

APRIL TERM, A.D., 1984

IN THE MATTER OF THE AMENDMENTS )  
OF RULES 4.02 AND 4.05, WYOMING )  
RULES OF APPELLATE PROCEDURE; )  
RULES 30(b)(4) AND 51, WYOMING )  
RULES OF CIVIL PROCEDURE )

IN THE SUPREME COURT  
STATE OF WYOMING  
FILED

JUL 20 1984

ROSA M. WHITE

*Rosa M. White*

DEPUTY

ORDER

The Court having considered the recommendations of the Permanent Rules Advisory Committee, (Civil Division), and having accepted the recommendations with some modifications thereof,

IT IS ORDERED, that the following rules be, and they are hereby amended to read:

1. Rule 4.02, Wyoming Rules of Appellate Procedure, as attached;
2. Rule 4.05, Wyoming Rules of Appellate Procedure, as attached;
3. Rule 30(b)(4), Wyoming Rules of Civil Procedure, as attached;
4. Rule 51, Wyoming Rules of Civil Procedure, as attached.

FURTHER, ORDERED, that the foregoing amended rules be published in the Wyoming Reporter and shall become effective sixty (60) days after the publication in the Pacific Reporter Advance Sheets; and thereupon be spread at length upon the journal of this Court.

IT IS FURTHER ORDERED that the members of the Permanent Rules Advisory Committee, (Civil Division), be commended for their work.

Dated this 20 day of July, 1984.

By the Court

*John J. Rooney*  
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John J. Rooney  
Chief Justice

W.R.A.P.

**Rule 4.02. Transcript of proceedings.**

The appellant shall, within ten (10) days after filing the notice of appeal, file and serve on the appellee a description of the parts of the transcript which he intends to include in the record, AND, UNLESS THE ENTIRE TRANSCRIPT IS TO BE INCLUDED, A STATEMENT OF THE ISSUES HE INTENDS TO PRESENT ON THE APPEAL. If an appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or contrary to the evidence, he shall include in the record a transcript of all evidence relevant to such finding or conclusion. If the appellee deems a transcript of other parts of the proceedings to be necessary he shall, within ten (10) days after the service of the docketing statement of the issues by the appellant, order such parts from the reporter or procure an order from the district court requiring the appellant to do so. At the time of ordering, a party must make satisfactory arrangements with the reporter for payment of the cost of the transcript.

All transcripts of testimony, evidence and proceedings shall be certified by the official court reporter to be true and correct in every particular, and when so certified shall be received as prima facie evidence ~~if~~ OF the facts, testimony, evidence, and proceedings set forth in such transcript. The transcript format shall be

8 1/2 X 11 inches and a maximum of twenty-five (25) lines per page. The reporter shall indicate at the bottom of each page the name of the witness, the name of counsel then examining, and the type of examination there appearing. Appended to the transcript shall be an index of witness's testimony, and the points at which exhibits were offered and admitted or refused. The transcript shall be certified by the clerk as a part of the record on appeal. The record papers transmitted to the Supreme Court by the clerk of the district court shall be fastened in one (1) or more volumes, with pages numbered consecutively (the transcript need not be renumbered), and with a cover page bearing the title of the case and containing the designation "Record on Appeal," followed by a complete index of all papers therein, and the clerk shall append his certificate identifying the papers with reasonable definiteness. In addition, counsel shall certify that all record papers and relevant transcript which he has designated are included as part of the record on appeal.

W.R.A.P.

**Rule 4.05. Transmission and retention of record.**

Within the time provided or fixed under the provisions of Rule 3.02, W.R.A.P., for filing the record and docketing the appeal, the clerk of the district court shall transmit the record to the clerk of the Supreme Court. The appellant shall be responsible for compliance with the provisions of Rule 4.02, W.R.A.P., and shall take any other action necessary to enable the clerk to assemble and transmit the record. If more than one (1) appeal is taken, each appellant shall comply with the provisions of Rule 4.02, W.R.A.P., and of this rule, and a single record shall be transmitted. Documents of unusual bulk or weight and physical exhibits other than documents shall not be transmitted by the clerk unless he is directed to do so by a party or by the clerk of the Supreme Court. A party must make advance arrangements with the clerks of both courts for the transportation and receipt of exhibits of ~~ususual~~ UNUSUAL bulk or weight.

Upon stipulation of the parties, or by order of the district court or Supreme Court at the request of any party, the clerk of the district court shall retain the record for use by the parties in preparing appellate papers. In that event, the appellant shall

cause the record to be filed and the appeal to be docketed in the Supreme Court within the time provided or fixed under the provisions of Rule 3.02, W.R.A.P., by presenting to the clerk of the Supreme Court a partial record in the form of a copy of the docket entries, with a copy of the stipulation or court order, a copy of the judgment or order appealed from, AND a copy of the notice of appeal, and a copy of the docketing statement, accompanied by a certificate of counsel for the appellant, or of the appellant if he is without counsel, reciting that the record, including the transcript or parts thereof designated for inclusion and all necessary exhibits, is complete for purposes of the appeal. Upon receipt of the brief of the appellee, or reply brief if any, or at such earlier time as the parties may agree, or as either court may order, the appellant shall request the clerk of the district court to transmit the record.

W.R.C.P.

**Rule 30. Depositions upon oral examination.**

(b) Notice of examination: general requirements; special notice; nonstenographic recording; production of documents and things; deposition of organization; deposition by telephone.

(4) The parties may stipulate in writing or the court may upon motion order that the testimony at a deposition be recorded by other than stenographic means. The stipulation or order shall designate the person before whom the deposition shall be taken, the manner of recording, preserving, and filing the deposition, and may include other provisions to assure that the recorded testimony will be accurate and trustworthy. A party may arrange to have a stenographic transcription made at his own expense. Any objections under subdivision (c), any changes made by the witness, his signature identifying the deposition as his own or the statement of the officer that is required if the witness does not sign, as provided in subdivision (e), and the certification of the officer required by subdivision (f) shall be set forth in a writing to accompany a deposition recorded by nonstenographic means.

ANY DEPOSITION MAY BE RECORDED BY AUDIO-VISUAL MEANS.  
UNLESS OTHERWISE STIPULATED OR ORDERED, A STENOGRAPHIC RECORD  
SHALL BE MADE SIMULTANEOUSLY. AN AUDIO-VISUAL DEPOSITION MAY  
BE USED FOR ANY PURPOSE AND UNDER ANY CIRCUMSTANCES IN WHICH  
A STENOGRAPHIC DEPOSITION MAY BE USED. THE NOTICE FOR TAKING  
AN AUDIO-VISUAL DEPOSITION AND THE SUBPOENA FOR ATTENDANCE AT  
THAT DEPOSITION SHALL STATE THAT THE DEPOSITION WILL BE  
RECORDED BY AUDIO-VISUAL MEANS.

W.R.C.P.

**Rule 51. Instructions to jury; objection.**

At any time before or during the taking of evidence, the court may give to the jury such general instructions as to the duties and functions of the court and jury, and the manner of conducting the trial, as it may deem desirable to assist the jury in performing its functions. Such instructions, exclusive of rulings which are recorded by the court reporter for inclusion in any record, shall be reduced to writing, numbered and delivered to the jury with the other instructions and shall be a part of the record in the case.

At the close of the evidence, or at such earlier time ~~during the trial~~ as the court reasonably directs, any party may file written requests that the court instruct the jury on the law as set forth in the requests. A DIRECTION BY THE COURT THAT REQUESTS BE FILED PRIOR TO THE CLOSE OF THE EVIDENCE SHALL NOT PRECLUDE ANY PARTY FROM FILING ANY SUBSEQUENT REQUEST NECESSITATED BY THE EVIDENCE AND NOT REASONABLY ANTICIPATED BY THE PARTY PRIOR TO THE TIME OF FILING. Before the argument of the case to the jury is begun, the court shall give to the jury such instructions on the law as may be necessary and same shall be in writing, numbered and signed by the judge, and shall be taken by the jury when it retires. No party may assign as error the giving or the failure to give an instruction unless he objects thereto before the jury retires to

consider its verdict, stating distinctly the matter to which he objects and the grounds of his objection. Opportunity shall be given to make any such objection out of the hearing of the jury. All instructions offered by the parties, or given by the court, shall be filed with the clerk and, with the endorsements thereon indicating the action of the court, shall be a part of the record of the cause.