

IN THE SUPREME COURT, STATE OF WYOMING

April Term, A.D. 2013

In the Matter of the Revision and Publication of the)
Wyoming Supreme Court)
Internal Operating Procedures)

ORDER ADOPTING THE WYOMING SUPREME COURT INTERNAL OPERATING PROCEDURES, AS AMENDED

This matter came before the Court upon its own motion following a review of its Internal Operating Procedures. After careful comparison of its Internal Operating Procedures against standards recommendation by well-respected national organizations, this Court finds that its Internal Operating Rules should be amended to better achieve the national recommendations, to better serve the litigants that come before this Court, and to better serve the people of Wyoming.

This Court has carefully studied case processing time standards from the American Bar Association (ABA) and the National Center for State Courts. This Court has carefully examined the *ABA Standards Relating to Appellate Courts* (1994 Edition) and CourTools materials from the National Center for State Courts. The ABA recommends that supreme courts dispose of 90% of all cases in one year from filing of the notice of appeal. The ABA also recommends that supreme courts dispose of 50% of all cases within 290 days from filing of the notice of appeal. See Section 3.52(c) of the *ABA Standards Relating to Appellate Courts*. The CourTools standards recognize that not all cases, such as capital crimes or complicated multiparty civil cases, can be handled in a specified time frame and suggest the goal for appellate courts for compliance in 90% of cases.

This Court has gathered statistics to compare against the ABA standards. For opinions published in 2012, this Court disposed of 90% of the cases in 377 days or less. For the same year, the Court disposed of 50% of the cases in 294 days or less. This Court is generally pleased with those results. However, the Court recognizes there is room for improvement. Over 20 years ago, the Court adopted internal operating procedures that imposed certain time standards on the processing of opinions. After careful study, this Court has located some areas where the Court could shorten certain periods in the appellate timeline. In the attached revised Internal Operating Procedures, this Court has revised certain time limits for processing opinions. In doing so, this Court notes that each of the justices endeavors to meet these deadlines, but certain cases may require more time to fully study the law and the record to achieve the appropriate result and extensions can be granted.

In addition, this Court notes that an increased overall work load for the Court may prevent the justices from strictly complying with the timelines.

While this Court is convinced that the attached changes will expedite disposition of cases, the Court notes that it will continue to study the entire appeals process to find other ways to expedite case disposition. For example, this Court may consider a shorter docketing period for certain types of cases. The Court may consider shortening the time period for production of some transcripts. Such efforts may include suggesting use of software by court reporters to reduce the time required to accomplish required redaction of confidential information. In addition, this Court will continue to study the process governing motions for extensions of time for production of transcripts. This Court recognizes that such efforts will require careful study and input from stakeholders.

Finally, this Court finds that, consistent with the ABA standards, the attached Internal Operating Procedures should be made available to the bar and the public. See Section 3.30, ABA Standards Relating to Appellate Courts.

In sum, this Court finds it should adopt the attached Wyoming Supreme Court Internal Operating Procedures. The Court notes that, in certain places, the Court has used underline and/or strikeout to reflect amendment made to certain time periods. It is, therefore,

ORDERED that the attached amendments to the Wyoming Supreme Court Internal Operating Procedures are hereby adopted by the Court to be effective immediately. This order and the attached amendments shall be published online at the Wyoming Judicial Branch's website, <http://www.courts.state.wy.us>.

DATED this 18th day of July, 2013.

BY THE COURT:

/s/

MARILYN S. KITE
Chief Justice

WYOMING SUPREME COURT INTERNAL OPERATING PROCEDURES

Rule 1. Chief justice.

(a) Selection:

- (i) By majority vote of the Court at a weekly conference in March or April every fourth year beginning in 2006;
- (ii) For a term of four years to begin on the first day of July next following the selection;
- (iii) May be selected for a succeeding term or terms;
- (iv) Serves at the pleasure of the Court.

(b) Duties:

- (i) Schedules, calls, and presides at Court sessions, weekly conferences, and other Court meetings;
- (ii) Signs orders and correspondence on behalf of the Court;
- (iii) Assigns cases for opinion writing, which assignments shall be made within four days after the post-argument or expedited conference, and which cases shall be assigned as equally as possible in regard to number and degree of difficulty;
- (iv) Speaks for and represents the Court at meetings with, and in matters concerning, other branches of the state government and in expressing the views of the Court on any matter;
- (v) Appoints members of the judiciary to sit in place of any justice who is disqualified or unable for any reason to sit on any case;
- (vi) Appoints members of the Court to such committees as may be constituted for standing or special purposes;
- (vii) Assigns the preparation of orders, letters, and other documents to the senior staff attorney, clerk of court or to a justice for the signature of the chief justice;

- (viii) Supervises generally the work of the clerk of the court, the court administrator, and the senior staff attorney;
- (ix) Supervises assignment of space to court personnel;
- (x) Approves employment of members of the Court staff after consultation with the Court, except that each justice shall select and hire his or her own staff attorneys and judicial assistant;
- (xi) Administers the oath to newly admitted members of the Bar, those elevated to the Bench, and on other occasions as required;
- (xii) Assigns additional duties to justices as required;
- (xiii) If the chief justice is disqualified, absent, or otherwise unavailable, his or her duties shall be performed by the most senior available justice, or by a justice designated by the chief justice.

Rule 2. Meetings.

- (a) Court sessions:
 - (i) Inasmuch as the Court is a court of final appeal, parties are entitled to consideration of their cases by the full Court. Therefore, the full Court shall sit in consideration of all cases.
 - (ii) Active members of the Court at the time of consideration of an application for rehearing, and if granted, the rehearing itself shall participate in consideration and decision. If at that time a justice shall be recused, the justice participating in the original decision shall sit, if available.
 - (iii) At the bench, the chief justice (or senior justice in the absence of the chief justice) shall sit in the center, with justices at his right and then to his left alternatively by service seniority.
 - (iv) If a case which has been designated as confidential is to be argued before the Court, the clerk of the court shall ensure that the courtroom has been cleared of all persons who are not parties, counsel for parties, or Court staff personnel, before the argument begins.

- (b) Post-argument conferences:
 - (i) Shall be held immediately following oral argument in each case, or as soon thereafter as practicable;
 - (ii) To allow members of the Court to confer and discuss each case heard;
 - (iii) With each justice being afforded an opportunity to express any views and cast a tentative vote.
- (c) Weekly conferences:
 - (i) Shall be held at 10:00 a.m., on each Tuesday (or on the following day if Tuesday falls on a holiday) except on Tuesdays when the Court is in session;
 - (ii) To consider and by majority vote, act upon applications for writs of review, motions, applications for rehearing, and similar or expedited matters;
 - (iii) To make suggestions relative to pending business, to resolve opinion differences, if possible, and to determine the potential for concurring and dissenting opinions.

Rule 3. Opinions.

- (a) General considerations:
 - (i) Opinions shall remain confidential until filed.
 - (ii) Opinions shall be considered as containing all expressions of the Court on the case, and other statements shall not be made to the news media relative thereto, except with the approval of a unanimous Court.
 - (iii) Audio broadcasts of oral arguments will be made available online at the Court's website, except for closed or confidential cases. Audio recordings of oral argument before the Court are made only for the internal use of the Court in preparation of decisions, are neither made for nor intended to be public records.

- (iv) This Court will endeavor to promptly hear cases at oral argument and to promptly consider expedited cases at weekly conference. It is the goal of this Court that each case be assigned to a justice for opinion writing within 60 days after the expiration of time to file the reply brief.
 - (v) To the extent reasonably possible, each justice's work schedule shall be adjusted to give priority to cases involving children, *e.g.*, adoption cases; child custody cases; juvenile delinquency cases; abuse and neglect cases; and termination of parental rights cases.
- (b) Time schedule:
 - (i) Within 90 days after assignment of an opinion to a justice for writing, an initial draft shall be prepared and shall be circulated to the other justices. If a justice fails to meet this time schedule, the opinion may be reassigned to another justice.
 - (ii) Within 10 ~~15~~ calendar days after circulation of a proffered majority opinion, all other justices shall respond in writing, indicating a decision to concur, dissent, or specially concur.
 - (iii) Within 30 ~~60~~ days from the date the original opinion was circulated, any dissent or concurrence shall be circulated in finalized form for publication and shall be published with the majority opinion in such form unless it is modified prior to publication. Notice shall be given of the publication date. The justice whose concurring or dissenting opinion is not available for publication the day before the date of publication of the Court's opinion shall be shown as concurring or dissenting only, without written opinion. Non-responding justices shall be shown as concurring in the Court's opinion.
 - (iv) Each justice's work schedule shall be adjusted in such a manner as to give priority to submitting, in a form for publication, any dissent or concurrence to a circulated opinion. Each justice shall respond within ~~40~~ 5 working days of circulation of a concurring or dissenting opinion, indicating his or her then-current position.
 - (v) Any of the above schedule segments may be extended for up to 30 days upon a showing of need for additional time. In exceptional cases, such as death penalty cases, or cases involving many issues, or very complex issues, the Court may entirely waive the applicability of this schedule.

- (vi) Each justice is entitled to rely on the above schedule and will cause circulated majority opinions to be published in accordance with these rules.
- (c) If responses submitted in accordance with Rule 3(b)(ii) indicate that a majority of the Court does not concur with the circulated opinion, the case shall be reassigned and the time schedule set out in Rule 3(b) shall apply.
- (d) After all justices have responded to a circulated opinion, thus causing that circulated opinion to be ready for publication, the opinion shall be published within 20 ~~30~~ days.
- (e) If the foregoing requirements are regularly disregarded by a justice, or if a justice has 15 or more uncirculated opinions, the chief justice shall so advise the Commission of Judicial Conduct and Ethics.

Rule 4. Designation of hours of official court business.

The regular business hours for the operation of the Wyoming Supreme Court, and each separate circuit court within the judicial system, shall be 8:00 a.m. to 5:00 p.m., Monday through Friday. Exceptions may be made in specified cases where personnel restrictions, holidays, or normal building operations justify an alternative arrangement. Exceptions must be approved in advance by order of the Court.

Rule 5. Delegation of authority to the Clerk of the Wyoming Supreme Court to grant emergency extensions of time to file briefs on appeal.

The Clerk of the Wyoming Supreme Court may grant extensions of time to file briefs required by W.R.A.P. Such extensions shall not exceed 15 days from the date the brief would have been due. The request by counsel for the emergency short-term extension may be made by telephone, but shall then in every case be confirmed in writing, either by an e-filing or, where appropriate, by conventional filing. The order of extension shall be issued in the name of the chief justice under the executed signature of the Clerk of the Wyoming Supreme Court, pursuant to the delegation of authority hereby provided. Where possible, the order of extension should be filed before the briefing deadline expires.

Rule 6. Amendment and applicability.

These procedures are subject to change by the Court at any time and shall not in any manner form the basis of error or contest of any action in this Court.