

IN THE SUPREME COURT, STATE OF WYOMING

OCTOBER TERM, A.D. 2000

In the Matter of the Adoption)
of Amendments to the Wyoming)
Rules of Civil and Criminal Procedure)
(Jury Reform))

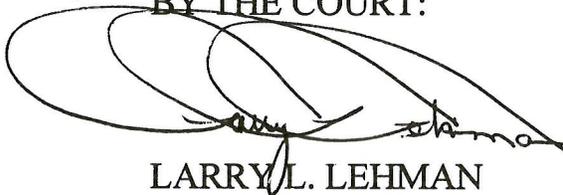
**ORDER ADOPTING AMENDMENTS TO THE
WYOMING RULES OF CIVIL AND CRIMINAL PROCEDURE
(JURY REFORM)**

The Court, upon the recommendation of the Wyoming Commission of Jury System Improvement, has determined that amendments to the Wyoming Rules of Civil and Criminal Procedure are necessary. It is therefore

ORDERED that the amendments to the Wyoming Rules of Civil and Criminal Procedure, a copy of which is attached hereto, are adopted and that the amendments shall be effective March 1, 2001.

DATED this 26 day of October 2000.

BY THE COURT:



LARRY L. LEHMAN
Chief Justice

IN THE SUPREME COURT
STATE OF WYOMING
FILED

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JUDY PACHECO, CLERK

Jury Reform Rules

WYOMING RULES OF CIVIL PROCEDURE

Rule 39.1. Jury trial; jury note taking; juror notebooks.

(a) *Juror note taking.* -- At the beginning of civil trials, the court shall instruct the jurors that they will be permitted to take notes during the trial if they wish to do so. The court shall provide each juror with appropriate materials for this purpose and shall give jurors appropriate instructions about procedures for note taking and restrictions on jurors' use of their notes. The jurors may take their notes with them for use during court recesses and deliberations, but jurors shall not be permitted to take their notes out of the courthouse. The bailiff or clerk shall collect all jurors' notes at the end of each day of trial and shall return jurors' notes when trial resumes. After the trial has concluded and the jurors have completed their deliberations, the bailiff or clerk shall collect all jurors' notes before the jurors are excused. The bailiff or clerk shall promptly destroy these notes.

(b) *Juror notebooks.* -- The court may provide all jurors with identical "Juror Notebooks" to assist the jurors in organizing materials the jurors receive at trial. Typical contents of a juror notebook include blank paper for note taking, stipulations of the parties, lists or seating charts identifying counsel and their respective clients, general instructions for jurors, and pertinent case specific instructions. Notebooks may also include copies of important exhibits (which may be highlighted), glossaries of key technical terms, pictures of witnesses, and a copy of the court's juror handbook, if one is available. During the trial, the materials in the juror notebooks may be supplemented with additional materials as they become relevant and are approved by the court for inclusion. Copies of any additional jury instructions given to jurors during trial or before closing arguments should also be included in juror notebooks before the jurors retire to deliberate. The trial court should generally resolve with counsel at a pretrial conference whether juror notebooks will be used and, if so, what contents will be included. The trial court may require that counsel meet in advance of the pretrial conference to confer and attempt to agree on the contents of the notebooks. The jurors may take their notebooks with them for use during court recesses and deliberations, but jurors shall not be permitted to take their notebooks out of the courthouse. The bailiff or clerk shall collect all jurors' notebooks at the end of each day of trial and shall return jurors' notebooks when trial resumes. After the trial has concluded and the jurors have completed their deliberations, the bailiff or clerk shall collect all jurors' notebooks before the jurors are excused. The bailiff or clerk shall promptly destroy the contents of the notebooks, except that one copy of the contents of the juror notebooks, excluding jurors' personal notes and annotations, shall be preserved and retained as part of the official trial record.

Rule 39.2. Juror questionnaires.

In appropriate cases, the court may use case-specific juror questionnaires to gather information from prospective jurors in advance of jury selection. When case-specific questionnaires will be used, the court should require counsel to confer and attempt to reach agreement on the questions that will be included in the questionnaires. The court shall rule on inclusion or exclusion of any questions the court deems improper. The court shall note on the record the basis on which it overruled any objections to inclusion or exclusion of particular questions. The court shall confer with counsel concerning the timing and procedures to be used for disseminating questionnaires and collecting completed questionnaires from prospective jurors, as well as to permit counsel adequate time and opportunity to review the completed questionnaires thoroughly before jury selection will begin. In its discretion, the court may require that the costs of copying, disseminating and collecting the questionnaires be borne (1) by both parties, (2) by the party requesting use of the questionnaires, or (3) by the court. In the alternative, these expenses may be assessed against the losing party as part of the costs.

Rule 39.3. Copies of instructions for jurors.

The trial court shall provide each juror with the juror's own copy of all written instructions that the court reads to the jury before, during or at the conclusion of the trial. The court may include the copies of the instructions in the juror notebook provided to each juror, if juror notebooks will be used at trial. Jurors shall be permitted to take their copies of the instructions with them for reference during recesses and during their deliberations. Jurors shall not be permitted, however, to take their copies of the jury instructions out of the courthouse.

Rule 39.4. Juror questions for witnesses.

At the beginning of civil trials, the court shall instruct jurors that they will be permitted to submit written questions for witnesses if they have questions about the witnesses' testimony that have not been answered after counsel for all parties have finished examining the witnesses. The court shall also instruct the jurors that some questions they submit may not be asked, as some jurors' questions may be legally improper or otherwise inappropriate. The court shall provide jurors with paper and a pen or pencil with which they may write down questions for submission to the court.

Before each witness is excused, the court shall determine whether any jurors have questions for that witness. The court shall review jurors' written questions with counsel, out of the hearing of the jury, making the question part of the record. The court shall permit counsel to interpose objections, including objections based on litigation strategy or stipulation of the parties. The court shall rule on any objections, noting the basis of the ruling on the record. If the court determines that the question is not improper or unfairly

prejudicial, the court shall read the question to the witness or permit counsel to read the question to the witness. The question may be modified as deemed appropriate by the court in consultation with counsel. After the witness responds to the question, the court shall permit counsel for both sides to ask follow-up questions if such follow-up questions appear to be necessary or appropriate.

The court shall permit counsel to present additional rebuttal evidence at trial if necessary to prevent unfair prejudice attributable to testimony that results from questions that jurors submit.

Rule 47. Trial jurors.

* * *

(c) *Examination of jurors.* -- * * *

(3) In voir dire examination, counsel or a pro se party shall not:

- (A) Ask questions of an individual juror that cannot be asked of the panel or a group of jurors collectively;
- (B) Ask questions answered in a juror questionnaire except to explain an answer;
- (C) Repeat a question asked and answered;
- (D) Instruct the jury on the law or argue the case; or
- (E) Ask a juror what the juror's verdict might be under any hypothetical circumstances.

Notwithstanding the restrictions set forth in subsections 47(c)(3)(A)-(E), counsel or a pro se party shall be permitted during voir dire examination to preview portions of the evidence from the case in a non-argumentative manner when a preview of the evidence would help prospective jurors better understand the context and reasons for certain lines of voir dire questioning.

Rule 51. Instructions to jury; objections.

* * *

(c) *Preliminary instructions.* -- Before opening statements, the court shall provide jurors with any general and case-specific instructions that would seem likely to help jurors understand their functions during trial, and the issues that they will be required to decide. These preliminary instructions should include any pertinent case-specific instructions that the court anticipates including in the final instructions, if the court concludes that it would be helpful to jurors to receive the instructions both at the beginning of the case and again before closing arguments. The court shall confer with counsel at the pretrial conference to determine which instructions should be given to

jurors before opening statements. For preliminary instructions, the court shall follow the procedures set forth in subsections (a) and (b) with respect to objections and use of written instructions.

RULES OF CRIMINAL PROCEDURE

Rule 24. Trial Jurors.

(c) *Examination of jurors.* -- * * *

- (3) In voir dire examination counsel or a pro se defendant shall not:
- (A) Ask questions of an individual juror that cannot be asked of the panel or a group of jurors collectively;
 - (B) Ask questions answered in a juror questionnaire except to explain an answer;
 - (C) Repeat a question asked and answered;
 - (D) Instruct the jury on the law or argue the case; or
 - (E) Ask a juror what the juror's verdict might be under any hypothetical circumstances.

Notwithstanding the restrictions set forth in subsections 47(c)(3)(A)-(E), counsel or a pro se party shall be permitted during voir dire examination to preview portions of the evidence from the case in a non-argumentative manner when a preview of the evidence would help prospective jurors better understand the context and reasons for certain lines of voir dire questioning.

Rule 24.1. Jury trial; jury note taking; juror notebooks.

(a) *Juror note taking.* -- At the beginning of criminal trials, the court shall instruct the jurors that they will be permitted to take notes during the trial if they wish to do so. The court shall provide each juror with appropriate materials for this purpose and shall give jurors appropriate instructions about procedures for note taking and restrictions on juror's use of their notes. The jurors may take their notes with them for use during court recesses and deliberations, but jurors shall not be permitted to take their notes out of the courthouse. The bailiff or clerk shall collect all jurors' notes at the end of each day of trial and shall return jurors' notes when trial resumes. After the trial has concluded and the jurors have completed their deliberations, the bailiff or clerk shall collect all jurors' notes before the jurors are excused. The bailiff or clerk shall promptly destroy these notes.

(b) *Juror notebooks.* -- The court may provide all jurors with identical "Juror Notebooks" to assist the jurors in organizing materials the jurors receive at trial. Typical

contents of a juror notebook include blank paper for note taking, stipulations of the parties, list or seating charts identifying counsel and their respective clients, general instructions for jurors, and pertinent case specific instructions. Notebooks may also include copies of important exhibits (which may be highlighted), glossaries of key technical terms, pictures of witnesses, and a copy of the court's juror handbook, if one is available. During the trial, the materials in the juror notebooks may be supplemented with additional materials as they become relevant and are approved by the court for inclusion. Copies of any additional jury instructions given to jurors during trial or before closing arguments should also be included in juror notebooks before the jurors retire to deliberate.

The trial court should generally resolve with counsel at a pretrial conference whether juror notebooks will be used and, if so, what contents will be included. The trial court may require that counsel meet in advance of the pretrial conference to confer and attempt to agree on the contents of the notebooks.

The jurors may take their notebooks with them for use during court recesses and deliberations, but jurors shall not be permitted to take their notebooks out of the courthouse. The bailiff or clerk shall collect all jurors' notebooks at the end of each day of trial and shall return jurors' notebooks when trial resumes. After the trial has concluded and the jurors have completed their deliberations, the bailiff or clerk shall collect all jurors' notebooks before the jurors are excused. The bailiff or clerk shall promptly destroy the contents of the notebooks, except that one copy of the contents of the juror notebooks, excluding jurors' personal notes and annotations, shall be preserved and retained as part of the official trial record.

Rule 24.2. Juror questionnaires.

In appropriate cases, the court may use case-specific juror questionnaires to gather information from prospective jurors in advance of jury selection. When case-specific questionnaires will be used, the court should require counsel to confer and attempt to reach agreement on the questions that will be included in the questionnaires. The court shall rule on inclusion or exclusion of any questions the court deems improper. The court shall note on the record the basis on which it overruled any objections to inclusion or exclusion of particular questions. The court shall confer with counsel concerning the timing and procedures to be used for disseminating questionnaires and collecting completed questionnaires from prospective jurors, as well as to permit counsel adequate time and opportunity to review the completed questionnaires thoroughly before jury selection will begin. In its discretion the court may require that the costs of copying, disseminating and collecting the questionnaires be borne (1) by both parties, (2) by the party requesting use of the questionnaires, or (3) by the court. In the alternative, these expenses may be assessed against the losing party as part of the costs.

Rule 24.3. Copies of instructions for jurors.

The trial court shall provide each juror with the juror's own copy of all written instructions that the court reads to the jury before, during or at the conclusion of the trial. The court may include the copies of the instructions in the juror notebook provided to each juror, if juror notebooks will be used at trial. Jurors shall be permitted to take their copies of the instructions with them for reference during recesses and during their deliberations. Jurors shall not be permitted, however, to take their copies of the jury instructions out of the courthouse.

Rule 30. Instructions to jury; objections.

(a) At the close of the evidence or at such earlier time before or 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. At the same time copies of such requests shall be furnished to all parties. Before instructing the jury the court shall conduct a formal instruction conference out of the presence of the jury at which the court shall inform counsel of the proposed action upon their requests and shall afford them an opportunity to offer specific, legal objection to any instruction the court intends to give and to offer alternate instructions. No party may assign as error any portion of the charge or omission therefrom unless that party objects thereto before the jury is instructed, stating distinctly the matter to which the party objects and the grounds of objection. ~~The judge shall instruct the jury before arguments and, if it becomes necessary after the arguments.~~ Before the argument of the case to the jury has begun, the court shall give to the jury such instructions on the law as may be necessary and the same shall be in writing, numbered and signed by the judge, and shall be taken by the jury when it retires.

(b) The court shall also provide the jury with appropriate preliminary instructions at the beginning of the trial. Before opening statements, the court shall provide jurors with any general and case-specific instructions that would seem likely to help jurors understand their function during trial, and the issues that they will be required to decide. These preliminary instructions should include any pertinent case-specific instructions that the court anticipates including in the final jury instructions, if the court concludes that it would be helpful to jurors to receive the instructions both at the beginning of the case and again before closing arguments. The court shall confer with counsel at the pretrial conference to determine which instructions should be given to jurors before opening statements. For preliminary instructions, the court shall follow the procedures set forth in subsection (a) with respect to objections and use of written instructions.