Two Thousand Dollars ($2,000.00):

(1) Veteran Administration Student Loan Cases;

(2) Social Security;

(3) Small Business Administration.

(d) Assignment of Duties to Magistrate Judges.

(1) Automatic References. The Clerk of Court shall refer the following matters to a magistrate judge upon filing:

(i) loan cases (including Small Business Administration and Student Loan cases);

(ii) I.R.S. Summons Enforcement;

(iii) overpayment cases;

(iv) all civil and criminal non-dispositive pretrial motions;

(v) all initial pretrial conferences;

(vi) prisoner 42 U.S.C. § 1983 and 28 U.S.C. § 2254 actions.

(2) Referral of Civil Cases to Magistrate Judge. Each District Judge of this Court may, pursuant to 28 U.S.C. § 636(c)(1), automatically refer to the full-time Magistrate Judge located in Cheyenne, Wyoming civil diversity cases for disposition, including the entry of final judgment in the case. The parties to a case which has been automatically referred to the full-time Magistrate Judge shall advise the district judge in writing, within five (5) days after notification of referral, of their consent or objection to the jurisdiction of the full-time Magistrate Judge.

The Court strongly encourages the parties to consider giving consent to trial by the full-time Magistrate Judge in any civil case in order to reduce delay or potential delay in litigation.

(3) Selected Reference. A magistrate judge may conduct other proceedings upon special designation of a district judge or pursuant to an order of the

Court not inconsistent with the Federal Rules of Civil Procedure and applicable statutes.

(4) Misdemeanor Cases. All misdemeanor cases shall be assigned, upon the filing of an information, complaint, or violation notice, or the return of an indictment, to a magistrate judge, who shall proceed in accordance with the provisions of 18 U.S.C. § 3401 and Fed. R. Crim. P. 58, Procedure for Misdemeanors and other Petty Offenses.

(5) Additional Duties. A magistrate judge shall have authority to:

(i) accept petit jury verdicts in the absence of a district judge;

(ii) conduct necessary proceedings leading to the potential revocation of probation;

(iii) issue subpoenas, writs of habeas corpus ad testicandum or habeas corpus ad prosequendum or other orders necessary to obtain the presence of parties, witnesses or evidence needed for court proceedings;

(iv) order the exoneration or forfeiture of bonds;

(v) conduct proceedings for the collection of civil penalties of not more than Two Hundred Dollars ($200.00) assessed in accordance with 46 U.S.C. § 4311(d) and § 12309(c) and issue commitments to another district in accordance with Fed. R. Crim. P. 40;

(vi) conduct examinations of judgment debtors in accordance with Fed. R. Civ. P. 69;

(vii) conduct proceedings for initial commitment of narcotic addicts under Title III of the Narcotic Addict Rehabilitation Act;

(viii) supervise proceedings on requests for letters rogatory in civil and criminal cases, if designated by a district judge under 28 U.S.C. § 1782(a);

(ix) consider and rule upon applications for administrative inspection warrants and orders permitting entry upon a taxpayer's premises to effect levies in satisfaction of unpaid tax deficits;

(x) perform any additional duty as is not inconsistent with the Constitution and laws of the United States.

Rule 74.1 REVIEW OF MAGISTRATE JUDGE'S ACTION

(a) Appeal of Non-Dispositive Matters [28 U.S.C. § 636(b)(1)(A)]. Any party may seek reconsideration by a District Judge of a Magistrate Judge's order determining a motion or matter under Rule 72.1(a) of these Local Rules, within **fourteen (14)** days after service of the Magistrate Judge's order. Such party shall file a written statement of reconsideration with the Clerk of Court and all parties, which shall specifically designate the order, or part thereof, objected to and the basis for any objection. Any response thereto shall be filed within **fourteen (14)** days after service of the written statement of reconsideration. The trial judge assigned to the case shall reconsider the matter and shall set aside any portion of the Magistrate Judge's order found to be clearly erroneous or contrary to law.

(b) Review of Case -- Dispositive Motions and Prisoner Litigation [28 U.S.C § 636(b)(1)(B)]. Any party may object to a Magistrate Judge's findings and recommendations under Rule 72.1(b) of these Local Rules, within **fourteen (14)** days after being served with a copy thereof. Such party shall file with the Clerk of Court and serve on all parties written objections which shall specifically identify the portions of the proposed findings and recommendations to which objections are made and the basis for such objections. The trial judge assigned to the case shall make a de novo determination of those portions of the findings and recommendations to which objection is made and may accept, reject or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge.

(c) Special Master Reports [28 U.S.C § 636(b)(2)]. Any party may seek review of, or action on, a special master report filed by a Magistrate Judge, in accordance with the provisions of Fed. R. Civ. P. 53(e).

(d) Appeal from Judgments in Misdemeanor Cases [18 U.S.C. § 3402]. A defendant may appeal a judgment of conviction by a magistrate judge in a misdemeanor case by filing a notice of appeal to the District Court within **fourteen (14)** days after entry of the judgment, and by serving a copy of the notice upon the United States Attorney. The scope of appeal shall be the same as on an appeal from a judgment of the District Court to the Court of Appeals. When appealing a judgment of conviction, the appellant shall pay a Twenty-Five Dollar ($25.00) filing fee.

X DISTRICT COURTS AND CLERKS

Rule 77.1 BUSINESS HOURS AND DAYS OF BUSINESS

Unless otherwise ordered by the Court, the Office of the Clerk of Court shall be open to the public between the hours of **8:30 a.m. to 12:00 p.m.; and 1:00 p.m. to 5:00 p.m.** on all days except Saturdays, Sundays, and legal holidays. In addition, a slot in the entrance to the Clerk of Court's office shall be open from 7:15 a.m. to 8:00 a.m. and from 5:00 p.m. to 5:30 p.m. on said days for the deposit of pleadings and papers.

Rule 79.1 RECORDS OF THE COURT

(a) Files. No record or paper filed with the Court shall be taken from the office or custody of the Clerk of Court, except by attorneys admitted to the bar of this Court upon the special order of the Court or permission of the Clerk of Court for good and sufficient reasons shown. The person removing any Court file shall sign a receipt which identifies the record or paper removed and states the date when it is to be returned. Under no circumstances shall an attorney place a court file in the mail for return to the Clerk of Court.

(b) Transcripts, Depositions and Administrative Records. Transcripts, depositions and administrative records shall not be checked out by the Clerk of Court to any person except court personnel.

(c) Depositions. Sealed depositions shall not be reproduced by the Clerk's office unless ordered by the Court. Sealed depositions which have been filed with the Court may be opened by the Clerk of Court for examination by attorneys of record in the case and read in the office of the Clerk of Court. Upon the conclusion of the examination, the deposition shall be resealed. In the event an attorney not of record in the case wishes to examine a sealed deposition filed with the court, said counsel must seek written permission from the Court to do so before the Clerk of Court will allow such examination.

(d) Court Transcripts. Attorneys are advised that a court transcript filed with the Clerk of Court is the prima facie transcript of the testimony filed by the reporter, pursuant to 28 U.S.C. § 753 covering the duties of the court reporter, and it is a part of the Clerk of Court's files. Any copies of transcripts, or parts thereof which are a part of the public domain and not sealed by the Court may, upon request, be reproduced for ordering parties by the Clerk's office, under the same terms and conditions as any other official public document in the case file.

(e) Administrative Records. An Administrative Record which has been filed in a case and not sealed by the Court may, upon request, be reproduced for ordering parties by the Clerk's office, under the same terms and conditions as any other official public document in the case file.

Rule 79.2 EXHIBITS

(a) Custody of Exhibits. The Clerk of Court or courtroom deputy clerk shall mark and have safekeeping responsibility for all exhibits marked and offered at trial or hearing. All rejected exhibits (exhibits tendered, but not admitted) shall also be retained by the Clerk of Court. The Clerk of Court shall continue to have custody of the exhibits during the period after trial until the expiration of the time for appeal or termination of appeal proceedings.

(b) Return of Exhibits. After the expiration of the time for appeal, the Clerk of Court shall deliver to counsel of record their respective exhibits. However, the Clerk of Court shall notify counsel to pick up any exhibits that are too cumbersome for mailing and, if counsel shall fail to do so within ten (10) days after receipt of such notice, the Clerk of Court shall destroy or otherwise dispose of said exhibits.

(c) Sensitive and Bulky Exhibits. Sensitive exhibits such as money, drugs and firearms and documents of unusual bulk or weight and physical exhibits, other than documents, shall remain in the custody of the attorney producing them. The attorney shall permit inspection of the exhibits by any party for the purpose of preparing the record on appeal, and shall be charged with the responsibility for their safekeeping and transportation to the appellate court.

Rule 81.1 REMOVAL

A party seeking removal of a civil action shall file with this Court a notice of removal, in accordance with 28 U.S.C. § 1446.

A copy of the notice of removal shall be immediately filed with the clerk of the state court. The case shall be deemed removed from state court to this Court upon the filing of the notice with the state court.

This Court shall issue an "Order on Removal" immediately following the filing of the notice of removal. The Order shall state that this Court obtained jurisdiction over both the parties and the subject matter of the state court action at the time the notice of removal was filed with the clerk of the state court and that the state court should proceed no further, unless the case is later remanded.

The Order on Removal shall direct the removing party to file with the Clerk of this Court a copy of the entire state court record and proceedings, including a copy of the state court docket sheet, as filed in such state court, within ten (10) days after receipt of this Order.

In the event a hearing is pending when the notice of removal is filed with the clerk of the state court, the Order on Removal shall require the removing party to notify directly the state court judge of the removal of the action.

The Clerk of this Court shall serve by mail the Order on Removal on all parties to the action and the clerk of the state court.

The purpose of the removal order is to advise the parties and the state court in more detail of all relevant information regarding the removal of the case to federal court, thereby alleviating questions concerning such removal.

XI GENERAL PROVISIONS

Rule 83.1 SESSIONS OF COURT

The Court shall be in continuous session for transacting judicial business in Cheyenne and Casper, Wyoming, on all business days throughout the year, and shall hold special sessions of court in Sheridan, Lander, Evanston and Jackson, Wyoming, at such times as the judicial workload of the court may warrant. The Court will consider holding sessions of Court in other Wyoming cities for the convenience of litigants and their witnesses, where counsel have arranged for the temporary use of an appropriate State courtroom.

Rule 83.2 JURISDICTION

Nothing contained in these Rules shall be construed to deny to this Court such powers as are necessary for the Court to maintain control over proceedings conducted before it, such as proceedings for contempt under Title 18 U.S.C. or Fed. R. Crim. P. 42.

Rule 83.3 COOPERATION AMONG COUNSEL

Counsel are expected to cooperate with each other, consistent with the interests of their clients, in all phases of the pleading, discovery and trial process, and to be courteous in their dealings with each other, including matters relating to scheduling and timing of various discovery procedures.

RULE 83.4.1 SECURITY

(a) Inspection. All persons and all items carried by them, entering any U.S. Courthouse in the District of Wyoming or any facility wherein said Court is being held, shall be subject to appropriate screening and checking by the U.S. Marshal or his designated representative. This may include the use of metal detecting devices. Any person who refuses to cooperate in such screening or checking may be denied entry to the U.S. Courthouse by the U.S. Marshal or his designated representative.

(b) Use of Recording Devices. The use or operation of any recording device or any mechanical means for the auditory reproduction of a voice or sound is prohibited in any courtroom of this Court or any premises under the direct control of the Court. This includes, but is not limited to, the Clerk of Court's office, Probation Office and the U.S. Marshal's Office or in the hallways so close to any such area as to disturb the order and decorum thereof, either while the Court is in session or at recesses between sessions when Court officials, litigants, attorneys, jurors, witnesses or other persons connected with the proceedings pending therein are present. These devices cannot be brought into any building where the Court's business is being conducted without the express consent of the Chief Judge of this District, except for other regular tenants in the same building. Specific items to be excluded are recorders, cameras, pagers, cellular phones, and any other electronic devices, except portable computers.

(c) Use of cameras

(1) That the taking of photographs within the courtrooms and court buildings and radio and television coverage of court proceedings within the courtrooms and court buildings of the United States District Court for the District of Wyoming is prohibited.

(2) The presiding judicial officer may authorize the taking of photographs within the courtroom and court building for ceremonial proceedings, inter alia, naturalization ceremonies, investiture proceedings, bar admittance ceremonies, and public recognition proceedings.

(3) As part of the court’s participation in education programs, such as moot trial competitions, continuing legal education programs, student court visits, and other programs of a similar nature, the presiding judicial officer may order exceptions to the general rule prohibiting photographs and radio and television coverage of court proceedings.

(4) The presiding judicial officer may order the taking of photographs, and broadcasts of court proceedings as a means of preserving the record of the court proceedings as may be authorized by law or Local Rules of the United States District Court for the District of Wyoming.

Rule 83.4.2 RELEASE OF INFORMATION BY COURT PERSONNEL

All Court personnel, including among others, marshals, deputy marshals, court clerks, bailiffs and court reporters, are prohibited from disclosing to any person, without authorization by the Court, information relating to a pending case that is not part of the public records of this Court. This Rule specifically forbids the divulgence of information concerning arguments and hearings held in chambers or otherwise outside the presence of the public.

Rule 83.4.3 SPECIAL ORDERS IN WIDELY PUBLICIZED AND SENSATIONAL CASES

In a widely publicized or sensational case, the Court, on motion of either party or on its own motion, may issue a special order governing such matters as extrajudicial statements by parties and witnesses likely to interfere with the rights of the accused to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestration of jurors and witnesses and any other matters which the Court may deem appropriate for inclusion in such an order.

Rule 83.5 TELEPHONE HEARINGS AND CONFERENCES

(a) Request for Telephone Conference. Counsel for a party in a civil proceeding may, upon a timely request made not less than three (3) days prior thereto, appear at a hearing upon a motion, an initial pretrial scheduling conference, or a final or supplemental pretrial conference by a telephone conference call. The attorneys shall coordinate with each other to arrange for a telephone conference call to the court and shall place the call at the time set for hearing. The Court shall have the right to determine whether or not such hearing or conference shall be so held. Counsel residing where the Court is sitting shall appear personally for the conference or hearing, unless otherwise excused.

(b) Use of Exhibits. In the event that the exhibition of written documents is necessary at a hearing being held by telephone conference call, counsel shall, in advance, tender copies of such documents to the Court and all counsel.

Rule 83.6 MEDICAL-LEGAL RELATIONSHIPS

The Court recognizes that contacts between members of the professions should be characterized by mutual respect and courtesy, and recommends that every effort be made by members of the medical and legal professions to treat their counterparts with no less courtesy than they would treat their own patients or clients and that every effort should be made to accommodate the requests of the other with the greatest dispatch and respect for the time demands placed upon the members of both professions in the practice of their professions. All attorneys who practice before this Court are expected to read and be familiar with these guidelines for medical/legal relationships, which are adopted by this Court as standards governing such relationships.

(a) Requests of Medical Reports by Attorneys to Physicians.

(1) Attorneys should understand that a personal letter (not a form letter), together with a signed medical release, requesting reports from physicians, specifying in detail the exact name of the request, is the most effective method for a request of a report. If requesting an expert opinion, copies of all medical information available to the attorney should be submitted with the request.

(2) Hospital records and hospital x-rays may be secured by the attorneys by presenting a written release from the patient to the hospital medical records division. Physicians are not involved in maintenance of such reports; therefor, there is no need to request that information from physicians. Courtesy dictates that the attorney send a copy of the request to the treating physician.

(3) Physicians should endeavor to respond to requests for reports within thirty (30) days from the date the request is made.

(4) Statements for reports should be submitted to the attorney at the same time as the reports are mailed out by the physician. The attorney is personally responsible to pay the fee for any report requested by the attorney and the attorney will pay for said reports no more than thirty (30) days from the date of receipt of the statement.

(5) Physicians shall be paid a reasonable fee based on time spent for records, depositions, trial appearance and preparation time in connection therewith, subject to applicable statutes or Court rules regulating such charges. Upon the initial contact of the physician, an agreement shall be made between the physician and the attorney concerning the hourly fee to be charged by the physician for such services. A letter or a memorandum of agreement shall be drawn by the attorney and furnished to the physician evidencing such agreement. The disallowance of an expert witness fee in excess of the attendance fee prescribed by 28 U.S.C. § 1821(b) shall not affect the enforce ability of the underlying fee agreement between counsel and such expert

witness. The Court encourages attorneys to secure and maintain written evidence of an agreement between counsel and the expert witnesses which recites:

(i) the hourly or daily charge to be made by the expert witness for services rendered; and

(ii) an acknowledgment by counsel that he shall be primarily responsible for the payment of such fee.

(b) Court or Deposition Appearances of Physicians.

(1) Barring exceptional circumstances, counsel shall endeavor to give minimum notice to physicians, at least ten (10) days prior to their requested attendance at a trial or deposition, in order to permit physicians to block out the time necessary for such appearance. While proper trial preparation may require the issuance and service of a subpoena, counsel shall make every effort as early as possible before and during trial to advise physicians that a subpoena will be issued and the exact time when their presence will be required. Any subpoena which commands the appearance of a physician in this Court which was not served at least seven (7) days prior to the appearance date on such subpoena is subject to being quashed without hearing upon the application of the physician, unless counsel causing the issuance of such subpoena files a certification of good cause for late subpoena with the Court.

(2) The Court and counsel, with the permission of the Court, shall make every effort to discontinue examination or cross-examination of other witnesses in order to permit physicians to testify within at least thirty (30) minutes of the time they are scheduled to appear in the courtroom.

(3) It is recommended that counsel should not call, in a trial or deposition, a physician who has not been afforded the opportunity, prior to said trial or deposition, to discuss the case and testimony with counsel to be sure that there is no misunderstanding regarding the actual content of the physician's testimony. Examination of a physician in trial without any contact other than reading the report and scheduling the physician for testimony is an inconsiderate and poor trial practice.

(c) Examination of an Opposing Party.

(1) Prior to the examination, counsel or the parties are requested to provide full and accurate case histories in writing for physicians requested to examine patients for the expected use of their testimony as expert witnesses. Requiring a physician to determine, without proper case history, from his own examination of the patient the nature of the injury attributable to a specific accident is unproductive. All medical information available should be provided by counsel requesting the services of the physician prior to the patient contact.

(2) Contacts between physicians and attorneys about a particular patient must be accompanied by an appropriate release.

(d) Qualifications as Expert Witness. If counsel calls a physician or dentist as a witness, such witness shall be considered by the Court as an expert witness, if any testimony is given concerning the care, treatment, consultation or any other matter which involves the doctor-patient relationship, if such matter would normally be deemed to be privileged because of such professional relationship.

Rule 83.7.1 APPEALS

(a) Filing in Civil Cases. Appeals shall be taken, in accordance with the Federal Rules of Appellate Procedure, and with the Rules of the United States Court of Appeals for the Tenth Circuit.

Rule 83.7.2 REVIEW OF ACTION OF ADMINISTRATIVE AGENCIES, BOARDS, COMMISSIONS, AND OFFICERS (INCLUDING SOCIAL SECURITY APPEALS)

(a) Review of Agency Action--How obtained.

(1) Petition for review of agency action. Review of action of an administrative agency, board, commission, or officer must be obtained by filing a petition for review or, if specified by the applicable statute, a notice of appeal. (As used in this rule, the term "agency" includes any federal agency, board, commission, or officer--including the Commissioner of Social Security under Title 42 of the United States Code.) The caption of the petition or notice must name each party seeking review. The petition or notice must name the petitioner(s) and the respondent(s), and identify the action, order, or part thereof, to be reviewed. The petition or notice shall also contain a citation of the statute by which jurisdiction is claimed. (Form 3 in the Appendix to the Federal Rules of Appellate Procedure is a suggested form of petition or notice.) The petition or notice shall not contain factual allegations in the nature of a complaint. Factual allegations in the petition or notice shall be stricken. The respondent is not required to file a response to the petition or notice unless required by statute. If two or more persons are entitled to seek judicial review of the same action and their interests are such as to make joinder proper, they may file a joint petition or notice.

(2) Service of process. Service of process shall be in the manner provided by Fed. R. Civ. P. 4, unless a different manner of service is prescribed by an applicable statute.

(b) The record on review.

(1) Composition of the record. The written action or order sought to be reviewed, the findings or report on which it is based, and the pleadings, evidence and proceedings before the agency shall constitute the record on review in proceedings to review agency action, unless otherwise provided by the applicable statute.

(2) Supplementation of the record. Any party may seek leave of court to supplement the record or may oppose a party's request for such supplementation. Local Rule 7.1(b), which pertains to briefing of non-dispositive motions, shall apply.

(c) Filing of the record. In review proceedings, the agency shall file the record with the clerk within sixty days of proper service of the petition or notice unless a different time is provided by statute, or as otherwise ordered by the court. The record shall be bates stamped and contain an index including date and description of the document(s).

(d) Filing and service of briefs. The court, in its discretion and upon its own

initiative, shall schedule a briefing conference. At the briefing conference, the court will set a briefing schedule. The time for filing and serving briefs may be extended or shortened by order of the court. Parties shall not file motions to affirm, motions for summary judgment, or affidavits in support thereof. The length of briefs shall be governed by the applicable Federal Rules of Appellate Procedure of the Tenth Circuit Court of Appeals.

(e) Applicability of other rules. The parties to any proceedings governed by this rule shall give the same notice of the filing of pleadings, records and other documents as is required by Fed. R. Civ. P. 5.

Rule 83.8 NATURALIZATION

Petitions for naturalization shall be heard on the second Monday in January and on the second Monday of July of each year, unless otherwise ordered by the Court.

Rule 83.9 RESERVED

Rule 83.10 COURT PLANS

This District has published, and adopts herein by reference, a Civil Justice Reform Act Plan, a Jury Selection Plan and a Court Reporter Plan.

Rule 83.11 MULTIDISTRICT LITIGATION

Pursuant to 28 U.S.C. § 1407, an attorney filing a complaint, answer or other pleading involving a case which may be subject to pretrial proceedings before the judicial panel on multidistrict litigation, shall submit to the Clerk of Court at the time of filing a written description of the nature of the case and list therewith the case names and numbers of all related cases filed in this or any other jurisdiction.

XII ATTORNEYS

Rule 83.12.1 ATTORNEYS

The District of Wyoming, in furtherance of its inherent power and responsibility to supervise the conduct of attorneys who are admitted to practice before it, or admitted for the purpose of a particular proceeding (*pro hac vice*), promulgates the following Rules of Disciplinary Enforcement superseding all of its other Rules pertaining to disciplinary enforcement heretofore promulgated.

(a) Standards of Litigation Conduct. The following standards of practice shall be observed by all attorneys appearing in civil and criminal actions in this District.

(1) Attorneys shall at all times exercise candor, diligence and utmost respect to the judiciary, litigants and other attorneys.

(2) Attorneys shall extend to opposing counsel cooperation and courteous behavior at all times.

(3) Attorneys shall demonstrate personal dignity and professional integrity at all times.

(4) Attorneys shall treat each other, the opposing party, the Court and members of the court staff with courtesy and civility, and conduct themselves in a professional manner at all times.

(5) A client has no right to demand that attorneys abuse the opposite party or indulge in offensive conduct. An attorney shall always treat adverse witnesses and suitors with fairness and due consideration.

(6) Although clients are litigants in adversary proceedings and ill feelings may exist between clients, such ill feelings shall not influence an attorney's conduct, attitude or demeanor toward opposing counsel.

(7) 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.

(8) Attorneys shall be punctual in communications and in honoring scheduled appearances (including court appearances).

(9) Attorneys shall not arbitrarily or unreasonably withhold consent to opposing counsel's just requests for cooperation or scheduling accommodations.

(10) Attorneys shall not engage in obnoxious or antagonistic behavior.

(11) Attorneys shall adhere to the higher standard of conduct which the courts, attorneys, clients and the public rightfully expect.

(12) An attorney should be patient, dignified and courteous in all court proceedings, including depositions, meetings or telephone calls concerning aspects of pending cases to litigants, witnesses and attorneys with whom the attorney deals in his capacity as a legal representative of a party. Cursing, sarcastic commentary, use of an attorney's voice in a loud, angry or hostile manner in the course of out-of-court depositions or other proceedings are violations of this standard.

(b) Applicability. The above rules are specifically designed to apply to those attorneys who perceive themselves solely as combatants or believe they are retained to win at all costs without regard to fundamental principles of justice.

(c) Sanctions. Those attorneys whose behavior does not comport with the above rules can expect to suffer an appropriate response from the Court, including open court reprimands, compulsory legal education, monetary sanctions and other punitive measures appropriate to the circumstances.

(d) Motion Reduction. It is the intent of this Court, by adopting these Rules, to curtail the enormous number of motions now filed with the Court which are necessitated by the kind of behavior these Rules attempt to address. These motions create unnecessary delay and costs for the Court as well as for the litigants.

(e) Delay Reduction. It is the many delays and costs which this Court is desirous of eliminating, and these Rules should not be construed by counsel as creating another avenue for filing unnecessary or inappropriate motions. The mere fact the above-cited Rules were adopted by this Court should, in and of itself, be enough incentive for the few errant attorneys to repent, thereby resolving the problems which now exist. The Court contemplates that only in certain rare instances will it be necessary for the Court to admonish an attorney for unacceptable behavior, pursuant to these Rules.

Rule 83.12.2 ADMISSION TO PRACTICE

(a) General Admissions. Attorneys who are regularly admitted and licensed to practice before the Supreme Court of Wyoming may be admitted to practice in the United States District Court for the District of Wyoming upon motion made in open court by an attorney admitted to this Court. Said motion shall contain a satisfactory showing of the good moral character and the qualifications of the applicant, and the moving attorney shall vouch for him. Upon the granting of said motion for admission, the applicant shall take the oath, which shall be administered by the Court or the Clerk of Court. After signing the roll of attorneys in the Clerk of Court's office and paying the appropriate fee to the Clerk of Court, a certificate of admission shall be furnished to each admitted attorney.

(b) Admission *Pro Hac Vice*. All attorneys who have not been admitted to practice in the courts of the State of Wyoming must seek admission *pro hac vice* based upon a motion made by a member of the Bars of the State of Wyoming and of this Court and an affidavit of the attorney seeking *pro hac vice* admission in order to appear in any matter before this Court. A proposed order shall be submitted with the motion. (See Appendix E for the required contents of the motion and affidavit.)

Unless otherwise ordered by this Court, a motion to appear *pro hac vice* shall be granted only if the applicant associates with a currently licensed member of the Bars of the State of Wyoming and of this Court who shall 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 state and the bar of another federal court in order to be eligible for *pro hac vice* admission in any matter before this Court.

An attorney who applies for admission *pro hac vice* consents to the exercise of disciplinary jurisdiction by this Court over any alleged misconduct which occurs during the progress of the case in which the attorney so admitted participates. Prior to the filing of any pleadings or other documents, there shall be filed in the Clerk of Court's office an entry of appearance by a currently licensed member of the Bar of the State of Wyoming with whom the applicant has become associated. The Wyoming member of the Bar shall move the applicant's admission at the commencement of the first hearing to be held before the Court. The Wyoming attorney shall sign the first pleading filed and shall continue in the case unless other resident counsel be substituted. The Wyoming attorney shall be present in Court during all proceedings in connection with the case, unless excused, and shall 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. Any notice, pleading or other paper shall be served upon all counsel of record, including resident counsel, whenever possible, but it shall be sufficient for purposes of notice if service of any motion, pleading, order, notice or any other paper is served only upon Wyoming counsel, who shall assume responsibility for advising the non-resident associate of any such service. For good cause shown, the Court may direct the Clerk of Court to accept for filing a complaint signed only by a non-resident attorney, upon

the condition that such non-resident attorney shall associate with resident counsel within ten (10) days after the filing of the complaint.

(c) Motion to appear *pro hac vice*. Every motion to appear *pro hac vice* must contain the firm name (if any) office address, email address of attorney entering an appearance, telephone and facsimile number (if any) for said attorney, otherwise the attorney's name will not be added to the case docket. A proposed order shall be submitted with the motion.

(d) *Pro Se* Representation. Any party proceeding on his or her own behalf without an attorney shall be expected to read and be familiar with both the Local Rules of this Court and with the Federal Rules of Civil Procedure, the Rules of Bankruptcy Procedure, the Federal Rules of Evidence, or Federal Rules of Appellate Procedure, whichever may be appropriate in the case, and to proceed in accordance therewith. Copies of such Rules shall be available for review at the Office of the Clerk of Court.

(e) Government Attorneys. Any attorney representing the United States Government, or any agency thereof, and who has been admitted to practice in the highest court of any state, but who is not otherwise qualified under this Rule to practice in this Court, may appear and participate in a case in his official capacity, as hereinafter provided. If the Government representative is not a member of the Bar of this Court, the United States Attorney for this District or one of his assistants shall move the admission of the non-resident Government representative, shall sign all pleadings before their filing and shall be present in Court during all proceedings in connection with the case, unless excused by the Court. Said United States Attorney shall also be designated by the Government attorney for the purpose of receiving service of notices, and such service shall constitute service upon said Government attorney.

(f) Law Students. Any law student who has complied with the terms and conditions of Rule 12, Rules of the Supreme Court of Wyoming, providing for the organization and government of the Bar Association and attorneys at law of the State of Wyoming, shall be permitted to practice before this Court upon proof of compliance, and upon motion duly made pursuant to subsection (a) of this Rule. No such law student shall be permitted to practice unless accompanied by an attorney otherwise duly admitted to practice before this Court.

Rule 83.12.3 APPEARANCES AND WITHDRAWALS

(a) Appearances, Civil Case. Each and every attorney making an appearance in a civil case shall cause the Clerk of Court's records to clearly reflect the firm name (if any), office address, email address of attorney entering an appearance, telephone and facsimile number (if any) of the attorney, and the party for whom appearance is made, by filing a separate written appearance identifying the specific party(s) represented.

(b) Withdrawal of Appearance. An attorney who has appeared of record in a case may, with Court permission, withdraw for good cause shown. An attorney seeking withdrawal shall be relieved of his duties to the Court, the client and opposing counsel, only after the completion of the following procedures:

(1) filing of a motion seeking leave to withdraw, specifying the reasons therefor, unless to do so would violate the Code of Professional Responsibility, and service of a notice of withdrawal on his client and other counsel. Notice to the attorney's client must contain the admonition that the client is personally responsible for complying with all orders of the Court and time limitations of the Local Rules and Federal Rules of Civil Procedure;

(2) the filing with the Clerk of Court of a notice of withdrawal, proof of service thereof and the written consent of the client to the withdrawal; and

(3) the filing of an entry of appearance or a commitment to represent the client by a substitute attorney. After such procedure has been completed, the Court shall enter an order authorizing such a withdrawal. If the client has not consented in writing to such a withdrawal, the motion shall be set down for hearing before the Court.

Rule 83.12.4 ATTORNEYS CONVICTED OF CRIMES

(a) Filing of Judgment of Conviction. Upon the filing with this Court of a certified copy of a judgment of conviction demonstrating that any attorney admitted to practice before the Court has been convicted in any court of the United States, the District of Columbia, or of any state, territory, commonwealth or possession of the United States of a serious crime, as hereinafter defined, the Court shall enter an order immediately suspending that attorney, whether the conviction resulted from a plea of guilty or nolo contendere, or from a verdict after trial or otherwise, and regardless of the pendency of any appeal, until final disposition of a disciplinary proceeding to be commenced upon such conviction. A copy of such order shall immediately be served upon the attorney. The Court may set aside such order, upon good cause shown, when it appears in the interest of justice to do so.

(b) Serious Crime Defined. The term "serious crime" shall include any felony and any lesser crime, a necessary element of which, as determined by the statutory or common law definitions of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft or an attempt, a conspiracy or solicitation of another to commit a "serious crime."

(c) Copy of Judgment to be Conclusive Evidence. A certified copy of a judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that attorney based upon the conviction.

(d) Referral for Disciplinary Proceeding. Upon the filing of a certified copy of a judgment of conviction of an attorney for a serious crime, the Court shall, in addition to suspending that attorney in accordance with the provisions of this Rule, also refer the matter to counsel for the institution of a disciplinary proceeding before the Court in which the sole issue to be determined shall be the extent of the final discipline to be imposed as a result of the conduct resulting in the conviction, provided that a disciplinary proceeding so instituted will not be brought to final hearing until all appeals from the conviction are concluded.

(e) Referral by Court to Counsel. Upon the filing of a certified copy of a judgment of conviction of an attorney for a crime not constituting a "serious crime," the Court may refer the matter to counsel for whatever action counsel may deem warranted, including the institution of a disciplinary proceeding before the Court. However the Court may, in its discretion, make no reference with respect to convictions for minor offenses.

(f) Reinstatement. An attorney suspended under the provisions of this Rule shall be reinstated immediately upon the filing of a certificate demonstrating that the underlying conviction of a serious crime has been reversed. The reinstatement shall

not terminate any disciplinary proceeding then pending against the attorney, the disposition of which shall be determined by the Court on the basis of all available evidence pertaining to both guilt and the extent of discipline to be imposed.

Rule 83.12.5 DISCIPLINE IMPOSED BY OTHER COURTS

(a) Subject to Public Discipline. Any attorney admitted to practice before this Court shall, upon being subjected to public discipline by any other Court of the United States or the District of Columbia, or by a court of any state, territory, commonwealth or possession of the United States, promptly inform the Clerk of this Court of such action.

(b) Filing of Certified or Exemplified Copy of Judgment or Order. Upon the filing of a certified or exemplified copy of a judgment or order demonstrating that an attorney admitted to practice before this Court has been disciplined by another court, this Court shall forthwith issue a notice directed to the attorney containing:

(1) a copy of the judgment or order from the other court;

(2) an order to show cause directing that the attorney inform this Court within thirty (30) days after service of that order upon the attorney, personally or by mail, of any claims by the attorney predicated upon the grounds set forth in Local Rule **83.12.5 (d)** hereof that the imposition of the identical discipline by the Court would be unwarranted and the reasons therefor.

(c) Discipline in Other Jurisdiction Stayed. In the event the discipline imposed in the other jurisdiction has been stayed there, any reciprocal discipline imposed in this Court shall be deferred until such stay expires.

(d) Imposition of Identical Discipline. Upon the expiration of thirty (30) days from service of the notice issued pursuant to the provisions of Local Rule 83.12.5 (b) above, this Court shall impose the identical discipline unless the respondent-attorney demonstrates, or this Court finds upon the face of the record upon which the discipline in another jurisdiction is predicated, that it clearly appears:

(1) the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;

(2) there was such an infirmity of proof establishing the misconduct as to give rise to the firm conviction that this Court could not, consistent with its duty, accept as final the conclusion on that subject;

(3) the imposition of the same discipline by this Court would result in grave injustice; or

(4) that the misconduct established is deemed by this Court to warrant substantially different discipline. Where this Court determines that any of said elements exist, it shall enter such order as it deems appropriate.

(e) Final Adjudication in Another Court. In all other respects, a final

adjudication in another court that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in the Court of the United States.

(f) Appointment of Counsel to Prosecute. This Court may, at any stage, appoint counsel to prosecute the disciplinary proceedings.

Rule 83.12.6 DISBARMENT ON CONSENT OR RESIGNATION IN OTHER COURTS

(a) Foreign Disbarment. Any attorney admitted to practice before this Court who shall resign or be disbarred on consent from the bar of any other Court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth or possession of the United States, while an investigation into allegations of misconduct is pending, shall, upon the filing with this Court of a certified or exemplified copy of the judgment or order accepting such disbarment on consent or resignation, cease to be permitted to practice before this Court and be stricken from the roll of attorneys admitted to practice before this Court.

(b) Notification of Clerk of Court. Any attorney admitted to practice before this Court shall, upon being disbarred on consent or resigning from the bar of any Court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth or possession of the United States while an investigation into allegations of misconduct is pending, promptly inform the Clerk of this Court of such disbarment on consent or resignation.

Rule 83.12.7 STANDARDS FOR PROFESSIONAL CONDUCT

(a) Disciplinary Action For Misconduct. For misconduct defined in these Rules, and for good cause shown, and after notice and opportunity to be heard, any attorney admitted to practice before this Court may be disbarred, suspended from practice before this Court, reprimanded or subjected to such other disciplinary action as the circumstances may warrant.

(b) Definition of Misconduct. Acts or omissions by an attorney admitted to practice before this Court, individually or in concert with any other person or persons, which violate the Rules of Professional Conduct adopted by this Court shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship. The Rules of Professional Conduct adopted by this Court are the Rules of Professional Conduct adopted by the highest court of the state in which this Court sits, as amended from time-to-time by that state court, except as otherwise provided by specific rule of this Court after consideration of comments by representatives of bar association within the state.

Rule 83.12.8 DISCIPLINARY PROCEEDINGS

(a) Referral to Counsel for Investigation. When misconduct or allegations of misconduct which, if substantiated, would warrant discipline on the part of an attorney admitted to practice before this Court shall come to the attention of a judge of this Court, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by these Rules, the judge shall refer the matter to counsel for investigation and the prosecution of a formal disciplinary proceeding or the formulation of such other recommendation as may be appropriate.

(b) Formal Disciplinary Proceeding Not Initiated. Should counsel conclude, after investigation and review, that a formal disciplinary proceeding should not be initiated against the respondent-attorney because sufficient evidence is not present, or because there is pending another proceeding against the respondent-attorney, the disposition of which, in the judgment of counsel, should be awaited before further action by this Court is considered, or for any other valid reason, counsel shall file with the Court a recommendation for disposition of the matter whether by dismissal, admonition, deferral or otherwise setting forth the reasons therefor.

(c) Formal Disciplinary Proceedings. To initiate formal disciplinary proceedings, counsel shall obtain an order of this Court upon a showing of probable cause requiring the respondent-attorney to show cause within thirty (30) days after service of that order upon that attorney, personally or by mail, why the attorney should not be disciplined. The Order to Show Cause shall include the form for certification as to all courts before which the respondent-attorney is admitted to practice, as specified in the form appended to these Rules. (See Appendix C.)

(d) Answer to Order to Show Cause. Upon the respondent-attorney's answer to the Order to Show Cause, if any issue of fact is raised or the respondent-attorney wishes to be heard in mitigation, the Chief Judge of this Court shall set the matter for prompt hearing before one or more judges of this Court, provided that, if the disciplinary proceeding is predicated upon the complaint of one of the judges of this Court, the hearing shall be conducted before one of the other judges of this Court (active or senior active) appointed by the Chief Judge, or, if the Chief Judge is the complainant, then by another active judge of this Court. Unless the Chief Judge is the complainant, he is not precluded by these Rules from appointing himself to conduct the mitigation hearing. The respondent-attorney shall execute the certification of all courts before which that respondent-attorney is admitted to practice, in the form specified (Appendix C), and file the certification with the answer.

Rule 83.12.9 DISBARMENT ON CONSENT WHILE UNDER DISCIPLINARY INVESTIGATION OR PROSECUTION

(a) Consent to Disbarment. Any attorney admitted to practice before this Court who is the subject of an investigation into, or a pending proceeding involving allegations of misconduct may consent to disbarment, but only by delivering to this Court an affidavit stating that the attorney desires to consent to disbarment and that:

(1) the attorney's consent is freely and voluntarily rendered; the attorney is not being subjected to coercion or duress; the attorney is fully aware of the implications of so consenting;

(2) the attorney is aware that there is a presently pending investigation or proceeding involving allegations that there exist grounds for the attorney's discipline, the nature of which the attorney shall specifically set forth;

(3) the attorney acknowledges that the material facts so alleged are true; and

(4) the attorney so consents because the attorney knows that, if charges were predicated upon the matters under investigation or the proceeding was prosecuted, the attorney could not successfully defend himself.

(b) Receipt of Affidavit. Upon receipt of the required affidavit, this Court shall enter an order disbarring the attorney.

(c) Order Disbarring Attorney. The order disbarring the attorney on consent shall be a matter of public record. However, the affidavit required under the provisions of this Rule shall not be publicly disclosed or made available for use in any other proceeding, except upon order of this Court.

Rule 83.12.10 REINSTATEMENT

(a) After Disbarment or Suspension. An attorney suspended for three (3) months or less shall be automatically reinstated at the end of the period of suspension upon filing with the Court an affidavit of compliance with the provisions of the order. An attorney suspended for more than three (3) months or disbarred may not resume practice until reinstated by order of this Court.

(b) Time of Application Following Disbarment. A person who has been disbarred after hearing or by consent may not apply for reinstatement until the expiration of at least five (5) years from the effective date of the disbarment.

(c) Hearing on Application. Petitions for reinstatement by a disbarred or suspended attorney under this Rule shall be filed with the Chief Judge of this Court. Upon receipt of the petition, the Chief Judge shall promptly refer the petition to counsel and shall assign the matter for prompt hearing before one or more judges of this Court provided that, if the disciplinary proceeding was predicated upon the complaint of a judge of this Court, the hearing shall be conducted by a judge of this Court (active or senior active) to be selected, in accordance with the procedure set forth in Local Rule 83.12.8(d). The judge assigned to the matter shall, within thirty (30) days after referral, schedule a hearing at which the petitioner shall have the burden of demonstrating by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for admission to practice law before this Court and that his resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice or subversive of the public interest.

(d) Duty of Counsel. In all proceedings upon a petition for reinstatement, cross-examination of the witnesses of the respondent-attorney and the submission of evidence, if any, in opposition to the petition shall be conducted by counsel.

(e) Deposit for Cost of Proceeding. Petition for reinstatement under this Rule shall be accompanied by an advance cost deposit in an amount to be set from time-to-time by the Court to cover anticipated costs of the reinstatement proceeding.

(f) Conditions of Reinstatement. If the petitioner is found unfit to resume the practice of law, the petition shall be dismissed. If the petitioner is found fit to resume the practice of law, the Court shall reinstate him, provided that the Court may make reinstatement conditional upon the payment of all or part of the costs of the proceedings and the making of partial or complete restitution to parties harmed by the petitioner whose conduct led to the suspension or disbarment. If the petitioner has been suspended or disbarred for five (5) years or more, reinstatement may be conditional, at the discretion of the judge or judges before whom the matter is heard, upon the furnishing of proof of competency and learning in the law, which proof may include certification by the bar examiners of a state or other jurisdiction of the attorney's successful completion of an examination for admission to practice subsequent to the

date of suspension or disbarment.

(g) Successive Petitions. No petition for reinstatement under this Rule shall be filed within one (1) year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.

Rule 83.12.11 ATTORNEYS SPECIALLY ADMITTED

Whenever an attorney applies to be admitted or is admitted to this Court for purposes of a particular proceeding (*pro hac vice*), the attorney shall be deemed thereby to have conferred disciplinary jurisdiction upon this Court for any alleged misconduct of that attorney arising in the course of or in the preparation for such proceeding.

Rule 83.12.12 SERVICE OF PAPERS AND OTHER NOTICES

Service of an Order to Show Cause instituting a formal disciplinary proceeding shall be made by personal service or by registered or certified mail addressed to the respondent-attorney at the most current address on record in the Clerk of Court's office. Service of any other papers or notices required by these Rules shall be deemed to have been made, if such paper or notice is addressed to the respondent-attorney at the most current address on record in the Clerk of Court's office or counsel of the respondent-attorney at the address indicated in the most recent pleading or other document of any proceeding filed by them in the Court.

Rule 83.12.13 APPOINTMENT OF COUNSEL

Whenever counsel is to be appointed, pursuant to these Rules, to investigate allegations of misconduct or prosecute disciplinary proceedings, or in conjunction with a reinstatement petition filed by a disciplined attorney, this Court shall appoint as counsel the disciplinary agency of the highest court of the State of Wyoming or other disciplinary agency having jurisdiction. If no such disciplinary agency exists, such disciplinary agency declines appointment or such appointment is clearly inappropriate, this Court shall appoint as counsel one or more members of the Bar of this Court to investigate allegations of misconduct or to prosecute disciplinary proceedings under these Rules. The respondent-attorney may move to disqualify an attorney so appointed who is engaged as an adversary of the respondent-attorney in any matter. Counsel, once appointed, may not resign unless permission to do so is given by this Court.

Rule 83.12.14 PAYMENT OF FEES AND COSTS

This Court shall make provisions as it deems advisable for the payment of fees and costs incurred in the course of a disciplinary investigation or prosecution on a case-by-case basis.

Rule 83.12.15 DUTIES OF THE CLERK OF COURT

(a) Obtaining Certificate of Conviction. Upon being informed that an attorney admitted to practice before this Court has been convicted of any crime, the Clerk of this Court shall determine whether the clerk of the court in which such conviction occurred has forwarded a certificate of such conviction to this Court. If a certificate has not been so forwarded, the Clerk of this Court shall promptly obtain a certificate and file it with this Court.

(b) Obtaining Certified or Exemplified Copy of Judgment or Order. Upon being informed that an attorney admitted to practice before this Court has been subjected to discipline by another court, the Clerk of this Court shall determine whether a certified or exemplified copy of the disciplinary judgment or order has been filed with this Court and, if not, the Clerk of Court shall promptly obtain a certified or exemplified copy of the disciplinary judgment or order and file it with this Court.

(c) Certificate of Conviction. Whenever it appears that any person convicted of any crime or disbarred, suspended, censured, or disbarred on consent by this Court is admitted to practice law in any other jurisdiction or before any other court, the Clerk of this Court shall, within ten (10) days of that conviction, disbarment, suspension, censure, or disbarment on consent, transmit to the disciplinary authority in such other jurisdiction, or for such other court, a certificate of the conviction or a certified or exemplified copy of the judgment or order of disbarment, suspension, censure, or disbarment on consent, as well as the last known office and residence addresses of the defendant or respondent.

(d) Notify National Discipline Data Bank. The Clerk of this Court shall, likewise, promptly notify the National Discipline Data Bank, operated by the American Bar Association, of any order imposing public discipline upon any attorney admitted to practice before this Court.

XIII BANKRUPTCY MATTERS

A. Automatic Referral. All cases under Title 11, United States Code, and all proceedings arising under Title 11 or arising in or related to cases under Title 11, shall be automatically referred to the bankruptcy judge of this district pursuant to 28 U.S.C. § 157 without further order. All papers in those cases shall be filed directly in the bankruptcy court, and the bankruptcy judge of this district shall exercise the jurisdiction of this court in bankruptcy matters as provided in 28 U.S.C.§ 157(b).

B. Personal Injury or Wrongful Death Claims. Any claim arising in or related to a case under Title 11 involving claims of personal injury or wrongful death shall be tried in the district court of the district in which the bankruptcy case is pending, or in the district court of the district in which the claim arose, as may be determined by the district judge assigned pursuant to U.S.D.C.L.R. 40.2.

C. Withdrawal of Reference. The automatic referral to bankruptcy judge provided in section A of this rule may be withdrawn by a district judge.

1. Motion. A motion for withdrawal of reference shall be filed with the clerk of the bankruptcy court in accordance with Fed. R. Bankr. P. 5011 and Local Bankruptcy Rule 5011-1.

2. Response. Within fourteen (14) days after being served with a copy of a motion for withdrawal of reference, a party may file with the clerk of the bankruptcy court and serve on affected parties an objection to the motion and a designation of any additional portions of the record necessary for the district court's determination of the motion.

3. Supplementation of Record. The record may be supplemented by additional portions of the record as determined by the bankruptcy judge.

4. Order of Referral to District Court. The bankruptcy judge shall enter an order directing the clerk of the bankruptcy court to refer the motion and/or matter to the district court.

5. Assignment. The clerk of the district court shall assign the matter to a district court judge pursuant to U.S.D.C.L.R. 40.2

D. Proceeding Under 28 U.S.C. § 157(c)(1). When a bankruptcy judge hears a proceeding under 28 U.S.C. § 157(c)(1) that is not a "core proceeding" as defined by 28 U.S.C. § 157(b)(2), the bankruptcy judge shall submit the proposed findings of fact and conclusions of law to the district judge assigned pursuant to U.S.D.C.L.R. 40.2 . Copies of those recommendations shall be mailed by the bankruptcy judge to all parties, who shall have fourteen (14) days after the date of mailing of the recommendations (or such further time not to exceed 30 days as the bankruptcy judge may order) to file written objections. Objections lacking specificity as to factual findings or legal conclusions the objecting party claims to have been erroneously made and objections not timely filed may be summarily overruled. If no objection is filed, or if the parties consent in writing, the recommendations of the bankruptcy judge may be accepted by the district judge, and appropriate orders may be entered without further notice. Procedure for determining objections shall be as set forth in 28 U.S.C. § 157, the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules for the District of Wyoming.

E. Filings. The clerk of the bankruptcy court shall take in all pleadings in bankruptcy cases and related proceedings. Bankruptcy papers shall be filed with the bankruptcy court in accordance with the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules for the District of Wyoming. Any bankruptcy papers filed with the clerk of the district court shall be transferred to the bankruptcy court.

F. Post-judgment Matters. The bankruptcy judge shall exercise jurisdiction over all post-judgment matters arising from a

judgment or order entered by bankruptcy judge.

APPENDIX A
PRETRIAL NOTICE AND CHECK LIST[1]

Counsel will be prepared at final pretrial conference to stipulate and agree upon the facts and applicable law, if possible, and if not, to state with particularity his position, theory and contentions in regard thereto. This shall serve as a detailed check list to insure a thorough pretrial on all factual and legal issues, and precise delineation of the respective theories and contentions of the parties. Although more detailed check list items are set forth for negligence cases by way of example, as this constitutes one of the areas of much civil jury litigation, counsel will nevertheless be as thoroughly prepared upon similar details that would be pertinent in other types of cases.

Cases In General

(a) Jurisdiction of the parties and of the subject matter.

(b) Propriety of parties and correctness of identity of legal entities; necessity for validity of appointment of guardian ad litem, guardian, administrator or executor, and letters thereof introduced; whether a party is correctly designated as a partnership, corporation, or individual under trade name; questions of misjoinder or nonjoinder of parties, if any.

(c) Oral statement of counsel, concretely and categorically outlining his contentions and his version of the events or transactions out of which the claims, counterclaim or cross-claim arose, or upon which the defense is founded.

(d) Exhibits and documentary evidence should be exhibited and identified, with

[1] Approved by the Circuit Committee on Pretrial of the Judicial Conference of the Tenth Circuit.

any objections thereto asserted and issues thereon resolved, if necessary, at the pretrial. Such exhibits should include but not be limited to contracts, letters, photographs, plats, medical, hospital and x-ray bills, and repair bills, introduced or made available for opposing counsel's inspection. If such exhibits have been shown to opposing counsel prior to the pretrial conference and no objection will be made thereto, it shall not be necessary to exhibit such documentary evidence at the pretrial conference.

(e) What discovery proceedings have been explored and what discovery remains to be used.

(f) Names and identification of witnesses.

(g) Laws involved; state or federal statutes and regulations of state and federal regulatory bodies; foreign laws; and conflict of laws; if any.

(h) Amendments to pleadings.

(i) Submission or discussion of any unusual or important instructions on crucial issues.

(j) Necessity for filing trial briefs.

(k) In jury cases, whether verdict should be general or on special issues or interrogatories, or both, and the specific form thereof.

(l) Settlement possibilities.

(m) In cases involving contract disputes, the contract should be identified and introduced, if in writing, and the portions in controversy particularized, with each party stating his claimed construction thereof, and performance or nonperformance thereof, or obligation in connection therewith. If the contract is oral, its substance should be given; and where there is a dispute of its terms, the controverted items specified and the same features covered as

above mentioned as to written contracts.

(n) With regard to negligence cases, counsel shall be prepared to stipulate upon or state their position and contentions as to each of the following, where applicable, in negligence, personal injury, death, and property damage cases:

(1) ownership, type and make of vehicles, and agency of driver.

(2) place and time of accident; and whether daylight or dark.

(3) condition of weather.

(4) character and width of street or road, shoulders; and nature of terrain as to level, uphill or downhill.

(5) traffic controls, if any; location of signs and significant landmarks.

(6) any claimed obstructions to view; and presence of other vehicles where significant.

(7) traffic regulations; traffic charges and disposition, with extenuating explanation, if any.

(8) where permanent injuries are claimed, their nature must be described with particularity; their percentage, and plaintiff's life expectancy.

(9) special damages claimed must be specified in detail. Thus in personal injury cases, medical, nursing, hospital, and similar expenses must be itemized by giving the names of persons and institutions, and the amount paid to or owing each. If property damage is claimed, the cost of repairs and name of the person making the repairs must be given; or, if the property is incapable of repair, the purchase price, age, mileage, and value immediately before the accident and immediately after.

(10) if loss of earnings is claimed, the amount must be stated, the manner

of computation, the period for which loss is claimed, and the name of the employer.

(11) in death cases, the age, employment, rate of earnings, marital status, and life expectancy of deceased; also, the names, ages, and relationship of the defendants, together with the amount of contributions made to them by the deceased for a reasonable period prior to the deceased's death.

(12) physical examination and medical reports.

(o) Civil Rights Cases. In cases brought under civil rights statutes, counsel shall be prepared to:

(1) state the specific nature of the civil rights violation claimed, including the provision of the Constitution allegedly violated, or the specific Act of Congress, or if the case involves deprivation of substantive or procedural due process, the specific property or liberty interest involved and the specific nature of the alleged infringement thereof;

(2) specify the manner in which "color of State law" is claimed;

(3) in Title VII cases, counsel must be ready to state the exact nature of the plaintiff's prima facie case;

(4) specify the remedy sought, including an itemization of monetary damages and/or a statement of the exact equitable relief.

(p) In cases brought pursuant to the OSHA, counsel shall be prepared to state the specific regulation claimed to have been violated and counsel's reason for claiming applicability thereof.

(q) In cases brought pursuant to the FLSA, plaintiff's counsel shall be prepared to list the names of the wage claimants, the amount of wages allegedly unpaid and the nature thereof (whether minimum wage or overtime violations), and defendant's counsel

shall be prepared to state specifically which items thereof are disputed and the reasons therefor.

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

_____	)	
	)	
Plaintiff	)	
	)	
vs.	)	No. _____ CV _____
	)	
_____	)	
	)	
Defendant.	)	

ORDER ON FINAL PRETRIAL CONFERENCE

This matter having come before the Court on _____, 2_____, at pretrial conference held before _____, United States District Judge, pursuant to Fed. R. Civ. P. 16; and _____ having appeared as counsel for Plaintiff and _____ having appeared as counsel for defendant and _____ having appeared as counsel for _____; the following action was taken:

(a) Jurisdiction and Parties. This is an action for _____. Jurisdiction of the Court is invoked under _____ U.S.C. §_____. The jurisdiction of the Court is disputed ☐ is not disputed ☐ . The question of jurisdiction was decided as follows: (Appropriate recitation of preliminary hearing and findings). There is no remaining question as to the propriety of the parties. (Or, if there is, state the nature of the dispute).

(b) General Nature of the Claims of the Parties.

(1) Plaintiff claims (Set out brief summary without detail).

(2) Defendant claims (Set out brief summary without detail).

(3) All other parties claim (Same type of statement where third parties are involved).

(c) Uncontroverted Facts. The following facts are established by admissions in the pleadings or by stipulation of counsel at the pretrial conference: (Set out uncontroverted facts, including admitted jurisdictional facts and all other significant facts to which there is no genuine issue. If the action is a negligence case, all of the items covered in paragraphs (n)(1) through (12) of the Tenth Circuit Pretrial Check List (Appendix A) should be covered under this or the following paragraph, as appropriate.)

(d) Contested Issues of Fact. The contested issues of fact remaining for decision are: (Set out).

(e) Contested Issues of Law. The contested issues of law in addition to those implicit in the foregoing issues of fact are: (Set out). (Or) There are no special issues of law reserved other than those implicit in the foregoing issues of fact.

(f) Exhibits. There are received in evidence (or identified and offered) the following:

(1) plaintiff's Exhibits (List).

(2) defendant's Exhibits (List).

(3) exhibits of other parties: (If involved, list).

(4) any counsel requiring authentication of an exhibit must so notify in writing the offering counsel within five (5) days after the exhibit is made available to opposing counsel for examination. Failure to do so is an admission of authenticity.

(5) Any other objections to admissibility of exhibits must, where possible,

be made at least three (3) days before trial, and the Court notified of such objections. Where possible, admissibility will be ruled on before trial, and objections reserved for the record.

(6) at time of trial, each counsel will furnish to the court four (4) copies (and one copy to each opposing counsel) of the list of all exhibits to be offered.

(7) all exhibits will be offered and received in evidence as the first item of business at the trial.

(g) Depositions. Any party proposing to offer all or any portion of a deposition shall notify opposing counsel at least ten (10) days before trial of the offers to be made (unless the necessity for using the deposition develops unavoidably thereafter). If objection is to be made, or if additional portions of a deposition are to be requested, opposing counsel will notify offering counsel at least five (5) days before trial of such objections or requests. If any differences cannot be resolved, the Court must be notified in writing of such differences at least three (3) days before trial.

(h) Discovery. Discovery has been completed. (Or) Discovery is to be completed by _____. (Or) Further discovery is limited to _____. (Or) The following provisions were made for discovery: (Specify)

(i) Witnesses.

(1) In the absence of reasonable notice to opposing counsel to the contrary, plaintiff will call, or will have available at the trial: (List). Plaintiff may call: (List)

(2) In the absence of reasonable notice to opposing counsel to the contrary, defendant will call, or will have available at the trial (list). Defendant may call:

(List).

(3) In the absence of reasonable notice to opposing counsel to the contrary, _____ will call, or will have available at the trial: (List). _____ may call: (List) (Use of third parties, if any).

(j) Requests for Instructions. (If the case is to be tried to a jury, including the following. Otherwise omit). It is directed that requests for instructions be submitted to the Court _____ days before trial, subject to the right of counsel to supplement such requests during the course of trial on matters that cannot be reasonably anticipated.

(k) Amendments to Pleadings. There were no requests to amend pleadings (Or) The following order was made with regard to amendments to the pleadings: (Set out).

(l) Other Matters. The following additional matters to aid in the disposition of the action were determined: (Set out to the extent determined with reference to schedule for briefs, requests for questions on *voir dire* examination of jury, advance proposals for findings of fact; also trial schedule, further pretrial conferences, preliminary rulings on questions of law, exchange of medical reports, indexing or abstracting of exhibits, specification of objections, etc.).

(m) Modifications-Interpretation. This pretrial order has been formulated after conference at which counsel for the respective parties have appeared. Reasonable opportunity has been afforded counsel for corrections or additions prior to signing by the Court. Hereafter this order will control the course of the trial and may not be amended except by consent of the parties and the Court, or by order of the Court to prevent manifest injustice. The pleadings will be deemed merged herein. In the event of ambiguity in any provision of this order, reference may be made to the record of this conference to the

extent reported by stenographic notes, and to the pleadings.

(n) Trial Setting. The case was set for trial with ☐ without ☐ a jury on _____, 2_____, at _____ o'clock __.m. (Or) No definite setting was made, but it was estimated that the case will be reached for trial.

(o) Memorandum. Estimated length of trial is ____ days. Possibility of settlement of this case is considered good ☐ fair ☐ poor ☐ .

Dated this _____, 2_____.

_____
UNITED STATES DISTRICT JUDGE

APPENDIX C
CERTIFICATION OF ADMISSIONS TO PRACTICE

In Re _____ Disciplinary No._____

I, _____, am the attorney who has been served with an order to show cause why disciplinary action should not be taken in the above captioned matter.

I am a member of the bar of this Court.

I have been admitted to practice before the following state and federal courts, in the years, and under the license record numbers shown below:

I certify under penalty of perjury that the foregoing is true and correct.

Executed on this ____ day of _____, 2_____.

_____
(Signature)

_____
(Full Name - typed or Printed)

_____

_____
(Address of Record)

This certification must be signed and delivered to the Court with the attorney's answer to the order to show cause or any waiver of an answer. Failure to return this certification may subject an attorney to further disciplinary action. Under 28 U.S.C. §1746, this certification under penalty of perjury has the same force and effect as a sworn

declaration made under oath.

APPENDIX D

RULE 26(f) CONFERENCE CHECKLIST

Counsel shall be fully prepared to discuss in detail all aspects of discovery during the mandatory Rule 26(f) Conference. The subject matters to be discussed during the Rule 26(f) Conference shall include, but are not limited to, the following:

1. Jurisdiction;
2. Service of process;
3. Initial disclosures (self-executing routine discovery) pursuant to L. R. 26.1(c);
4. Formal written discovery - interrogatories, requests for production, requests for admission;
5. Computer data discovery pursuant to L. R. 26.1(d)(3);
6. Identity and number of potential fact depositions;
7. Identity and number of potential trial depositions;
8. Location of depositions, deposition schedules, deposition costs;
9. Identify the number and types of expert witnesses to be called to present testimony during trial (including the identity of treating medical/psychological doctors);
10. Discovery issues and potential disputes;
11. Protective orders;
12. Potential dispositive motions;
13. Settlement possibilities and a settlement discussion schedule.

APPENDIX E

MOTION AND AFFIDAVIT FOR ADMISSION *PRO HAC VICE* PURSUANT TO U.S.D.C.L.R. 83.12.2(b)

All *pro hac vice* affidavits shall contain the following information:

- Name, firm name, address, telephone number, email address of attorney seeking pro hac vice admission.
- When and where admitted (each court/bar);
- List of all pending disciplinary proceedings and all past public sanctions of *pro hac vice* counsel;
- Affirmation by *pro hac vice* counsel that said counsel will comply with and be bound by the Local Rules of the United States District Court for the District of Wyoming;
- Acknowledgment by attorney seeking *pro hac vice* admission that local counsel is required to be fully prepared to represent the client at any time, in any capacity;
- Acknowledgment of *pro hac vice* counsel that said counsel submits to and is subject to disciplinary jurisdiction of the Court for any alleged misconduct arising in the course of preparation and representation in the proceedings.

All *pro hac vice* motions shall contain the following information:

- Local counsel shall represent that local counsel is a member in good standing of the Bar of the State of Wyoming and the Bar of this Court;
- A statement that local counsel shall vouch for the good moral character and veracity of the *pro hac vice* attorney;
- A statement that local counsel shall be fully prepared to represent the client at any time, in any capacity.