Board of Judicial Policy and Administration

Supreme Court Building, Room 237
Cheyenne, Wyoming
December 16, 2019
9:00 A.M. – NOON
Video Conference

MINUTES

BJPA Members Present: Chief Justice Michael Davis (Chair), Justice Kate Fox, Justice Lynne Boomgaarden, Judge John Fenn*, Judge Catherine Rogers*, Judge Tom Rumpke*, Judge Bob Castor*, Judge Wes Roberts*, Judge Curt Haws*

Others Present: Judge Nate Hibben*, Judge Tom Campbell*, Judge Brian Christensen*, Diane Sanchez, Laramie County Clerk of District Court, Patty Bennett, Clerk of the Supreme Court, Ronda Munger, Deputy Court Administrator, Julie Goyen, Chief Information Officer, Claire Smith, Chief Fiscal Officer, Elisa Butler, General Counsel, Heather Kenworthy, IT Applications Manager, Nate Goddard, IT Infrastructure and Operations Manager, Brittany Leasure, Internal Auditor, Cierra Hipszky, Business Manager and Lily Sharpe, State Court Administrator

**Appeared remotely via phone or video conference*

Agenda Items	
Roll Call	All members were present.
Welcome	Chief Justice Davis welcomed members and other attendees.
Petition to Extend Jurisdiction of Circuit Court – Town of Van Tassell	**1. Overview – Chief Justice Davis** The Town of Van Tassell has petitioned the Supreme Court to extend the jurisdiction of the Circuit Court of the Eighth Judicial District to violations of the town's municipal ordinances. Chief Justice Davis clarified that W.S. § 5-9-105 requires approval of the Supreme Court and asked for a recommendation from the Board. The BJPA received the attachments below. Judge Hibben added that he spoke several times with Mr. Boldt, the attorney for Van Tassell. The town ordinances are fairly straight forward. They relate to zoning and property issues. Historically, Van Tassell has not had its own municipal court. Judge Hibben related to Mr. Boldt he would be willing to hear the municipal cases if the Supreme Court approves the petition. Judge Hibben stated the petition was discussed at the Circuit Court Conference and that a similar petition had been submitted by the Town of Dayton. The concern with this petition is the difficulty with workload and case management issues if more municipalities petitioned. Judge Roberts

	outlined concerns, including dual dockets, case management tools, and accounting systems. He opposed approval of the petition, but encouraged looking at other options for municipalities. Shawna Enyeart, the accounting analyst for Court Administration provided written concerns about administrative complexities in extending jurisdiction to municipal violations, including tracking and updating ordinance tables, and tracking fines and fees. Ronda Munger agreed, explaining the difficulty with creating separate ordinances for municipalities. Julie Goyen related there would also be additional resources for jury demands. Justice Fox suggested reaching out to the Wyoming Association of Municipalities. Judge Roberts, seconded by Justice Fox, moved to recommend to the Supreme Court that the petition should be denied. The motion passed by voice vote unanimously. A. Van Tassell Petition (Appendix 1) B. Letter from Judge Case Re: Van Tassell Petition (Appendix 2) C. Letter from Judge Hibben Re: Town of Van Tassell (Appendix 3) D. Letter from Magistrate Meier Re: Municipal Court merger with Circuit Court (Appendix 4) E. BJPA 2002 Jurisdiction Policy Statement (Appendix 5) F. W.S. § 5-9-105. Extending jurisdiction to try misdemeanors committed in violation of city or town ordinances (Appendix 6)
Audit of Circuit Courts	**1. Overview of an Audit – Brittany Leasure** Brittany Leasure explained her functions as the internal auditor for Court Administration. Brittany is a certified public accountant and certified fraud examiner. Her duties include performing audits of the circuit courts required under W.S. § 5-9-150. She also manages the assets of the Judicial Branch. By statute and rule, audits must cover both financial and legal compliance. The importance of audits is reflected by the penalties for failure to disburse funds properly, including late fees, misconduct in office and cause for removal from office under W.S. § 5-9-145 – 146, 148, and 152. The objectives of an audits are to determine whether: 1. The court is following Wyoming Statutes and other applicable rules and regulations requiring funds to be receipted properly (W.S. § 5-9-144) and disbursed to the appropriate entities on a timely basis (W.S. § 5-9-146); the court knows whose monies are being held and why; the physical case files are complete with the appropriate and required documentation; and documents are properly filed stamped and sealed. 2. The court uses an accounting system that allows for the timely and accurate recording and management of the court's pertinent financial information. (W.S. § 5-9-147). This includes reviewing whether courts are using their case management system accurately and consistently among courts. 3. The court takes the necessary steps to ensure specific account balances reconcile to amounts reflected on the system's financial statements. (W.S. § 5-9-147).

4. The court employs a filing system that provides for the efficient input, retention, and retrieval of records.

5. The court is utilizing an effective internal control system to safeguard court assets.

<u>The methodology used in answering these objectives include:</u>

1. Performing interviews with court personnel, including the Judge(s), Chief Clerk, and other clerks.

2. Observing the court practices during an on-site visit.

3. Reviewing bank reconciliations, bank statements, end-of-day and end-of-month reports for unusual items and re-performing selected months as deemed necessary to ensure accuracy.

4. Agreeing receipts to deposits and disbursements to cleared checks.

5. Reviewing physical case files to determine if they properly reflect the activity of the case.

6. Performing analytical reviews as necessary.

<u>The scope of these audits includes:</u>

1. The time period from the end of the court's last audit until the most recent closed month. The goal is to have each court audited on a 2-year audit cycle.

2. All information and documentation available, including documents stored on the court's network, in the case management system, and the files physically held in the court.

<u>Recent enhancements to the audit process include:</u>

1. Expanded audit report, including adding answers to the objectives and a response from the court (required by Generally Accepted Government Auditing Standards (GAGAS)).

2. Electronic documentation of testing.

3. Detailed documented audit procedures.

4. Internal controls to help develop a risk assessment.

5. Utilization of the mass amount of information available in the case management system to make more effective and efficient audits. For example, during a recent audit, a report was run to obtain the total amount money receipted into the court over a 38-month period and ensure the amount equaled the money deposited into the bank. This provided coverage of the whole audit period, rather than limiting the receipt testing to only the cases tested or only selecting a couple months to trace (e.g., 2 months rather than 38 months).

Judge Roberts reminded that the audit reports are confidential and should not made a part of the BJPA minutes.

New Judicial Appointments	The newest District Court Judge, Suzannah Robinson, was sworn in on November 21, 2019. Judge Robinson replaced Judge Nena James, who retired on October 18, 2019 after 18 years of service.
Interim Committee Meetings	**1. Joint Appropriations Committee** **A. Meeting October 29-30 in Riverton – Lily Sharpe** The Joint Appropriations Committee (JAC) met at the end of October in Riverton and is currently meeting in Cheyenne preparing for the 2020 Budget Session. During the JAC meeting on July 9, we were asked for the Judicial Branch Technology Plan, revenues and expenditures from the Judicial Systems Automation (JSA) account, and information on a Training Center in Cheyenne. The reports provided to the JAC are attached. (Appendix 7) **B. Presentation of Budget December 10, 2019 in Cheyenne – Claire Smith** Lily relayed during the Judiciary's budget presentation to the JAC last week, we asked to move the salaries of 13 Technology and Software Specialists who support the Branch from the JSA account to the General Fund. This was a big request in difficult economic times. However, we feel the move is consistent with the intent of the JSA and will make the Technology Budget more transparent. Claire Smith noted the JAC voiced multiple questions about the IT exception requests during the Supreme Court's budget presentation. We had prepared a 10-year projection of IT costs that showed the JSA account revenue is inadequate to cover all our projects and the General Fund will need to absorb a large portion of the costs. The JAC asked which fees could be increased or routed to the JSA instead of the General Fund and asked for a comparison of fees charged in Wyoming to fees charged in other states. The District Court's portion was rushed, so the JAC only discussed the exception requests. In reviewing the Natrona County salary increase requests, the JAC asked for more information on law clerk salaries and years of experience. Claire will work with the District Court Conference to respond in writing to the JAC in January. **2. Joint Judiciary Committee – Justice Fox and Elisa Butler** **A. Meeting October 31-November 1 in Cheyenne** **I. Jury procedure amendments bill (Appendix 8)** Elisa Butler detailed the Joint Judiciary Committee (JJC) meeting at the end of the October. At the meeting Court Administration requested the JJC sponsor legislation adjusting the jury statutes. There are two parts to the proposed legislation. The first part would clarify the statutes to specify that a person has served on a jury when he or she has been sworn in and empaneled as a juror. These jurors would then be eligible to be excused for the rest of the current jury term and the next at the judge's discretion. Currently, the statute provides that a person has served on a jury if he or she has appeared for the voir dire process even if that person is not selected to serve on the jury. The second part of the bill would allow jurors to request exemptions online through the new jury management system

	rather than filling out and signing an affidavit to be presented to the clerk in paper. Judge Rumpke stated his clerk expressed concern about not having a paper request that states under a penalty of perjury. Elisa explained that the online questionnaire states that the information supplied by potential jurors is submitted under penalty of perjury. The JJC requested that LSO draft a bill to be considered for sponsorship by the committee. The JJC will hold a final meeting in December to consider sponsoring this bill and complete other clean-up matters before the session. **II. Parent counsel and family preservation bill (Appendix 9)** Justice Fox presented the Children's Justice Project's draft bill to establish an independent parents counsel program based on the model of the Guardians Ad Litem Program. The current practice of placing parents counsel under the Public Defender has historically seen difficulties. An important advantage of an independent office would be trained attorneys available at initial hearings. Judge Lavery explained the benefits of training parent attorneys. The JJC voted to sponsor the bill. The cost of a new program, however, may be a concern because it will add $5M to the General Fund.
Chancery Court Committee Judicial Members: Justice Fox (Chair), Chief Justice Davis, Judge Fenn, Judge Waldrip, Ret., Judge Sullins, Ret.	**1. Update – Justice Fox** **A. Review of Proposed Rules** **I. Rule Markup (Appendix 10)** **II. Clean Version (Appendix 11)** The Chancery Court Committee has made substantial achievements over the past year. The 2019 Chancery Court bill mandated the Supreme Court do several things. The legislation required the promulgation of rules by January 1, 2020. Beginning March 1, 2022, the Chancery Court judge must be appointed by the Governor from a list of 3 nominees submitted by the Judicial Nominating Commission. The Chancery Court Committee is collaborating with the IT staff to plan the purchase and configuration of a case management and an e-filing system by 2021. As far as location, the Committee is moving forward with establishing the court in the new state office building in Casper which will also be completed in 2021. Finally, the Committee has diligently worked to develop the attached rules. The rules are based on the Wyoming Rules of Civil Procedure, modified as necessary. The rules omit reference to jury trials. The Chancery Court bill states that rules shall establish procedures and regulations for the effective and expeditious resolution of disputes. "Effective and expeditious resolution" is defined as resolution of a majority of the cases within 150 days of filing. Most committee members doubted the feasibility of the 150-day resolution time. To address the concern, the rules provide for an early pretrial conference to expedite disposition of the action within 150 days of filing. The rules also follow federal procedures for removal and remand. Rule 3(e) is probably the most controversial provision. Rule 3(e) provides that if a party files an objection to a case being brought in Chancery Court, the judge shall determine whether the case should be dismissed because it does not meet jurisdictional requirements or "for other good cause determined by the chancery court judge in his discretion." Justice Fox encouraged the Board to recommend the Supreme Court adopt these rules by

	January, with the caveat that the rules do not become effective for a year. The delay will provide time to obtain input from the Bar and Bench. Chief Justice Davis clarified the tentative rules should not be published in the statutes. Judge Fenn agreed the Committee has worked very hard and that there have been controversies, particularly over Rule 3. He opposed adoption of the rules to meet the January deadline because it is inappropriate to adopt a template for the rules and then work them backwards. Both he and Judge Waldrip dissented to Rule 3. Judge Fenn reasoned that adopting the federal model for remand and removal has the effect of making the Chancery Court superior to the District Court in violation of the Wyoming Constitution. He emphasized the importance of venue, as exemplified by the Supreme Court's decision in *Aron v. Willey*: *Aron v. Willey*, 2019 WY 122 (Wyo. 2019) (reversing an order denying a motion to dismiss for improper venue.). Judge Fenn suggested sending Rule 3 back for reconsideration. He expounded that the basis for proposing Rule 3 is that if the Chancery Court is not mandatory, no one will use it. Forcing venue, however, is not the answer. Chief Justice Davis questioned whether there should be a time for opting out of Chancery Court. Judge Fenn responded there should certainly be a time limit, such as when a responsive pleading is required. Chief Justice Davis questioned how a Sheridan landowner sued in Chancery Court in Casper by a big oil company would establish good cause to remove the action to District Court in Sheridan. Judge Fenn pointed out that the Rule does not answer the question. Chief Justice Davis asked Judge Fenn for draft language allowing a party to opt out. Chief Justice Davis acknowledged the rules are not in final form and still need to be reviewed by staff. Judge Campbell confirmed the District Court Judges are opposed to rushing into adoption of the rules in this rough form. There are issues with removal and smaller issues such as requiring a scheduling order be entered within 14 days. In all events, the Supreme Court should allow a party to opt out of Chancery Court, which is consistent with the Legislature's intent when it passed the bill. Chief Justice Davis summarized the Supreme Court's options: 1) promulgate rules by January 1, 2020 in compliance with the Chancery Court bill; 2) ignore the January 1, 2020 deadline; 3) try to address and review the issues and rules before January 1, 2020; or 4) tentatively adopt the rules and get input from the Bench and Bar for changes. Judge Rumpke reiterated the opposition by the District Court Conference. He asked if it would be possible to adopt the rules without Rule 3. Judge Rumpke further asked about the feasibility study in Georgia. Justice Fox answered that 34 states have adopted business courts and that the Georgia feasibility study included budgetary issues and support for a business court. She further elucidated that adopting only part of the rules would be a complicated exercise. She opined that promulgating tentative rules is consistent with the process of adoption of other large rules. Chief Justice Davis recommended adoption of the tentative rules with a delayed effective date and including alternatives for Rule 3. Justice Boomgaarden moved, seconded by Judge Rumpke, to recommend adoption of the tentative rules as proposed by Justice Fox, but with an additional alternative version of Rule 3 that permits a party to opt out of Chancery Court. The motion passed unanimously by voice vote.

Judicial Conference Reports Circuit Conference President: Judge Christensen District Conference President: Judge Campbell	**1. Circuit Court Conference – Judge Christensen** The Conference met December 5-6, 2019 in Casper. The Conference roundtable focused and on procedure and process issues. Five (5) legislators met with the Conference, including Speaker Harshman, President Perkins and Representative Washut. Representative Washut discussed his bill on removal of jail sentences for certain minor traffic offenses. Chief Justice Davis recounted that Senator Kinskey had relayed a concern the judges are not using the 24/7 program. Judge Christensen explained the program and noted that in Natrona County there are additional programs that allow offsite and more comprehensive drug and alcohol testing. Judge Christensen will call Senator Kinskey to let him know about the other programs. **2. District Court Conference – Judge Campbell** No update.
Judicial Branch Technology Courtroom Automation Committee Members: Chief Justice Davis (Chair), Judge Fenn, Judge Edelman, Judge Campbell, Judge Christensen, Judge Castano, Judge Haws Courtroom Technology Committee Members: Chief Justice Davis (Chair), Justice Fox, Judge Lavery, Judge Johnson, Judge Christensen, and Judge Prokos	**Court Automation Committee Updates – Elisa Butler and Heather Kenworthy** **1. DCAC/CCAC – Heather Kenworthy** **A. FCE Circuit** The following data bases have recently gone live: o Lander/Dubois - October 27, 2019 o Afton/Kemmerer - November 17, 2019 So far 16 courts and 18 databases have been migrated. Buffalo and Sheridan will receive their training in January and will go live on February 23, 2020 and March 1, 2020. We are also testing new updates that contain several fixes. We plan to have the updates installed in production by the end of this month. **B. FCE District** **I. Committee Work** We are still working through civil case types to check configurations. In January we plan to provide JSI with another copy of WyUser data to test the migration of data from district court clerks. We are also working with Lisa Finkey, the Children's Justice Project Coordinator, on the configuration of the Child Welfare module. Judge Rumpke asked when the child welfare module will be ready. Heather replied that we are waiting on customizations from JSI. Once we get the customizations, testing will need to be done as well. JSI has not given us a timeframe for the customizations to be completed. **2. Jury Management – Heather Kenworthy** **A. Update Installed** **I. Contained Second Address for Jurors** The latest update for Clearview Jury has been installed into production. Jurors can now enter both a mailing and physical address on the eJuror website. Currently we

are working on testing the merge process (which takes the names/addresses from the Department of Transportation Driver Services and the Secretary of State voter lists and merges the information with Clearview) in development. We are hopeful that this will be completed this month in anticipation of pulling juror lists early January 2020.

B. Commencement of Activities for Group 3

I. Training in December

The third rollout group trained last week here in Cheyenne. We had a full class with 14 clerks attending. We will be working with the courts in this group to pull the names needed for the initial questionnaires to be sent out. Once those are out, and their jury terms begin, we will work with each court as they have their first trials and be sure to have Court Technology staff on-site.

E-Filing Update – Elisa Butler

1. Committee Work

In June of this year, the Court sent out a Request for Quotation for an electronic filing system for the District Courts and the Chancery Court. Four vendors responded, and of those four, three were chosen to provide demonstrations. An electronic filing committee was formed to assist in the decision-making process. The committee observed the demonstrations and had a number of questions. As a result, we have requested that each of the vendors provide a sandbox environment that would allow the committee members to test in each of the systems. In the meantime, the Supreme Court has requested an appropriation from the Legislature for the electronic filing system based on the quotes received. Following testing, the committee will meet again to discuss their experiences. Court Administration staff will also provide additional information from clients of the various vendors to assist the committee with its decision-making process. We hope to have a decision from the committee by the end of January or early February. That decision will then be taken to the Court Automation Committee for approval, and ultimately, to the Supreme Court Conference.

<u>Courtroom Technology Committee Updates</u> – Nate Goddard

1. Rollout

We have been keeping our vendor, Absolute! very busy in Laramie, Campbell, Hot Springs, Lincoln, and Unita Counties.

2. Laramie County

Laramie County Courtrooms A & C have been installed.

3. Emergency Requests

An emergency request was submitted in October for the Natrona County Circuit Courtroom 5B.

4. MOUs

	A total of 17 counties have been contacted. 11 MOUs have been completed to date. **Azure Migration – Nate Goddard** We have completed 95-98% of the migration out of the data center to the cloud. The lingering piece is the data warehouse. We are hopeful to fully complete the migration by the Spring. **Annual Pen Testing – Nate Goddard** As part of our security compliance, we are required to conduct annual penetration testing. In January, our vendor Black Hills Information Security, will try to externally hack us, to identify any vulnerabilities. **IT Timeline Review JMI – Julie Goyen** Court Administration partnered in September with Justice Management Institute (JMI) to review our IT timelines, staffing, and architecture to determine if we have the proper number and type of resources to complete the projects that are currently before us. Currently, there are a total of 18 major IT projects being working on. This does not include our day to day tasks. We have provided copious amounts of documentation to JMI and met with them on-site twice. JMI also visited with judges, justices, clerks and staff. We will continue to work with them into January. The high-level overview is we are understaffed for the projects we have been tasked to complete. Chief Justice Davis was hopeful to have the study before the State of the Judiciary. **Staff Move Herschler / Training Room – Julie Goyen** We were able to secure an area in the west side of the Herschler Building for half of our IT staff and a training room. The staff has already moved and we hope to complete the training room by the Spring of 2020. We will train for FCE, Jury, WyUser, FCE, E-filing, etc. This is the first time we will be able to have refresher training. Chief Justice Davis added that the goal is to make trainers more effective by eliminating some of the travel and set up/tear down time.
Permanent Rules Advisory Committee (PRAC) <u>Court Records Division</u> Judicial Members: Justice Gray, Judge Overfield, Judge Castano <u>Appellate Division</u> Judicial Members: Justice Boomgaarden, Judge Fenn <u>Civil Division</u> Judicial Members: Justice Fox (Chair), Judge Castano, Judge Kricken, Judge Rumpke <u>Criminal Division</u> Judicial Members: Justice Kautz (Chair), Judge Sharpe, Judge Phillips	**1. Appellate Rules Division – Justice Boomgaarden and Patty Bennett** No Update. **2. Civil Rules Division – Justice Fox and Patty Bennett** No Update. **3. Criminal Rules Division – Patty Bennett** **A. Input on Circuit Court Executive Committee recommendation to amend Criminal Procedure Rule 4(a) as set forth in Appendix 12** The Division is still working on the changes in Attachment L, which is a recommendation from the Circuit Court Executive Committee to amend Rule 4(a) of the Rules of Criminal Procedure. Currently the rule requires a judge to issue a warrant at the request of the prosecuting attorney. There is concern, however, that judges should have discretion whether to issue a warrant for misdemeanants. The

Evidence Division Judicial Members: Judge Rumpke (Chair), Judge Nau, Judge Radda Juvenile Division Judicial Members: Judge Wilking (Chair), Justice Kautz, Judge Campbell, Judge Fenn	proposed changes set forth two of the options. One would allow discretion for all charges and the other would allow discretion unless a felony is charged. The BJPA voted at its last meeting to send the proposals to the Division for consideration. **4. Rules of Evidence Division – Judge Rumpke** **A. Line-by-line comparison of the Federal and State Rules** The Evidence Division is working through a line-by-line comparison of the Federal and State Rules. It is an arduous task since a substantial amount of case law must be considered. Judge Rumpke is not anticipating substantial changes. The Division plans to meet early next year to determine any recommendations for changes. **5. Juvenile Rules Division – Patty Bennett** Patty Bennet received a written update from Judge Wilking. The Division met on November 25, 2019 to discuss proposed rule changes regarding a 6 versus 12 person jury in delinquency and CHINS cases and to address the number of peremptory challenges in delinquency, CHINS, and abuse and neglect cases. The Criminal Rules Committee requested input to address some confusion with WRCrP 24(d)(2) and whether or not delinquency cases should be removed from WRCrP 24(d)(2) and addressed in the juvenile rules instead.
Access to Justice Commission	**1. Update – Justice Boomgaarden** The Commission met in September to review a draft report prepared by an ad hoc planning committee assessing the accomplishments of the Access to Justice Commission and Equal Justice Wyoming (EJW) in light of the 2014 Strategic Plan. The draft report discusses the evolution and development of the Commission, its relationship with EJW, and the best way to collaborate in the future. The draft recommends the Commission downsize from 23 to 11, with continued representation by a district and circuit judge. Judge Day has agreed to be reappointed. The draft also recommends the Commission transition to a supporting role with EJW, rather than advancing projects for EJW to pursue. The final report will be presented to the Chief Justice, Legislative Leadership and the Governor. Corresponding by-law amendments will be proposed for the Commission's consideration. At its September meeting, the Commission also received an update from Ray Macchia on the Statewide Needs Assessment. The final assessment should be complete next summer. The next Commission meeting will be in March.
Court Security Commission	**1. Update – Ronda Munger** The Commission continues its work as required by W.S. § 5-11-101 (e) (ii) to visit and inspect court security programs around the state. The Commission has toured the Riverton Justice Center and the Pinedale Courthouse. It was beneficial for the Commission to observe the difficulties of providing courthouse security in a building that was constructed decades ago. The municipal court judges were invited to the Commission's meeting in Pinedale and there was a good exchange of information regarding the security difficulties experienced by the municipalities. The Commission is scheduled to meet at the Platte County

	Courthouse on January 21, 2020. Ronda also reported that Justice Kautz and Joe Hartigan made presentations at the Wyoming Law Enforcement Academy last September. The presentations were geared toward training for court security officers throughout the state.
Judicial Education	**1. Update – Elisa Butler** The Judicial Education Committee is beginning to work on the annual conference which will take place in September 2020. The Wyoming State Bar has opted to hold the conference from Monday through Thursday in 2020 rather than from Tuesday through Friday as in previous years. This is due to a visit by United State Supreme Court Justice Neil Gorsuch and other events for the Wyoming Law School's 100th anniversary celebration. While the dates will be changed for the Bar, the Judicial Conference will still take place on Tuesday and Wednesday of that week. If any of the members have ideas as to presentations they would like to be included at the Judicial Conference, we would very much appreciate the feedback. Patty Bennett added that last May the first training was provided for municipal court judges. It was very successful and will be conducted again this year on May 5 in Casper. Judges Christensen and Johnson will assist. Patty is looking for additional judges to teach. Please contact her if you can help.
National Trends – Cellphone Use in Courthouses	**1. Update – Chief Justice Davis** We received a complaint from Natrona county that cell phones are not allowed in the Townsend Justice Center. Chief Justice Davis pointed out that the Conference of Chief Justices has supported allowing cell phones in courthouses as an access to justice issue. Phones are allowed in our Supreme Court Building, but cannot be used in the courtroom unless needed for court. Judge Christensen explained that Natrona County has procedures for allowing pro se litigants to bring in a phone if needed to show evidence. He believes the complainant wanted to use the phone to record a proceeding.
New Business	**1. Member Input** None.
Adjournment	The meeting adjourned at 11:13 a.m.

Action items: 1. The Criminal Rules Division will review the proposed changes to Rule 4(a) and report back to the BJPA.

Action taken by Board:

1. The BJPA recommended the Supreme Court deny the Town of Van Tassell's petition to extend the jurisdiction of the Circuit Court of the Eighth Judicial District to violations of the town's municipal ordinances.
2. The BJPA recommended the Supreme Court adopt the attached Chancery Court Rules, with the additional version of Rule 3 that permits a party to opt out of Chancery Court and with the caveat that the rules would not become effective for a year and would not be published in the statutes. The delay will allow input from the Judiciary and members of the bar.

Appendix 1: Van Tassell Petition

Appendix 2: Letter from Judge Case Re: Van Tassell Petition

Appendix 3: Letter from Judge Hibben Re: Town of Van Tassell

Appendix 4: Letter from Magistrate Meier Re: Municipal Court merger with Circuit Court

Appendix 5: BJPA 2002 Jurisdiction Policy Statement

Appendix 6: W.S. § 5-9-105. Extending jurisdiction to try misdemeanors committed in violation of city or town ordinances

Appendix 7: E-filing and Combined Materials

Appendix 8: Jury procedure amendments bill

Appendix 9: Parent counsel and family preservation bill

Appendix 10: Chancery Court Rules – Rule Markup

Appendix 11: Chancery Court Rules – Clean Version

Appendix 12: Proposed Changes to Rule 4(a) of the Rules of Criminal Procedure

Attachments are highlighted

Approved on January 6, 2020

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IN THE SUPREME COURT, STATE OF WYOMING

IN THE MATTER OF A PETITION TO EXTEND THE JURISDICTION OF THE CIRCUIT COURT FOR THE EIGHTH JUDICIAL DISTRICT,	)))	Case No.
Town of Van Tassell, Petitioner.	)	

PETITION TO EXTEND THE JURISDICTION OF THE CIRCUIT COURT FOR THE EIGHTH JUDICIAL DISTRICT TO DETERMINE AND TRY ALL PERSONS CHARGED WITH VIOLATION OF THE ORDINANCES OF THE TOWN OF VAN TASSELL

COMES NOW the Town of Van Tassell, Wyoming, by and through its counsel, Jeffrey M. Boldt of Overstreet Homar & Kuker, and pursuant to Wyoming Statute §5-9-105, and hereby petitions the Wyoming Supreme Court to extend the jurisdiction of the Circuit Court for the Eighth Judicial District, Wyoming, to determine and try all persons charged with violation of the ordinances of the Town of Van Tassell. In support of its Petition, the Town of Van Tassell states as follows:

1. The Town of Van Tassell ("Van Tassell") is a Wyoming municipal corporation located on U.S. Highway 20 in Niobrara County, approximately twenty miles east by southeast of Lusk, Wyoming, and approximately two miles west of the Wyoming – Nebraska state line.

2. Van Tassell has approximately fifteen residents, and has the distinction of being the least populous town in the least populous county in the least populous state in the United States. Van

Appendix 1

Tassell's American Legion Post No.1 is recognized as being the first American Legion Post organized in the United States.

3. Currently, Van Tassell lacks mechanisms by which it can enforce its town ordinances, including not having a forum in which to try individuals who have been charged with such violations.

4. Through undersigned counsel, Van Tassell has discussed its desire to secure a judicial forum with several individuals associated with circuit courts located in the Eighth Judicial District. Among these is the Honorable Judge Nathaniel S. Hibben, who has agreed to hear cases arising out Van Tassell's enforcement of its municipal ordinances so long as Van Tassell complies with the procedures set forth in Wyoming Statute §5-9-105, including filing the instant Petition.

WHEREFORE, the Town of Van Tassell respectfully petitions this Court to exercise its authority pursuant to Wyoming Statute §5-9-105 for the purpose of extending the jurisdiction of Wyoming's Eighth Judicial District to determine and try all persons charged with violations of the ordinances of the Town of Van Tassell.

RESPECTFULLY SUBMITTED this 18th day of November 2019.

TOWN OF VAN TASSELL,
Petitioner,

By: _____

Jeffrey M. Boldt, # 7-4730
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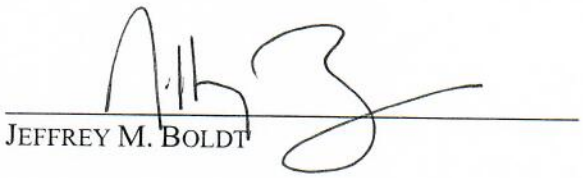
Attorneys for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served upon the following, this 18th day of November 2019.

Hon. Nathaniel S. Hibben
P.O. Box 980
Torrington, WY 82240

[√] U.S. MAIL
[ ] FED EX
[ ] FAX
[ ] EMAIL



JEFFREY M. BOLDT

Circuit Court of the Eighth Judicial District
Converse County, State of Wyoming

I. Vincent Case, Jr.
Circuit Court Judge

Cameo Rhamy
Clerk of Court

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Honorable Michael K Davis
Chief Justice
Wyoming Supreme Court
2301 Capitol Avenue
Cheyenne, WY 82002

December 6, 2019

Re: Van Tassell Petition
Niobrara County, WY

Dear Chief Justice Davis,

I have had some limited opportunity to visit with Magistrate Judge Dennis Meier regarding Van Tassel's petition to require the Niobrara County court system to bear responsibility for adjudication of its ordinances. While the Supreme Court will ultimately make whatever decision it determines appropriate, Magistrate Meier does have numerous concerns relating to this issue.

Judge Meier has been a resident of and a dominant and vital legal and judicial presence in Niobrara county for many decades. He is extremely familiar with and knowledgeable about the background and circumstantial issues pertinent to the petition. While Judge Meier is clearly far more versed regarding the potential drawbacks of this matter, I do share his concerns.

Judge Meier believes that simple 'dog at large' and 'weed violations' are not the impetus for or the issues behind this petition and will not be the primary cases presented to the Niobrara County Circuit Court. The primary impetus behind Van Tassel's petition is likely enforcement/adjudication of its building codes and zoning ordinances.

Appendix 2

These types of cases are time demanding. I have not read Van Tassel's local ordinances, so I do not know if they include jail time as a penalty for violation. If they do, this must be taken into consideration as this triggers the right for jury trials which will result in substantial time and expense issues to the Niobrara County court system.

There are other issues of concern that should be preliminarily addressed, including:

1. All criminal code violations will require a prosecutor to appear on behalf of the town. Will Van Tassel pay for and provide a town prosecutor for court appearances dealing with the filing and prosecution of its ordinances? The court should not allow the prosecution of any of Van Tassel code violations in the absence of the personal appearance of a town attorney.
2. The circuit court's full court or full court enterprise system is not designed for the incorporation of municipal ordinances. Will the Niobrara County Circuit Court computer programs be modified to input and track municipal filings, or will these town violations have to be individually hand processed by court staff, and inputted, tracked and accounted for in a wholly separate accounting system? These time demands and cost issues must also be addressed, and the Niobrara County Circuit Court should have full confidence in how these myriad code violations will be administratively inputted, processed and accounted for prior to a decision on the petition.
3. If the Niobrara County Circuit Court will have the sole legal obligation and accounting responsibility for these cases, substantial additional time demands will be placed on the court staff. I understand court staff is concerned about adequate compensation and appropriate pay adjustment for these added time and work responsibilities. Court staff time will be greatly impacted in administratively processing these municipal matters.
4. The Niobrara County Circuit Court budget and staff time will be impacted if the petition is approved, and an appropriate cost reimbursement agreement by Van Tassel should be in place. This reimbursement agreement should include payment for the additional staff time required to process, receipt, docket, track, schedule, and preserve all code violations,

especially since it is probable that none of these code ordinances are compatible with full court. If jury trials must be provided, these costs must also be considered.

5. There are other staff time and workload issues that should be considered besides initial filing, docketing and scheduling. There is also the long-term, ongoing impact associated with any criminal matter. These long-term issues involve the enforcement of court orders, including, without limitation, the issuance and tracking of show cause orders, arrest warrants, enforcement of nonpayment of court ordered monetary obligations and probation revocation issues.
6. It must be administratively confirmed how these municipal matters will be docketed and how/what case numbers will be assigned, how monies will be receipted, deposited and paid out, court costs assessed and paid, and fines receipted, transferred and accounted. A clear, concise and workable monetary accounting process must be established in addition to a feasible docketing system.
7. The decision in this specific instance will set a precedent for future similar petitions. Judge Meier believes that in the event this petition is granted, there is a very high probability that the Towns of Manville and Lusk will also request the Niobrara County Circuit Court to assume sole responsibility for adjudication of all their code violations. If the present petition is granted, it must be anticipated that the current structure, operation and overall complexion of the Niobrara County Circuit Court will require some substantial re-organization. Further judicial and staff time, resources and budget will be mandated. A definitive financial and human resources plan should be implemented to anticipate and manage these practical, real world changes, and identify the source(s) of funding that will be required to successfully accommodate these changes.
8. In the event this present Petition is granted, it must be further anticipated that numerous other small towns and communities throughout the entire State of Wyoming will similarly request their circuit court to also assume full responsibility for adjudication of all their ordinances. The eventual impact and ramifications to the circuit courts could be substantial.

Based upon my 17 years of private law practice as a sole practitioner, that same amount of time as municipal court judge for Douglas, Wyoming, my many years as legal counsel for the Town of Glenrock, Wyoming, and my now 26 years of experience on the county/circuit court bench, I have learned not to be overly confident of anything. But I am confident in this case that I have overlooked and not addressed many other important factors affecting the decision- making process in this overall situation.

I have made a sincere effort to address the issues involved in the decision as objectively as possible. I have no long-term personal or vested interest in the final decision, as my tenure on the circuit court bench is now limited. Nevertheless, the questions, issues and short and long-term consequences raised by this decision are vitally important, and should be given adequate and appropriate time, deliberation and thought in reaching the final conclusion.

I will not be available for the December 16, 2019 meeting as I am having surgery on my lower back, but please contact Judge Hibben, Magistrate Judge Meier and circuit court clerk Sarah Smith for all questions you have or further input you may require. Thank you for your time and attention.

Very Truly Yours,

I. Vincent Case, Jr.
Circuit Court Judge

CC to: Honorable Judge Nate Hibben
Honorable Magistrate Judge Dennis Meier

CIRCUIT COURT OF GOSHEN COUNTY
EIGHTH JUDICIAL DISTRICT

Nathaniel S. Hibben
Circuit Court Judge

Sonia Loya
Chief Clerk

Goshen County Courthouse
2125 East A Street, Floor 3R
P.O. Box 980
Torrington WY 82240
(307) 532-2938
(307) 532-5101 Fax

December 9, 2019

Michael K. Davis
Chief Justice
Wyoming Supreme Court
Cheyenne, Wyoming
By email only: mkd@courts.state.wy.us

Re: ***Town of Van Tassell***

Dear Justice Davis,

Thank you for the opportunity to address the Petition filed by the Town of Van Tassell, in which the Town seeks to extend the jurisdiction of the Niobrara Circuit Court to hear alleged violations of Town ordinances.

In my view, the Petition should be denied. I come to that conclusion even though I previously indicated that I, as circuit court judge, would be willing to hear these cases if the Court granted the Petition. After all, given the population of Van Tassell and the representations of its counsel to me, the additional cases to be heard by me as circuit court judge would amount to little more than a de minimis increase in my case volume. I'm also sympathetic to the Town's concerns and the historical absence of its own municipal court.

That said, a judicious review of this issue convinces me the Petition should be denied. I come to this conclusion after receiving a copy of the Town's ordinances last Friday, December 6, and reviewing those ordinances this weekend; speaking with my circuit court colleagues last week at the circuit judge's meetings in Casper; receiving the input of those in the Lusk circuit court office; and considering the potential benefits to the Town and burdens on the State court system as a whole.

More specifically, further consideration convinces me that the Town has options and forums available to it other than the local circuit court. For instance – and based upon my phone conversations with Town counsel – the Town has not fully explored its options for its own municipal court.[1]

[1] At first blush, a municipal court might appear to be cost-prohibitive for Van Tassell. However, based upon my prior experience as attorney for local municipalities, that is not necessarily true. The Town of Fort Laramie – a former client – pays its municipal court judge (a retired attorney) $150.00 per month (current as of the date of this

Prudentially, I'm also concerned about the administrative and accounting issues for the local circuit court, and mindful that those additional burdens will fall on court staff and personnel. In this vein, I'm especially aware of the input of Magistrate Meier and Sarah Smith (the Niobrara circuit court clerk), each of whom expresses a simultaneous willingness to be of assistance but also significant concern about the additional administrative requirements imposed on them.

Importantly, the ordinances the Town seeks to enforce in the circuit court are uniquely municipal. The Town has not, for instance, adopted any ordinance similar in nature to those found in Title 6 or Title 31 of the Wyoming Statutes. Instead, the Town's ordinances all address building conditions and "zoning." By my count, the ordinances contain 4 potential "penalty" provisions: the first relates to building codes, but is phrased as an "administrative expense . . . and not a criminal penalty"; the second relates to abandoned vehicles (and the Town has a remedy for this under W.S. § 15-1-103 and elsewhere in Title 15); the third relates to sale of malt beverages (there are no liquor stores – or retail stores of any kind, if one does not count the Post Office – in Van Tassell); and the fourth sets out a $100 / day "fine" for violations of zoning conditions. In speaking with the Town's counsel, it is clear as well that Town residents have coalesced into two different "sides" – one "side" requesting increased enforcement, and the other "side" requesting continued lax enforcement.[2] In my view, the State court system is not the appropriate forum to hear issues that are so decidedly municipal in nature.

Finally, I share the concerns of Judge Case and others when they note that if this Petition is approved, we can almost certainly expect additional petitions from other municipalities. And, for each extension of jurisdiction, an additional burden falls on the local circuit court. A de minimis increase in cases may, in time, turn into a deluge across the State. Bearing this in mind, the circuit court judges express their opposition to granting Van Tassell's Petition.

Today, I shared these thoughts with Mr. Jeffrey Boldt, attorney for Van Tassell, in a phone call and email. I also enclose with this letter a copy of Mr. Boldt's email to me of December 6, 2019, and would be happy to forward the Town ordinances to the Court if needed.

Sincerely,

Nathaniel S. Hibben

letter). That same retired attorney is also the municipal court judge for Lingle, Yoder, and LaGrange, Wyoming – each of those towns paying a rather modest monthly fee based upon expected case volume. The Town has other options for utilizing a third party to hear and decide its cases, too.

[2] "Sides" is the exact phrase used by Counsel to describe the opposing factions of Town residents.

Judge Hibben

From: Jeffrey M. Boldt <Jeffrey@kukerlaw.com>
Sent: Friday, December 6, 2019 10:09 AM
To: Judge Hibben
Cc: Chandel Pine
Subject: Town of Van Tassell - Ordinances
Attachments: Ordinance 13 (Amended) - Zoning.pdf; Ordinance 14 - Real Property.pdf; Ordinance 15 - Continuation of Excise Tax.pdf; Ordinance 16 - Cemetary Plots.pdf; Ordinance 1 - The Town Council.pdf; Ordinance 2 - Corporate Seal.pdf; Ordinance 3 - Town Clerk and Town Attorney.pdf; Ordinance 4 - Ordinances.pdf; Ordinance 5 - Town Fiscal Year.pdf; Ordinance 6 - Part of the Charter Ordinace.pdf; Ordinance 7 - Elections.pdf; Ordinance 8 - Town Council Meetings.pdf; Ordinance 9 - Alcoholic Beverages.pdf; Ordinance 10 - Building Construction Code.pdf; Ordinance 11 - Abandoned Vehicles.pdf; Ordinance 12 - Franchise for Electrical Works.pdf

Dear Judge Hibben,

I apologize for taking so long to send these ordinances to you. Upon review, I realized that I did not have a complete set of them and I had to obtain the missing ones from my client.

Thank you very much.

Sincerely,

Jeffrey

OVERSTREET HOMAR & KUKER
ATTORNEYS AT LAW

Jeffrey M. Boldt
508 E. 18th Street
Cheyenne, Wyoming 82001
307.274.4444 office
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jeffrey@kukerlaw.com

Circuit Court of the Eighth Judicial District
Niobrara County, State of Wyoming

I. Vincent Case, Jr.
Circuit Court Judge

Nathaniel S. Hibben
Circuit Court Judge

Dennis C. Meier
Magistrate

223 South Main
P.O. Box 209
Lusk, WY 82225
(307) 334-2049
(307) 334-3846 fax

Sarah Smith
Clerk of Court

December 4, 2019

Hon. I. Vincent Case Jr.
P.O. Box 45
Douglas, WY 82633

Hon. Nathaniel Hibben
P.O. Box 980
Torrington, WY 82240

RE: Municipal Court merger with Circuit Court.

Dear Judges:

Regarding the proposal to have the Niobrara County Circuit Court provide municipal court services to the Town of Van Tassell, Wyoming, the following are my questions, comments and concerns:

1. It would seem the bulk of the work involved would be administrative performed by the clerk of the Circuit Court in Lusk. The administration would require a separate program for filing, tracking, receipting, accounting and reporting citations. The current "Full Court" systems utilized by the Circuit Courts will not accommodate administration of municipal court citations. Also, a separate bank account will be required along with a mode of remittance to the municipality. Moving violations will have to be reported to the DMV separately from Circuit Court citations. In that there is no existing "Court Program" for municipalities the clerk will have to devise a spread sheet to track citations and accounts and will have to devise a docket and "tickler" system to keep track of settings, payments and arrears. There is a question as to auditing the court as the current audits are conducting solely on the state level.

2. If the ordinances of the town involve jail sentences arrangements will have to be made with the Niobrara County Detention Center as to compensation for use of the facility. Even if

Appendix 4

the ordinances do not involve jail sentences financial arrangements with the detention center will have to made for contempt of court sentences.

3. The Town of Manville, Wyoming has previously made inquiries regarding the Niobrara County Circuit Court providing Municipal Court for its town ordinances. Once the services are provided to Van Tassell, Manville will most certainly request the same. Manville is larger than Van Tassell and will undoubtedly require more administration and more court time. The town of Lusk presently has its own municipal court system but it runs at a considerable deficit since most of the citations for misdemeanor crimes as well as many traffic violations are already being written into the Circuit Court. The municipal court is being utilized primarily for zoning, property condition, dog at large and other minor violations. As in the case of Manville it is possible that the town of Lusk would prefer that the Circuit Court handle all municipal violations if it will constitute a savings to the town budget.

4. The "Magistrates" of the Circuit Courts are slowly being eliminated by attrition. The Circuit Court Judges could soon become loaded up with dog at large, property condition, breach of peace and a myriad of neighbor dispute types of violations like breach of peace (loud music, obscene language, etc.) While the smaller communities may certainly need a way to enforce their ordinances I believe the Circuit Judges' time and resources should be spent on more serious matters.

5. Again, I believe the bulk of increased workload will be on the Clerk of the Circuit Court for Niobrara County, however, the time and travel of the Circuit Judges should also be a concern. My preference is to not undertake municipal court duties.

Sincerely,

Dennis C. Meier
Circuit Court Magistrate

Board of Judicial Policy and Administration
Policy Statement for Extending Jurisdiction to Try Misdemeanors Committed in Violation of City or Town Ordinances

A. GENERAL POLICY STATEMENT TO EXTEND JURISDICTION OF THE CIRCUIT COURT TO HANDLE VIOLATIONS OF MUNICIPAL ORDINANCES

In accordance with W.S. 5-9-105, the governing body of a city or town may petition the Wyoming Supreme Court to have the circuit court's jurisdiction extended to violations of municipal ordinances. The circuit court judge within the respective judicial district will review the petition and make recommendations to the Board of Judicial Policy and Administration. The circuit judge's recommendation shall carry considerable weight, but it is not binding. In all cases, the final decision shall be subject to Board of Judicial Policy and Administration's ultimate review and approval.

B. SPECIFIC ACTIONS:

1. The City Council of any city or town may petition the Wyoming Supreme Court as provided by W.S. 5-9-105 to have the circuit court within the municipalities respective judicial district handle violations to municipal ordinances.

2. The Wyoming Supreme Court shall forward the petition to the respective circuit court judge for the judge's review and recommendation. The Wyoming Supreme Court shall also forward the petition to the Board of Judicial Policy and Administration.

3. The circuit court judge from the respective judicial district will appear before the Board of Judicial Policy and Administration to present his or her recommendation. The judge's recommendation should address the municipality's caseload, the time requirements, and a review of the ordinances, fiscal considerations and any other pertinent information. The circuit judge's recommendation shall carry considerable weight, but it is not binding.

4. The Board of Judicial Policy and Administration shall make the final decision on the petition from the municipality and notify the Wyoming Supreme Court, the municipality and the circuit court judge.

5. With the Board of Judicial Policy and Administration's approval, a formal agreement would be enacted between the circuit court judge and the governing body of the municipality. The formal agreement would cover such items as an hourly charge, mileage reimbursement, when court would be held, any clerical staff assignments and any other matters, which the parties may choose to address.

Dated this 23RD day of September 2002.

Board of Judicial Policy and Administration

By: William U. Hill
Chief Justice William U. Hill

Appendix 5

Citation/Title
WY ST Sec. 5-9-105, Extending jurisdiction to try misdemeanors committed in violation of city or town ordinances

***5990 W.S.1977 § 5-9-105**

WEST'S WYOMING STATUTES ANNOTATED
TITLE 5. COURTS
CHAPTER 9. CIRCUIT COURTS
ARTICLE 1. GENERAL PROVISIONS

Current through the 2019 General Session of the Wyoming Legislature. Some statute sections may be more current, see credits for details.

§ 5-9-105. Extending jurisdiction to try misdemeanors committed in violation of city or town ordinances

The governing body of any city or town situate within a judicial district in which a circuit court is established may petition the supreme court to extend the jurisdiction of the circuit court to determine and try all persons charged with violation of the ordinances of the city or town. The contribution that the city or town will make toward the expenses of the circuit court whose jurisdiction includes enforcing the ordinances of the city or town shall be set and paid as provided by written contract of the circuit judges and the governing board of the city or town involved, with the approval of the supreme court.

CREDIT(S)

Laws 1971, ch. 261, § 6; Laws 1979, ch. 144, § 1; Laws 1981, ch. 141, § 1. Renumbered from § 5-5-106 and amended by Laws 2000, ch. 24, § 3, eff. July 1, 2000.

Codifications: W.S. 1957, § 5-114.8.

Supreme Court of Wyoming
Cheyenne, Wyoming 82002

MICHAEL K. DAVIS
CHIEF JUSTICE

2301 CAPITOL AVENUE
CHEYENNE, WY 82002
(307) 777-7421

October 14, 2019

Honorable Eli Bebout
Honorable Bob Nicholas
Joint Appropriations Committee
213 Capitol Avenue
Cheyenne, WY 82002

Dear Chairman Bebout, Chairman Nicholas and Committee Members:

During its July 9, 2019 meeting, the Committee requested the following information from the Supreme Court:

- A copy of the Wyoming Judicial Branch Technology Plan
- A summary of fee-related revenues and expenditures for information technology
- The total fees collected and appropriated for the Utah remote public access records system
- A letter detailing estimated costs of a centralized training center, including space and equipment needs, a comparative cost benefit assessment of a center versus a distributed training program, and feedback from district and circuit court clerks.

The requests are attached, including an e-Filing Report prepared for the Joint Judiciary Interim Committee and a chart representing the lifecycle of a major software system implementation. You will see from the Master Plan that with the legislative and judicial initiatives, necessary software and hardware conversions, and essential technological requirements, the number and scope of projects has increased over the last 5 years.

Appendix 7

Major software projects include:

- Clearview Jury – Integrated jury management system for circuit and district courts
- FullCourt Enterprise – Case management system for circuit and district courts
- FullCourt Enterprise – Case management system for chancery court
- E-Filing – Chancery court
- E-Filing – District court
- Remote Public Access – Remote internet access to court records
- C-Track – Upgrade of Supreme Court case management and e-Filing system
- aiSMARTBENCH – Integrated software system for district court judges

Major network projects include the following:

- Courtroom Technology – Providing courtrooms with baseline technology to allow litigants and citizens access to courtroom proceedings
- Azure Migration – Moving critical data and systems to the cloud to provide redundancy and security
- Hardware Rotation – Systematic replacement of outdated hardware
- Payment Card Industry (PCI) Standards – Certifying network systems to allow for secure credit card transactions
- Microsoft Licensing – Yearly licenses for users deployed statewide.

The Court Technology Office is made up of 15 full-time employees, plus 3 additional positions provided under the Chancery Court bill, making a total of 18 FTEs. For a major IT system rollout, a minimum of 2 technology staff travel to each of the 35 court locations to provide services, and they must also return to those courts at a later date. The cost and manpower can best be illustrated by our experience in rolling out the case management system in the first 10 circuit courts.

In the first 8 months of the circuit court case management system rollout:

680 Man-hours Required to Travel to Court Locations for Training

10 Court Locations Trained & Provided Go-Live Assistance

$30,000 in Travel Costs for First 10 Locations

Our limited staff has been traveling statewide over the lifespan of the major

projects to train clerks, judges, chambers staff and attorneys. The ambitious timelines on the major projects require a more efficient use of resources. A Cheyenne-based training center is a key component and offers a better opportunity for quality training.

During the Committee's July meeting, the Supreme Court discussed a training center in Cheyenne that would allow staff to train more than 250 court employees, district court clerks, judges, and 3,125 active lawyers licensed in Wyoming. Visits to remote courts cannot be eliminated but can be reduced. By decreasing the travel and set-up time, the Supreme Court will increase the number of man-hours dedicated to project completion.

Since the July meeting, representatives of the Supreme Court met with Chairman Nicholas, Tricia Bach, Department of Information and Technology Director, and Rich Merrill, General Services Division Administrator, and his A&I staff. With their help, and with approval from the Governor's Office, an optimum location for training center offices has been secured in the Herschler Building. Use of existing space, paneling and furniture—reduces the cost of the training center. The Court Administration is working with the Department of Administration and Information to obtain quotes for the space configuration and installation necessary for the training center.

Thank you for the opportunity to provide this information. We look forward to working with the legislature over the coming years to move to electronic courts.

Sincerely,

Michael K. Davis
Chief Justice

Wyoming Judicial Branch

Staffing
2006 Avg: 4

Applications Major Projects
2006: 2

Network/Infrastructure Major Projects
2006: UNKNOWN

IT Major Project Timelines Narrative
Fiscal Year 2006

Application Milestones:

- Appellate Case Management System (CMS) Contract ($875,000)
- Appellate E-Filing System Contract ($517,380)
- Appellate CMS Maintenance & Support ($90,000)

Network/Infrastructure Milestones:

IT Major Project Timelines Narrative
2007-2008 Biennium

Staffing
2007 Avg: 4.25
2008 Avg: 7

Applications Major Projects
2007: 2
2008: 2

Network/Infrastructure Major Projects
2007: UNKNOWN
2008: UNKNOWN

Application Milestones:

- Appellate CMS Live
- Appellate e-Filing System Project
- Appellate CMS Maintenance & Support (CY2007 $98,000) (CY2008 $150,400)

Network/Infrastructure Milestones:

IT Major Project Timelines Narrative
2009-2010 Biennium

Staffing
2009 Avg: 7
2010 Avg: 7

Applications Major Projects
2009: 2
2010: 2

Network/Infrastructure Major Projects
2009: UNKNOWN
2010: 1

Application Milestones:

- Appellate e-Filing System – July 2008
- Appellate CMS & e-Filing Maintenance & Support (CY2009 $154,160)
- Appellate State Bar Integration Contract ($218,900)
- Appellate CMS & e-Filing Contract Harmonization Maintenance & Support ($53,896)
- District Court CMS ($6,391,300)
- E-Citations/e-Pay In-house System Released – June 2011

Network/Infrastructure Milestones:

- Upgrade Courtroom Digital Recording ($557,000)
- Upgrade Conferencing Equipment ($376,000)

Staffing
2011 Avg: 7
2012 Avg: 7.5

Applications Major Projects
2011: 1
2012: 3

Network/Infrastructure Major Projects
2011: UNKNOWN
2012: UNKNOWN

IT Major Project Timelines Narrative
2011-2012 Biennium

Application Milestones:

- Appellate System e-Serve and Electronic Orders Posted November 2010
- Appellate CMS, e-Filing, Bar Integration Maintenance & Support (FY2011 $188,000) (FY2012 $190,576)
- District Court CMS Project Continues
- District Court e-Filing Contract ($550,000)
- Circuit Court CMS Contract Signed ($1,785,000)
- 2012 Legislative Session e-Citation Grant Funding ($1,584,000)

Network/Infrastructure Milestones:

- Courtroom Technology Funding ($300,000)
- Conferencing Enhancements ($134,500)

IT Major Project Timelines Narrative
2013-2014 Biennium

Staffing
2013 Avg: 7
2014 Avg: 7.5

Applications Major Projects
2013: 4
2014: 3

Network/Infrastructure Major Projects
2013: UNKNOWN
2014: 1

Application Milestones:

- Current Appellate, New District and Circuit CMS Vendor LTCourtTech Acquired by Thomson Reuters – Fall 2012
- District Court CMS Pilots – August 2012
  Completed in March 2014
- District Court E-Filing Project Continues
  Original Pilot December 2013 – Postponed
- FullCourt V5 (Circuit Court CMS) no Longer Supported
- Jury Management System ($656,000)
- Wyoming Highway Patrol Successfully Submitted Citations Electronically – November 2012
- E-Citation Grant Funding ($1,500,000)
- Appellate CMS, e-Filing, Bar Integration
  Maintenance & Support (FY2013 $135,000) (FY2014 $150,000)
- District Court CMS Maintenance & Support (FY2014 $225,000)

Network/Infrastructure Milestones:

- Monies for Courtroom Technology Equipment and Conferencing Enhancements ($336,750)

Staffing
2015 Avg: 8
2016 Avg: 7

Applications Major Projects
2015: 3
2016: 9

Network/Infrastructure Major Projects
2015: UNKNOWN
2016: 3

IT Major Project Timelines Narrative
2015-2016 Biennium

Application Milestones:

- Issues with WyUser Come to the Forefront (District Court CMS)
- District CMS Maintenance & Support (FY2015 $225,000) (FY2016 $260,100)
- Limited Work on District Court e-Filing
- Work Commences on Procuring a New CMS for Circuit Court January 2016 ($1,072,735)
- Work Commences on Procuring a New CMS for District Court and Judge Tools – January 2016
- Procurement of New Jury System – June 2016 ($799,800)
- E-Citations Project Continues
- Appellate CMS, e-Filing, Bar Integration Maintenance & Support (FY2015 $150,000) (FY2016 $156,060)

Network/Infrastructure Milestones:

- Courtroom Technology ($300,000) FY2016 3 Requests for 2 Counties ($101,622.81)
- Statewide Courtroom Technology Audit Average Rating 4.74 out of 10
- New Court Website Launched – June 2016
- New Wireless Access Points (WAPs) Deployed ($85,000)

IT Major Project Timelines Narrative
2017-2018 Biennium

Staffing
2017 Avg: 9.25
2018 Avg: 12.5

Applications Major Projects
2017: 7
2018: 7

Network/Infrastructure Major Projects
2017: 6
2018: 8

Motor Vehicle Costs
2017: NA
2018: $ 14,777.20

Help Desk Avg Tickets/Qtr.

FY2017
Q1*: NA
Q2: 230
Q3: 226
Q4: 195

FY2018
Q1: 265
Q2: 257
Q3: 202
Q4: 203

**New Help Desk Application installed Aug. 2016. Q1 is based on 1.5 months.*

Application Milestones:

- Appellate CMS, e-Filing, Bar Integration
  Maintenance & Support (FY2017 $108,505) (FY2018 $112,520)
- District Court CMS Wind Down; Remaining Monies Put Toward New CMS Vendor; Final Version Installed – Spring 2017
  Vendor, JSI, Acquired by Ontario Systems – May 2018
- District Court CMS Reimbursement for e-Filing Maintenance & Support ($45,600)
- Jury Vendor, Xerox, splits into Two Companies – December 2016
  Jury Coordination between WJB, WYDOT, SOS, & Vital Statistics
  Jury Pilots 4 Courts (2 District, 2 Circuit) – January 2018
  FY2018 Jury Rollout M&IE ($1,996.00)
  Maintenance & Support (2018 $64,000)
- District Court CMS ($1,312,316)
  Judge Tools ($71,983 – Part of District Contract)
- Public Access Committee Formed – Spring 2017
  Public Access Software Contract ($30,000) – July 2017
- In-House Built e-Pay System Taken Offline – January 2018: Reduced PCI Requirements

Network/Infrastructure Milestones:

- Judicial Systems Automation (JSA) Fee Increase from $10 to $25
- Courtroom Technology:
  FY2017 – 17 Emergency Requests, 12 Counties, ($450,673.92)
  FY2018 – 11 Emergency Requests, 10 Counties, ($145,543.19)
  Upgraded Video Conferencing ($448,998)
- Statutory Change to Delineate Responsibilities between the State and County for Courtroom Technology – March 2018
- Installation of Infrastructure Environments for New District and Circuit Court CMS and Jury Applications
- Network/Security Audit Procurement ($36,000)
- Network Equipment Upgrade ($405,000)
  Outsourced Help ($810,000)
- Network Transition and Augmentation Contracts ($116,000)
- Migration to Microsoft Office 365 ($94,000)
- Azure Migration Discovery Contract ($100,000)
  Support Contract ($80,000)
- Azure Migration ($300,000)
- Hardware Refresh/Windows 10 Update begins
  Equipment ($485,000)

Wyoming Judicial Branch

IT Major Project Timelines Narrative
2019-2020 Biennium

Staffing
2019 Avg: 13.5
2020 Avg*: 17

Applications Major Projects
2019: 11
2020*: TBD

Network/Infrastructure Major Projects
2019: 9
2020*: TBD

Motor Vehicle Costs
2019: $ 12,277.97
2020*: $ 2,469.07

Help Desk Avg Tickets/Qtr.

FY2019
Q1: 172
Q2: 238
Q3: 317
Q4: 367

FY2020
Q1*: 483
Q2: TBD
Q3: TBD
Q4: TBD

**FY2020 has just begun. Numbers are through August 2019.*

Application Milestones (To Date):

- Appellate Case Management System
  Maintenance & Support (FY2019 $116,346)
- FullCourt Enterprise CMS
  Circuit Court Pilots Begin – Anticipated Finish Late 2020
  District Court Child Welfare Module Development Continues
- Public Access Committee Meeting and Project Paused
- Chancery Court CMS Procurement Continues
  Some Chancery Court staff is hired
- E-Filing Procurement Continues for Chancery and District Courts
- Jury Vendor is Sold to Avenue Insights & Analytics
  Jury Rollout Continues with Regional Trainings in December 2018, June 2019, December 2019, and June 2020
  Jury System Maintenance & Support ($51,480)
  (Travel: FY2019 $7,018.56)
- E-Citations Wyoming Highway Patrol – Full Rollout December 2019
- Court Abstract and Data Sharing with Department of Criminal Investigation
- Systems Integration Audit with On-Site Visits to Follow
  Final Report December 2018 ($84,371)

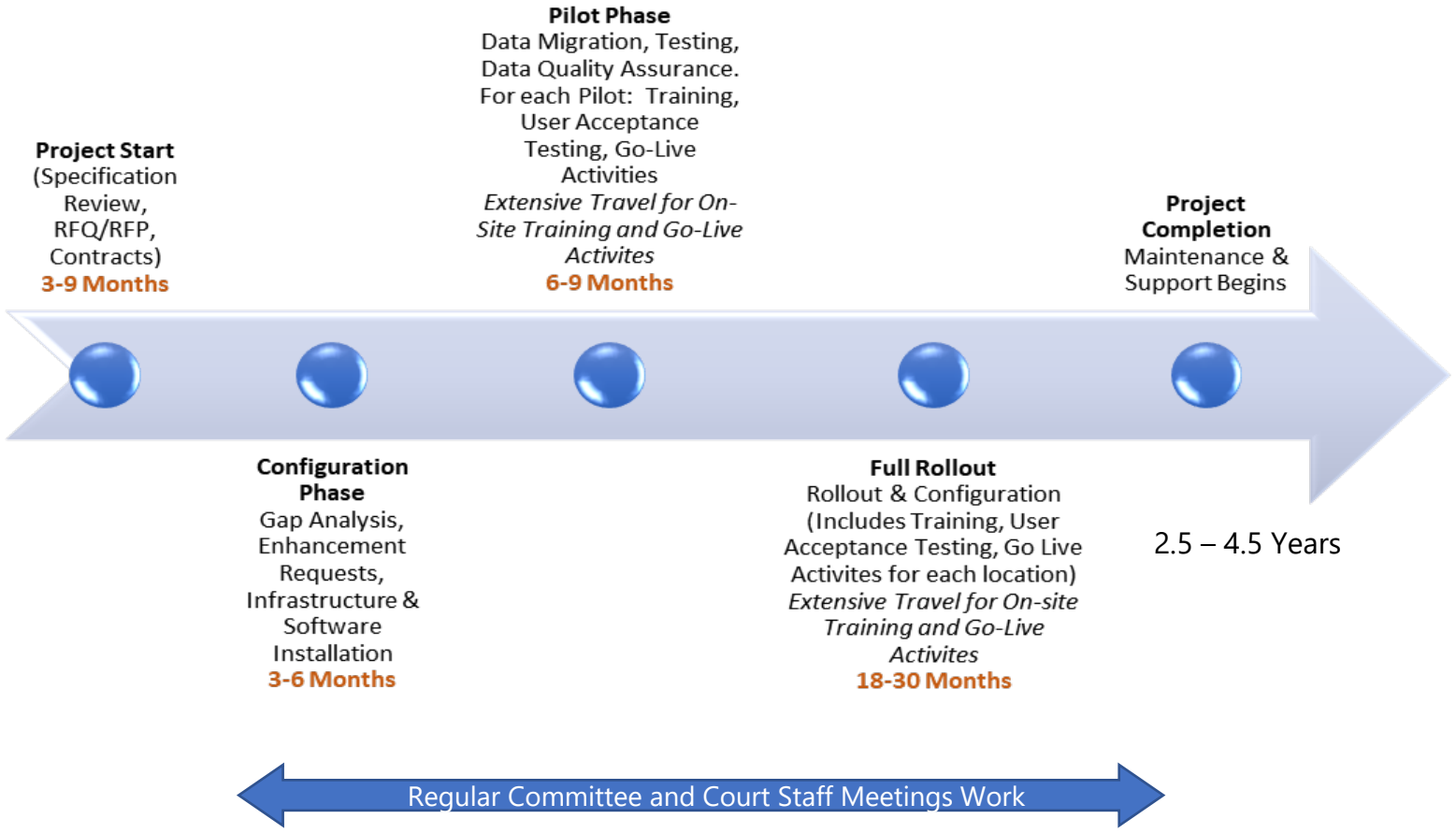
Network/Infrastructure Milestones (To Date):

- Courtroom Technology (FY2019 $ 1,200,631.50) (FY2020*$130,274.90)
  County MOU work continues
- Data Center Migration to Cloud Continues – Completion Late 2019
  (Approximately $30,000/month)
- Database Administration Support September 2018 – January 2019
  ($36,936)
- Statewide Hardware Refresh/Windows 10 Update Completed
  (FY2019 Travel $8,179) (FY2020 Travel $679)
- Implementation of Auditing & Logging Software
  (FY2019 $118,742) (FY2020 $107,100)
- Implementation of New Quarterly Scanning Software (FY2019 $1,210)
- Implementation of New Security Awareness Training Software
  (FY2019 $ 10,701) (FY2020 $7,134)
- Penetration Testing December 2018 and December 2019
- Microsoft Licensing Review (FY2019 $23,500)
- Secure Court Reporter Connectivity
- Payment Card Industry (PCI) Policy Review Continues

LIFE CYCLE OF A MAJOR SOFTWARE SYSTEM IMPLEMENTATION

Currently the Judicial Branch is implementing 10 major software projects. It takes 2-4 years to fully roll out a statewide software system. Below is an illustration of a typical software rollout timeline.

Typical Software Project Timeline – 2.5 to 4.5 Years:



Revenue from Court Fees to the Judicial System Automation Account

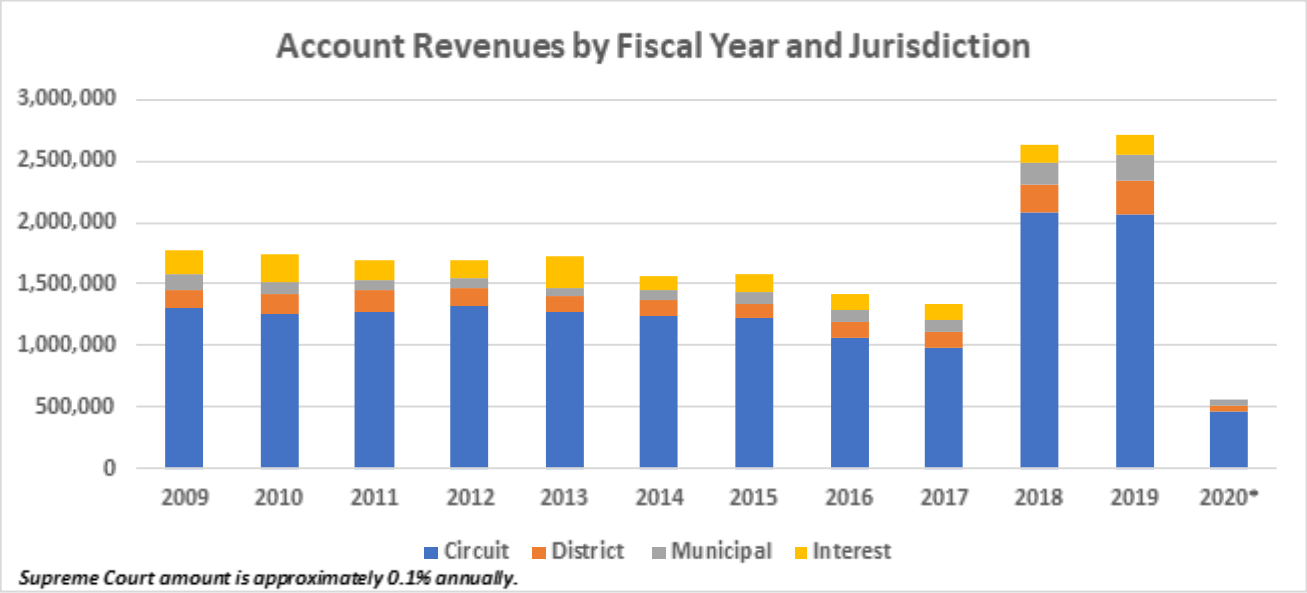


Figure 1: JSA Account Revenues by Fiscal Year and Jurisdiction
**FY2020 is inflows as of September 9, 2019*

- The main revenue source for the JSA account is traffic citations written into circuit courts.
- During the 2009-2010 biennium, revenue to the Judicial Systems Automation (JSA) was at a high of just over $3.5M. For the next 3 biennia, the revenue decreased. This is consistent with the nationwide trend of decreasing case filings.
- In 2017, the legislature increased the JSA fee from $10 to $25. The increase was primarily intended to pay for technology upgrades in courtrooms statewide. The upgrades have taken longer than initially forecast because of the decrease in case filings.
- The primary expenditure from the JSA account for the last 10 years has been technology salaries, followed by courtroom technology expenditures in the 200 and 900 series. These salaries came to be funded from the JSA account with legislative agreement beginning in FY 2007.

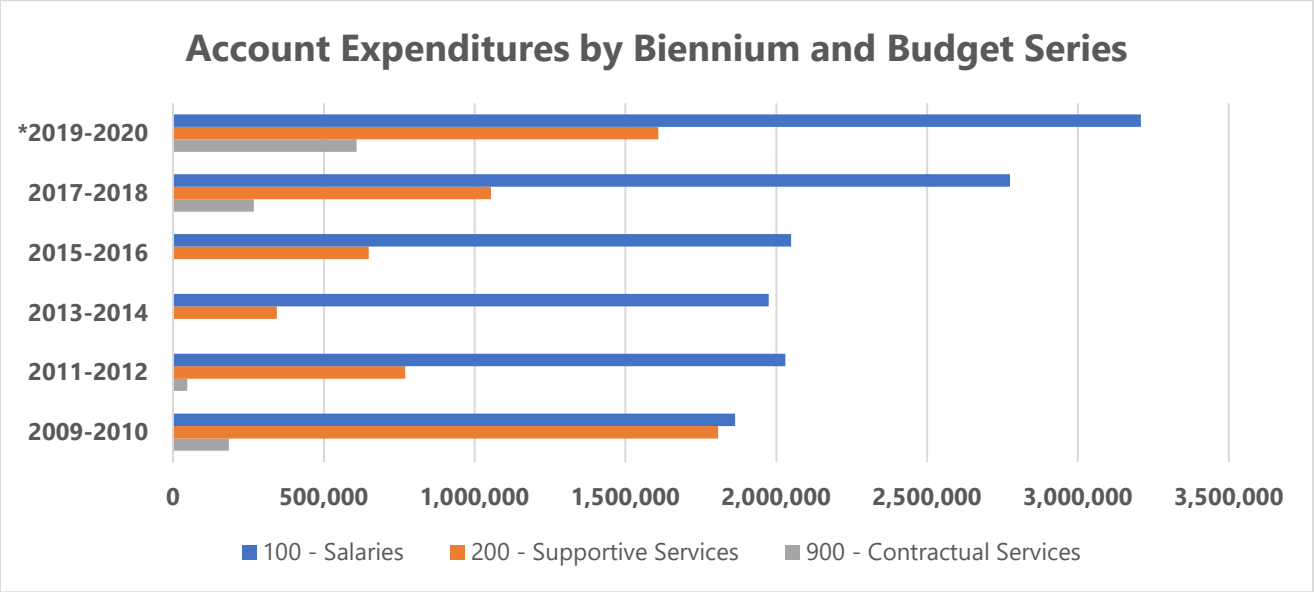


Figure 2: JSA Account Expenditures by Biennium and Budget Series
**FY2019 Doubled for 2019-2020 Projection*

- With the decrease in available funding from the General Fund, it has been necessary to utilize JSA funds to pay maintenance and support for enterprise software applications, enhancements for current software applications, hardware, and cloud infrastructure.

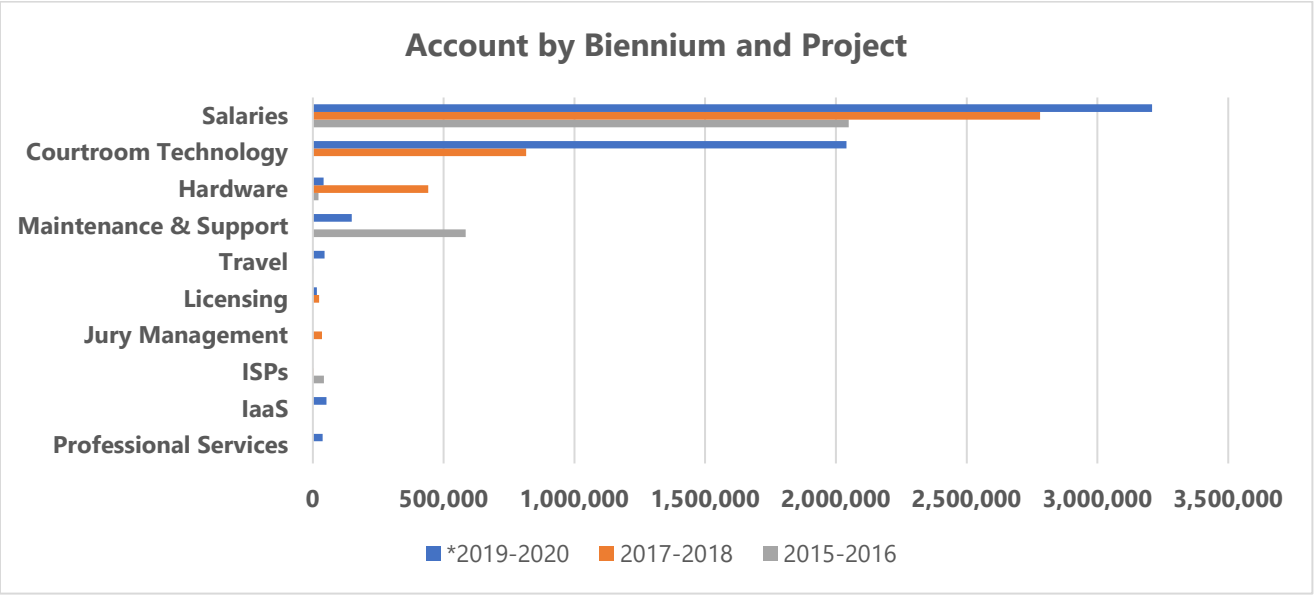


Figure 3: JSA Account by Biennium and Project

**FY2019 Doubled for 2019-2020 Projection*

UTAH XCHANGE

What is XChange

XChange is Utah's repository for general and limited jurisdiction court case information. The information displayed is the public record case information entered into the Courts Information System by court staff in the courthouses where the case files are located. Information is available in XChange immediately upon entry in local court's computer system.

XChange provides summary information about cases. This includes information such as names of parties, party addresses (if available), assigned judges, attorneys of record, documents filed, hearings held, judgments entered, and the outcome of completed cases. Images of public documents filed in district court cases are available for purchase on XChange. Records not open to the public are not displayed on XChange.

Funds Appropriated for XChange

The revenue derived from XChange are used for special projects and do not fund ongoing operations. Rule 4-202.08 of the Utah Code of Judicial Administration sets forth the manner in which fees are expended. The rule provides:

> (2) *Use of fees.* Fees received are credited to the court or office providing the record, information, or service in the account from which expenditures were made. Fees for public online services are credited to the Administrative Office of the Courts to improve data quality control, information services, and information technology.

Fees Collected from Xchange

2017: $1.1 million

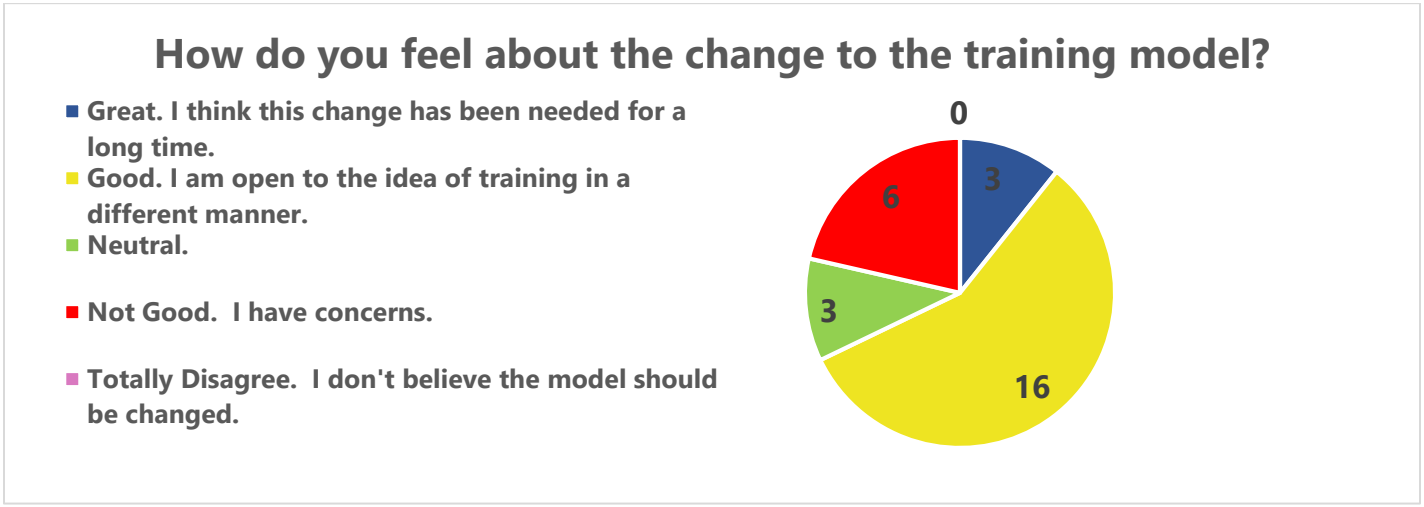
2018 $1.3 million

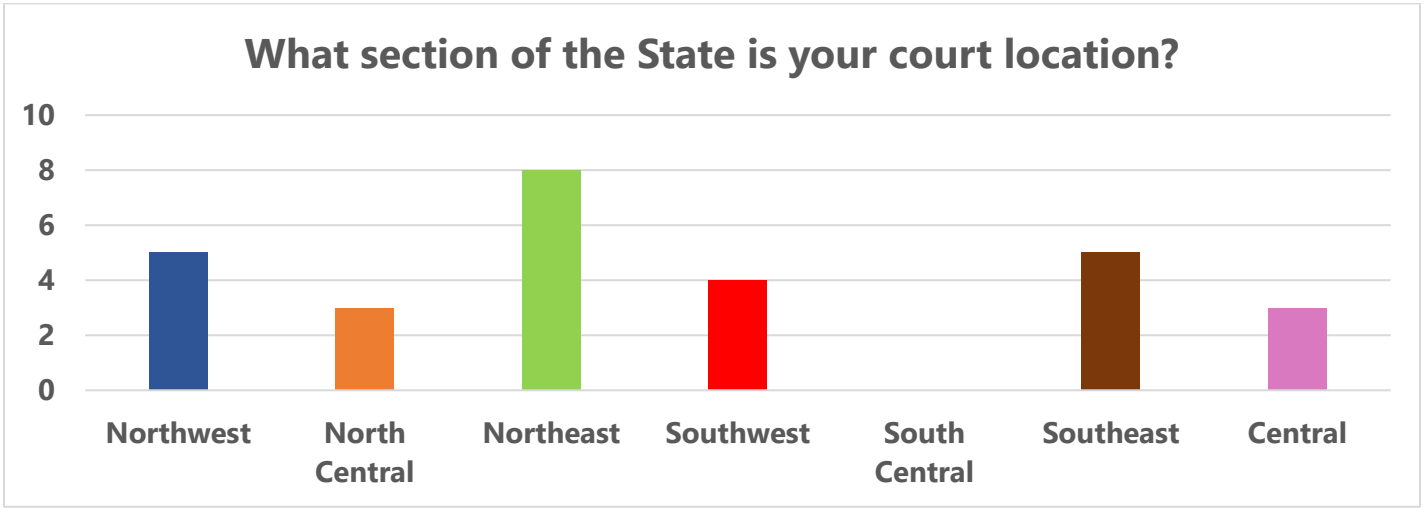
Filings in 2018

UT: ≈ 683,000 (calendar year)

WY: ≈ 159,000 (fiscal year)

CLERK RESPONSE – CENTRALIZED TRAINING CENTER





CLERK RESPONSE – CENTRALIZED TRAINING CENTER

Please provide additional information about how you feel about a centralized training center:

1.	No response.
2.	Albany County Circuit Court
3.	Anytime employees get training it is great. Our jobs are constantly changing, and when I go to a training and try to relay all the information, I feel that there is so much that gets lost in translation. Every employee should be able to get the same training especially when there are so many NEW software programs.
4.	Too many unknowns. Training on what? Is this for chief clerks only or for all staff? How often would the training take place. Would this replace the chief clerks' meetings? The cost of this training would be significant for courts a long way from Cheyenne. Would costs be deducted from the local court budget? Would the budget be increased sufficiently to pay for the training?
5.	Assuming this is in regard to question 1, I feel that we need to focus on an increase in compensation for the circuit court clerks before anything else. We can't compete with other governmental agencies let alone the private sector. Our clerks and under compensated and underappreciated. I don't disagree with the model as proposed, but I do disagree with the focus. The budget has shifted focus over the past several years to be IT intensive and we've left the clerks behind.
6.	I believe a training center would be beneficial in terms of less distraction and an overall environment. The trainers will more than likely have what they need at their fingertips to make training go a bit smoother as well. I'm sure this would allow for more rapid training as well since the supreme court staff wouldn't be traveling quite a much for training.
7.	No response.
8.	Cheyenne is a long way from a lot of the counties, if any of the trainings are in the winter, weather and road conditions concern me.
9.	I really like the option of sending new employees down for training or refresher training. This is one of the hardest things for a very small Court to be able to do, while staying on top of workload.
10.	I do have concerns about the distance from our area and requiring employees to travel. We have huge winters here etc. Another concern would be transportation. We do have an employee now that does not have a car. I do however think if we have a new employee and they are able to travel the ability to train in a facility outside of the office with the experts is great. So-concerns, but also feel it could be a very good thing.
11.	I think this is a good option for new hires. I look forward to more information regarding it.
12.	No response.
13.	I think this seems like the most time and cost-efficient solution to training everyone. Hopefully this will also mean that the roll-outs will happen much quicker, and there are a lot of benefits to every court being on the same system at the same time.
14.	Group training in an established training facility will be more reliable than "mobile" training where internet connectivity/too many users may be an issue.
15.	A training center sounds fantastic. However, my office is 7-8 hours away and attending training there will always add 2 additional days with staff out of the office and additional hotel and meal expenses. I am hoping that regular webinar-based training is also made available for those of us far away from the training site. I am also hoping that portions of on-site trainings can be recorded to provide additional opportunities for office staff across the state to stay current and keep their skills and knowledge as sharp as we can. My concern is my office will have a significant training disadvantage if training focus (other than go-live) is on-site at the location.
16.	I don't have a problem going to Cheyenne for training as long as it is not in the bad winter months makes since to me.
17.	Being able to be focused in an environment without interruptions is very important. The travel can be inconvenient in small court/short staffed situations but can be better than training in a busy court environment.
18.	The cost to the Counties is going to be huge; travel; hotel and meals;

CLERK RESPONSE – CENTRALIZED TRAINING CENTER

19.	No response.
20.	Time, money and scheduling. The travel time alone takes a person out of my office for two days to travel to and from Cheyenne, plus the mileage, hotel and food costs. Then there is coordinating schedules with what is on our docket for the available dates of training.
21.	No response.
22.	We are concerned about the travel costs and the effect that will have on our budget, as well as how many sessions will be offered to each court. Our office is not able to close for training and must run with enough staff to be able to perform the daily work load as well as cover court hearings for multiple judges.
23.	obviously with the distance, we would be concerned about weather.
24.	I am worried about the travel for the people needing trained, especially considering that our office size if we need a refresher is a group of 16 total. That puts them out of the office traveling on roads maybe in awful conditions that some clerks don't even travel during certain times of the month due to weather. I do like the point about training and would like to see a tutorial that they could do possibly at their desk in the office?
25.	Training is essential to success and I am willing to go wherever we need to go to get the best training possible. I feel that getting out of the office with all the distractions and going to another location is the best way to receive uninterrupted training. The added benefit of the go-live training on site is a crucial piece and with the exposure and training beforehand would be a great direction to take . This is a great idea!!
26.	In addition to training for FCE, I would like to see training for the Microsoft suite of programs (word, excel, Outlook).
27.	No response.
28.	Coverage in my office when half of the employees are training. Also, extra expense to the counties, which is not in my budget to pay for motel rooms for 12 employees.

CLERK RESPONSE – CENTRALIZED TRAINING CENTER

Please provide any additional thoughts or comments:

1.	
2.	I think the training is great! I am not sure how many days an employee would need to be away from a 2-person court. I have always liked when everyone is getting trained at the same time, so you don't come back and say, no I heard it this way.... I am not trying to sound negative. I am excited that you are working on a training model.
3.	Thank you for your time in seeing the need for this type of training environment.
4.	
5.	When would the training occur? Traveling to Cheyenne in the winter can be a problem. Cody to Cheyenne is a six-hour drive. A one-day training in Cheyenne could possibly require the employee to be absent for three days--or more. It may be a great idea for those living in Cheyenne. It may not be so great for us. Now, if you could send the state plane around to pick up the staff. . .
6.	
7.	I know that not only chief clerks, but deputy clerks would appreciate the chance to get out and travel and meet other supreme court staff as well.
8.	
9.	Traveling to Cheyenne could be a problem with the courts that have 1-2 clerks.
10.	
11.	
12.	
13.	
14.	As a new clerk, I'm having a difficult enough time learning WyUser, and am looking forward to a new case management system as well as the new jury system.
15.	Winter travel (786 miles round trip) is a concern. Possible budget issues, however prior knowledge is helpful in requesting additional funds from county commissioners.
16.	Thank you for offering the opportunity for input via this survey.
17.	
18.	Staying out of the harsh winter months is key for me. I am not much of a winter driver.
19.	a) Regional training is a better option for the Counties in a non-work environment. b) I took this to be for the initial training of FCE and therefore all of us are "new clerks" unless you are on the committee and have been exposed to FCE; c) courts can remain open but at a cheaper cost to the counties d) cost savings for the SC but not for the counties e) Great :)
20.	
21.	The cost being put on the counties is unfair.
22.	
23.	
24.	
25.	
26.	I appreciate the benefit of the continuity of the software system state-wide and I appreciate all the effort and expense that has been provided to make this happen for our courts. Thank you for all your hard work and dedication to this project!
27.	
28.	The only concern I have is being able to send my staff.... We have four in our office total. I will try to send two at a time. However, I did not receive as much as I would like in my budget for training. So, it might be difficult this year as we have a ways to travel and will need overnight accommodations. Hopefully, I can make it work. I am just thankful for training opportunities in general as I am a new clerk with very new staff.

2019

E-FILING REPORT

Wyoming Supreme Court

INTRODUCTION

Movement toward a unified electronic filing system continues throughout the state. It is an unfortunate reality that electronic filing is not a stand-alone system. Its functionality is highly dependent on a reliable case management system that provides the foundation for the vast majority of court automation projects. The Supreme Court has made great strides in implementing a robust case management system in the courts to provide the solid foundation as a prerequisite of electronic filing. Those efforts will continue as a progression toward the ultimate goal of a unified electronic filing system statewide.

BACKGROUND

In 2000, the Wyoming Legislature enacted legislation creating the judicial systems automation (JSA) account and imposed a ten-dollar fee on court filings (court automation fee) to be paid into the JSA account. The purpose of the fee was to move the courts toward a more automated and uniform way of doing business throughout the state.

The first phase in court automation, implementation of an electronic case management, efiling, and public access system in the Supreme Court, went smoothly. The contractor selected, LT Court Tech, was a small company and leading vendor in appellate case management systems. The system, C-Track, came online in the Supreme Court and mandatory electronic filing in the Supreme Court began by mid-2008. Although there have been some tweaks to the software since, it functions quite well.

The next major step in court automation, implementation of a uniform case management system in the district courts, commenced in 2009. At that time, the individual clerks of district court utilized four different electronic case management systems, which made centralized data retrieval impossible. The decision was made to adopt C-Track as the starting point for the district court case management system. A dedicated group of clerks met at least four hours each week for months to assist in development of the district court case management system. In the meantime, the small company which had set up the Supreme Court system was sold to Thomson Reuters, a much larger multi-national corporation.

The district court case management system, WyUser, was completed, tested in three pilot courts in 2012, and eventually began to be rolled out in all of the district courts by spring 2014. There were

some immediate positives. All of the district courts were on a single system, which provided a foundation for data retrieval. Additionally, district court judges could now access files from their own districts (including those covering more than one county) electronically, drastically reducing the need to ship paper files around the state or haul them from the clerks' offices to judges' chambers. With full implementation of WyUser, the Supreme Court had hoped to test electronic filing in the district courts by mid-2015, and the legislature was informed accordingly based on the information that was available at the time.

Unfortunately, things did not work out as anticipated. Supreme Court staff spent countless hours attempting to improve the system. However, by the spring of 2016, it became clear WyUser simply would not meet with the needs of the district courts.

Since that time, the Supreme Court has entered into contracts with Justice Systems Inc. (JSI) to implement a new case management system in the district courts. JSI is a tested and proven vendor specializing in the development and implementation of case management systems for trial courts. It has provided the case management system in Wyoming circuit courts since 2003 with great success. In addition, fifteen of the district courts utilized the JSI system prior to migrating to WyUser.

The Court has worked with various committees since January 2017 to tailor this off-the-shelf system for the needs of Wyoming district courts. This is an intensive process requiring countless hours devoted to the task by both Supreme Court staff and district court clerks. Implementation of that system in the district courts is slated to begin in January 2021.[1]

HISTORICAL COSTS

The WyUser case management system cost a total of $7,426,600 to implement. This cost was inclusive of Wyoming-specific development of the system, migration of court data from legacy case management systems to WyUser, training of court staff, on-site go live activities, and licensing for use of the software by district court clerks.

[1] Migration of data will not be a task as onerous as it was before WyUser, because data from only that system, rather than from four systems as was the case earlier, will need to be transferred to FullCourt Enterprise.

The contract amount for the new case management system in the district courts is currently $1,581,402. With additional needed customizations, it is likely that this number will increase slightly before the project is complete.

LESSONS LEARNED

The Supreme Court has learned many lessons over the years related to automation of the courts. The first and most critical is that a reliable case management system is crucial to the success of the vast majority of court automation systems, including electronic filing. The case management system provides the foundation for data and documents flowing through the courts. Without a reliable case management system, an electronic filing system is nearly impossible to implement successfully. The case management system provides the backbone for all other court automation systems, including electronic filing.

The process has also unveiled the need to listen and welcome input from stakeholders who will be utilizing the various court automation systems. To that end, the Court has created a number of committees that are currently entrenched in configuration and rollout of the new case management system. Additional participation from attorneys will ensue as the electronic filing project moves forward. The judicial branch has learned that it cannot simply rely on a contractor to develop software that will adequately serve the branch, as was the case with WyUser.

The ability to pilot court automation systems and ensure their integrity is of utmost importance. The implementation of the chancery court in Wyoming will provide a unique opportunity for the Supreme Court to test the electronic filing system and its integration with the case management system. In addition, the chancery court has the potential to become a laboratory for testing other systems such as remote public access and judges' tools.

A thoughtful, methodical, and flexible rollout plan is paramount to the success of a court automation project. The Supreme Court experienced issues in the rollout of WyUser attributable to imperfect rollout strategies, inconsistent and inadequate training, lack of control over vendors, and an inability or unwillingness to suspend or delay a rollout when issues arose. The current rollout plan associated with the new case management system provides hours of training and contact with the clerks over many months by Supreme Court staff. In addition, the Supreme Court has remained flexible as problems arise, and accommodated issues when needed in the rollout plan.

The implementation of statewide electronic systems is a monumental task that requires vast amounts of human and financial resources. Supreme Court staff time devoted to the rollout of a single circuit court currently amounts to 152 hours, and this process will be or has been utilized for the 26 circuit courts and 23 district courts. This does not account for the time devoted by the clerks in those courts, nor does it account for the years spent configuring the system prior to the rollout.

The lessons learned have informed the Supreme Court's current strategic plan for court automation. While ideally courts throughout the state would be in a position to accept electronic filings through an automated and unified electronic filing system, that is not currently the case. Nevertheless, the Supreme Court continues to forge ahead toward a more fully automated court system with the ability to electronically file.

FUTURE

Currently, the Supreme Court is dedicated to rolling out the new case management system in both the circuit and district courts throughout the state. In addition, the Court has recently requested quotations from vendors in order to select, begin contract negotiations, and ultimately deploy an electronic filing system in the district courts throughout the state as well as the chancery court. Based on the quotations received by various vendors, it is anticipated that the licensing and services related to implementation of the electronic filing system in the district courts will range from $680,000 to $2,690,800.

This price range, however, does not include the cost of maintenance and support of that system over time. The cost of maintenance and support of the case management system and electronic filing system in the Supreme Court currently amounts to $120,884 per year. A similar cost for maintenance and support of the electronic filing system in the district courts is likely.

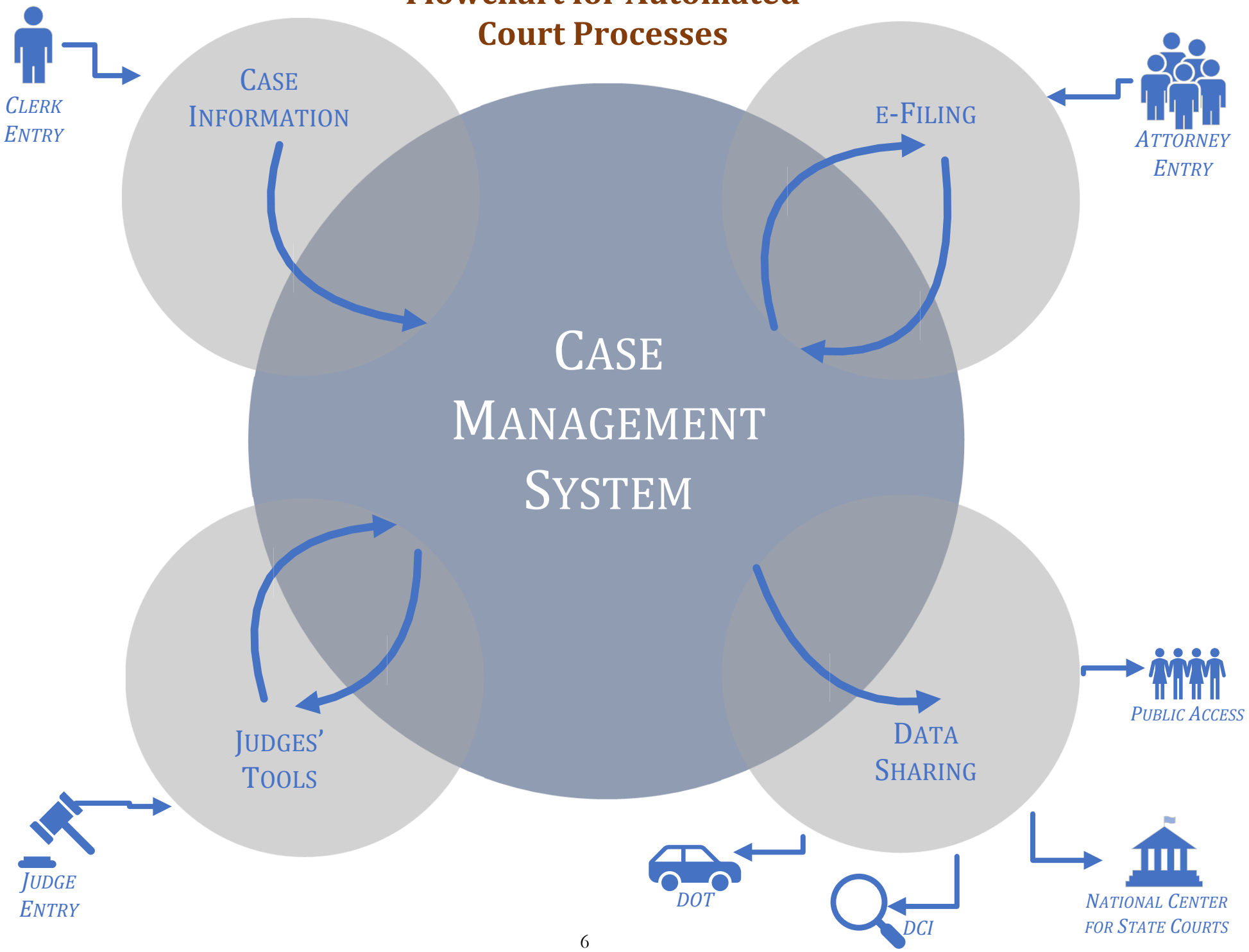
The price range also fails to account for the costs associated with training not only the Wyoming bar, but also clerks of district court who will need the ability to navigate the system as well. There are also likely to be additional customizations of the electronic filing system as committee work progresses which will result in additional costs.

CONCLUSION

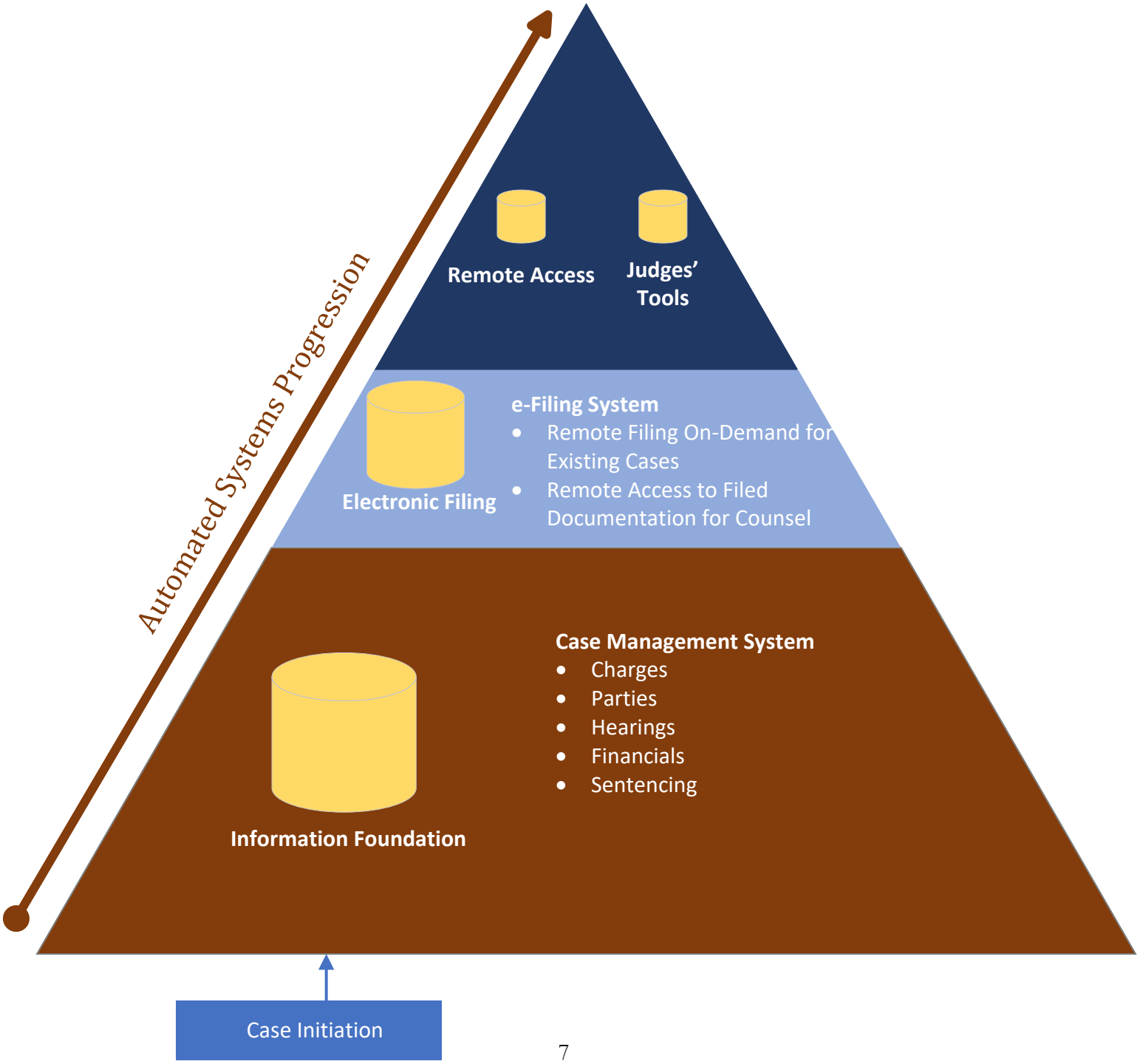
The march toward a unified electronic filing system in Wyoming continues. While the path has not been free of obstacles, the lessons learned have provided invaluable information for moving forward. The most significant knowledge gained is that a robust and reliable case management system is essential for implementation of a successful electronic filing system. Migrating the district courts onto a unified case management system was a significant achievement in Wyoming, allowing the collation of data statewide and providing a method of accessing data electronically for court staff and judges.[2] Unfortunately, the initial case management system suffered from fatal shortcomings and simply could not provide the infrastructure needed for a functional electronic filing system. A new foundational case management system is currently being tailored for use in the district courts. The vendor has been tested and proven, and upon implementation, the new system will provide the necessary foundation that is a prerequisite to electronic filing. There is understandable frustration with the delay in electronic filing in Wyoming among attorneys, legislators, litigants, and the courts. The Court has continuously progressed toward electronic filing since automation of the courts commenced and will continue in its efforts in the hope that those frustrations will be allayed as soon as possible.

[2] This achievement is exemplified by the implementation of a unified case management system in Kansas, which began in 2015 and will be complete in 2021 if no major complications arise. The case management system contract alone cost Kansas $11.5 million, https://www.hayspost.com/2018/01/20/ks-supreme-court-announces-rollout-plan-for-statewide-centralized-case-management-system/ and http://www.kscourts.org/kansas-courts/general-information/2018-News-Releases/011718CCMSStatewideRolloutPlan.pdf.

Flowchart for Automated Court Processes



Court Automation Foundational Structure



Typical Software Project Timeline

Project Start

- Specification Review
- RFQ/RFP
- Contracts

3-9 Months

Configuration Phase

- Gap Analysis
- Enhancement Requests
- Infrastructure & Software Installation

3-6 Months

Pilot Phase

- Data Migration
- Testing
- Data Quality Assurance

For each Pilot:

- Training
- User Acceptance Testing
- Go-Live Activities
- *Extensive Travel for On-Site Training and Go-Live Activities*

6-9 Months

Full Rollout

- Rollout & Configuration (Includes Training, User Acceptance Testing, Go Live Activities for each location)
- *Extensive Travel for On-Site Training and Go-Live Activities*

18-30 Months

Project Completion

- Maintenance & Support Begins

2.5 – 4.5 Years

Regular Committee and Court Staff Meetings

BILL NO. _____

Jury procedure amendments.

Sponsored by: [Sponsorship Clause]

A BILL

for

AN ACT relating to civil procedure; amending provisions related to juror causes for excusal and requirement for exemption affidavit; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 1-11-104 (b)(i) and 1-11-105 are amended to read:

1-11-104. Causes for excusal.

(b) For the purposes of this section:

(i) A person has served on a jury during a jury term when he is summoned to serve and he has ~~complied with the summons~~ been sworn as a juror in accordance with W.S. 1-11-201;

Appendix 8

1-11-105. Exemption affidavit required; failure to file.

If a person exempt from jury duty is summoned as a juror, he may ~~file his affidavit with the clerk of the court for which he is summoned~~ submit a declaration under penalty of perjury stating his ~~office, occupation or employment~~ purported grounds for exemption. If the court determines that the ~~affidavit~~ declaration sufficiently demonstrates that the person is not required to serve as a juror pursuant to W.S. 1-11-103(a), the court shall discharge the person from serving as a trial juror for the jury term in which he was summoned. A person who is discharged under this section is not required to appear in court. Failure of any person who is exempt to ~~file the affidavit~~ submit a declaration under penalty of perjury is a waiver of his exemption, and he is required to appear upon the day for which the jury is summoned and serve as a juror the same as if he were not entitled to exemption unless otherwise excused by the court.

Section 2. This act is effective July 1, 2020.

(END)

DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION

HOUSE BILL NO.

Parent counsel and family preservation.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

AN ACT relating to children and parents; creating the office of parent counsel; providing for staffing, prescribing duties of the office; creating the parent counsel program; requiring rulemaking; providing for agency and county contributions to the program; creating the family preservation advisory board; prescribing duties of the board; authorizing positions; providing an appropriation; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 14-14-101 through 14-14-106 and 14-14-201 are created to read:

Appendix 9

CHAPTER 14

FAMILY PRESERVATION

ARTICLE 1

OFFICE OF PARENT COUNSEL

14-14-101. Office created; definitions.

(a) The office of parent counsel is created as a separate operating agency as provided in W.S. 9-2-1704(d). The office shall provide court-appointed legal representation to a parent in a termination of parental rights action brought by the state as provided by W.S. 14-2-318. The office shall provide court-appointed legal representation to a parent, guardian or custodian in the following cases and actions:

(i) Child protection cases as provided by W.S. 14-3-422;

(ii) Delinquency cases as provided by W.S. 14-6-222;

(iii) Children in need of supervision cases as provided by W.S. 14-6-422.

****
****
STAFF COMMENT

Version 0.3 of subsection (a) read slightly differently in two ways:
(1) 0.3 only provided for the office of parent counsel to provide attorneys to parents. However, under existing law, parents, guardians and custodians are eligible for court-appointed counsel (except in TPR cases). Version 0.4 includes guardians and custodians to reflect the current state of the law.

(2) Version 0.3 cited the whole statutory scheme of the pertinent action. Under this version, the citation is to the specific statutory section that authorizes appointment of counsel for each type of action. Version 0.3 read:

(i) Termination of parental rights actions under W.S. 14-2-308 through 14-2-319;

(ii) Child protection cases under W.S. 14-3-401 through 14-3-441;

(iii) Delinquency cases under W.S. 14-6-201 through 14-6-252;

(iv) Children in need of supervision cases under W.S. 14-6-401 through 14-6-440.

****
****

(b) As used in this act:

(i) "Board" means the family preservation board created by W.S. 14-14-201;

(ii) "Director" means the director of the office of parent counsel;

(iii) "Office" means the office of parent counsel;

(iv) "Parent counsel" means an attorney employed by the office to represent a parent, guardian or custodian under this act, including full-time and part-time employees of the office, independent contractors and volunteer attorneys;

(v) "The Program" means the parent counsel program established under this act;

(vi) "This act" means W.S. 14-14-101 through 14-14-106.

14-14-102. Appointment of director; duties; rulemaking.

(a) The governor, with the advice and consent of the senate, shall appoint a director of the office who shall serve as the administrative head of the office. Unless sooner removed, the director's term of appointment expires at the end of the term of office of the governor during which he was appointed. The director serves at the pleasure of the governor and may be removed as provided by W.S. 9-1-202. The director shall:

(i) Be a member in good standing of the Wyoming state bar;

(ii) Have five (5) years of experience as a licensed attorney prior to appointment;

(iii) Be familiar with the representation of parents in juvenile court or in termination of parental rights cases;

(iv) Be compensated as determined by the Wyoming personnel division;

(v) Devote full time to the performance of his duties;

(vi) Administer the office and program as provided in this act.

(b) The director shall not engage in private practice except to complete business pending at the time of his appointment.

(c) In consultation with the board, the director shall:

(i) Establish a statewide program promoting uniform and quality representation of parents in proceedings effecting child welfare and family preservation;

(ii) Promulgate rules for the operation of the office and establishing the standards for the legal representation by attorneys acting as parent counsel in cases under the program;

(iii) Provide for the training of attorneys acting as parent counsel.

(d) The director shall employ or contract with, supervise and manage attorneys and other staff necessary to perform the duties of the office, subject to legislative appropriation.

14-14-103. Attorneys and staff.

(a) The director shall employ staff necessary to perform the duties of the office, including staff attorneys, contract attorneys, a fiscal manager and an office manager.

(b) Attorneys employed by the office as parent counsel shall:

(i) Serve at the pleasure of the director;

(ii) Be a member in good standing of the Wyoming state bar;

(iii) Be compensated as determined by the Wyoming personnel division or by the director if employed under independent contract.

(c) Attorneys providing parent representation under independent contract are not prohibited from representing other clients or from practicing in other areas of the law.

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STAFF COMMENT
The language from Version 0.3's subsection (c) is assigned to subsection (d). The current subsection (c) is new language to clarify that contract attorneys may continue their law practice without violating this new statutory scheme.
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(d) Non-attorney employees shall serve at the pleasure of the director and be compensated as determined by the Wyoming personnel division or by the director if employed under independent contract.

14-14-104. Agency and county participation; reimbursement.

(a) The office shall enter into agreements with each county participating in the program. Agreements shall require counties to comply with all program rules and policies. The agreement shall establish the compensation rate within the county for parent counsel appointed under W.S. 14-2-318, 14-3-422, 14-6-222 or 14-6-422. A county may agree with a parent counsel providing services under the program to pay a rate in excess of the rate set for payment by the program. If a county agrees to do so, it shall enter into a separate contract with the parent counsel providing services and shall be responsible and obligated to reimburse the program for one hundred percent (100%) of the excess amount. The county shall enter into a separate agreement with the office setting out the agreement, the excess rate and the responsibilities and obligations of all parties.

(b) The office shall pay from the account created by W.S. 14-14-105 one hundred percent (100%) of the fees for the legal representation of parents under the program. Participating counties shall reimburse the program an amount equal to not less than twenty-five percent (25%) of the agreed program fees, not less than twenty-five percent

(25%) of the program's administrative cost prorated by program funds expended in each county and one hundred percent (100%) of excess rate fees. The program shall invoice the county for its proportionate share. In the event a county does not make payments within ninety (90) days, the state treasurer may deduct the amount from sales tax revenues due to the county from the state and shall credit the amount to the program account.

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STAFF COMMENT

Counties currently are responsible for 100% of the legal representation of parents if the court appoints counsel in these cases. The 25% is a place holder chosen because it is the formula in the existing guardian ad litem statute, W.S. 14-12-103. The Committee may wish to consider a different percentage contribution from counties in these cases.

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(c) In consultation with the director, each county in which parent counsel is employed by or under contract with the office shall provide adequate space and utility services, other than telephone service, for the use by parent counsel.

(d) The office shall enter into a memorandum of understanding with the department of family services under

which parent counsel will be provided for cases in which the department is required by law or court order to provide counsel to parents. The department shall reimburse the program an amount equal to not less than seventy-five percent (75%) of parent counsel's fees.

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STAFF COMMENT

The department of family services is currently responsible for 100% of the legal representation of parents if the court appoints counsel in termination cases initiated by the department. The 75% is a place holder. The Committee may wish to consider a different percentage contribution from counties for these cases.

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14-14-105. Account.

There is created an office of parent counsel account. All reimbursements received under the program shall be deposited to the account. Funds within the account are continuously appropriated to the office for expenditure for the sole purpose of the program.

14-14-106. Applicability.

(a) This act does not apply to representation of an individual:

(i) In criminal proceedings;

(ii) In federal court; or

(iii) As a plaintiff in a tort or civil rights action.

(b) Notwithstanding any other provision of law to the contrary, any attorney providing services for the office as parent counsel shall, for matters arising out of such services, be considered a state employee for purposes of coverage and representation under the Wyoming Governmental Claims Act, W.S. 1-39-101 through 1-39-120, and the state self-insurance program, W.S. 1-41-101 through 1-41-111.

ARTICLE 2

FAMILY PRESERVATION BOARD

14-14-201. Board created; members; expenses.

(a) There is created a family preservation advisory board. The board is charged with providing advice and guidance to the the office of parent counsel and guardian ad litem program to ensure that parents and children are provided quality legal representation in juvenile court and termination of parental rights cases.

(b) The board shall consist of five (5) voting members as follows:

(i) Two (2) practicing attorneys;

(ii) Two (2) members of the judiciary;

(iii) One (1) lay person.

(c) The governor shall appoint all voting members of the board.

(d) Voting members of the board shall serve for four (4) years, except that, of the members first appointed, three (3) shall serve for terms of two (2) years. The governor shall fill any vacancies as they occur.

(e) No member of the board shall, while serving on the board, be an employee of or contractor with the office of parent counsel as provided in W.S. 14-14-101 through 14-14-106 or be an employee of or contractor with the guardian ad litem program as provided in W.S. 14-12-101 through 14-12-104.

(f) The board shall adopt rules for its own procedures. The board shall select a chairman and a vice chairman. The board shall meet as often as necessary to carry out its duties, but in no instance shall it meet less than semiannually.

(g) The board shall be voluntary and no state funds shall be expended for salary or expenses, except members whose appointment is by virtue of their state employment.

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STAFF COMMENT

The Committee may wish to consider adding the director of the office of parent counsel and the administrator of the guardian ad litem program as ex-officio members.

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Section 2. W.S. 1-39-103(a)(iv)(F), 1-41-102(a)(v)(D), 9-2-1704(d) by creating a new paragraph (xvii), 14-2-318(b)(ii), 14-3-434(b)(v), 14-6-235(b)(v) and 14-6-434(b)(v) are amended to read:

1-39-103. Definitions.

(a) As used in this act:

(iv) "Public employee":

(F) Includes contract attorneys in the course of providing contract services for:

(I) The state public defenders office as provided in W.S. 7-6-103(k) or 14-12-104; and

(II) The office of parent counsel as provided in W.S. 14-14-101 through 14-14-106;

1-41-102. Definitions.

(a) As used in this act:

(v) "Public employee" means any officer, employee or servant of the state, provided the term:

(D) Includes contract attorneys in the course of providing contract services for:

(I) The state public defenders office as provided in W.S. 7-6-103(k) or 14-12-104; and

(II) The office of parent counsel as provided in W.S. 14-14-101 through 14-14-106;

9-2-1704. Reorganization plan; structure; time frame.

(d) The entities of state government specified in this subsection are designated as separate operating agencies, which are separate and distinct from the departments and offices specified in subsection (a) of this section because of their quasi-judicial responsibility or because of their unique, specialized function which precludes their inclusion in another department. This act

does not otherwise apply to separate operating agencies. Separate operating agencies are as follows:

(xvii) Office of parent counsel.

14-2-318. Costs of proceedings; appointment of counsel.

(b) Where petitioner is an authorized agency as defined by W.S. 14-2-308(a)(ii)(B), it shall pay for the costs of the action. Costs shall include:

(ii) Attorney's fee for an indigent party. If the agency had entered into an agreement with the office of parent counsel pursuant to W.S. 14-14-101 through 14-14-106 and the office was appointed to provide representation, the office of parent counsel shall pay the attorney's fee in accordance with that agreement;

14-3-434. Fees, costs and expenses.

(b) The following costs and expenses, when approved and certified by the court to the county treasurer, shall

be a charge upon the funds of the county where the proceedings are held and shall be paid by the board of county commissioners of that county:

(v) Reasonable compensation for services and costs of counsel appointed by the court. If the county had entered into an agreement with the office of parent counsel pursuant to W.S. 14-14-101 through 14-14-106 and the office was appointed to provide representation, the office of parent counsel shall pay the attorney's fee in accordance with that agreement;

14-6-235. Fees, costs and expenses.

(b) The following costs and expenses, when approved and certified by the court to the county treasurer, shall be a charge upon the funds of the county where the proceedings are held and shall be paid by the board of county commissioners of that county:

(v) Reasonable compensation for services and costs of counsel appointed by the court. If the county had entered into an agreement with the office of parent counsel

pursuant to W.S. 14-14-101 through 14-14-106 and the office was appointed to provide representation, the office of parent counsel shall pay the attorney's fee in accordance with that agreement;

14-6-434. Fees, costs and expenses.

(b) The following costs and expenses, when approved and certified by the court to the county treasurer, shall be a charge upon the funds of the county where the proceedings are held and shall be paid by the board of county commissioners of that county:

(v) Reasonable compensation for services and costs of counsel appointed by the court. If the county had entered into an agreement with the office of parent counsel pursuant to W.S. 14-14-101 through 14-14-106 and the office was appointed to provide representation, the office of parent counsel shall pay the attorney's fee in accordance with that agreement;

Section 3.

(a) There is appropriated five million four hundred thousand dollars ($5,400,000.00) from the general fund to the office of parent counsel created by section 1 of this act. This appropriation shall be for the period beginning with the effective date of this act and ending June 30, 2022. Notwithstanding any other provision of law, this appropriation shall not be transferred or expended for any other purpose. This appropriation shall only be expended for the purpose of providing authorized full-time positions, contract attorneys, office space, furniture and supplies for the office of parent counsel as provided by this act. Any unexpended, unobligated funds remaining from this appropriation shall revert as provided by law on June 30, 2022.

(b) There are authorized six (6) full-time attorney positions, such contract attorney positions as necessary, one (1) full-time office manager position and one (1) full-time fiscal manager position to the office of parent counsel to implement this act. These positions and funding provided in this section shall be included in the office of parent counsel's standard 2023-2024 biennial budget. The office of parent counsel may include in an exception budget

request for the 2023-2024 biennium such funds and positions as it determines necessary to support the office of parent counsel as created by this act.

Section 4. This act is effective July 1, 2020.

(END)

Rule 1. Scope and Purpose

These rules govern the procedure in all civil actions and proceedings in the State of Wyoming chancery courts, except as stated in Rule 81. They should be construed, administered, and employed by the court and the parties to secure the just, effective, and expeditious resolution ~~speedy, and inexpensive determination~~ of every action and proceeding. In order to effectuate the expeditious resolution of disputes, it is a goal of the chancery court to resolve a majority of the actions filed in its court within one hundred fifty (150) days of the filing of the action. Accordingly, the chancery court staff shall be active in the management of the docketed cases.

Rule 2. Jurisdiction, Eligible Actions, Excluded Action~~One Form of Action~~

~~There is one form of action--the civil action.~~

[W.S. 5-13-115] **(a) Limited Jurisdiction.** The chancery court shall be a court of limited jurisdiction for the expeditious resolution of disputes involving commercial, business, trust and similar issues.

(b) Eligible Actions. The chancery court shall have jurisdiction to hear and decide actions for equitable or declaratory relief and for actions where the prayer for money recovery is an amount exceeding fifty thousand dollars ($50,000.00), exclusive of claims for punitive or exemplary damages, prejudgment or post judgment interest, costs and attorney fees provided the cause of action arises from at least one (1) of the following:

(1) Breach of contract;

(2) Breach of fiduciary duty;

(3) Fraud;

(4) Misrepresentation;

(5) A statutory or common law violation involving:

(A) The sale of assets or securities;

(B) A corporate restructuring;

(C) A partnership, shareholder, joint venture or other business agreement;

(D) Trade secrets; or

(E) Employment agreements not including claims that principally involve alleged discriminatory practices.

(6) Transactions governed by the Uniform Commercial Code;

(7) Shareholder derivative actions. The monetary threshold in subsection (b) of this section shall not apply to action brought under this paragraph;

(8) Commercial class actions;

(9) Business transactions involving or arising out of dealings with commercial banks and other financial institutions;

(10) A dispute concerning the internal affairs of business organizations;

(11) A dispute concerning environmental insurance coverage;

(12) A dispute concerning commercial insurance coverage;

(13) Dissolution of corporations, partnerships, limited liability companies, limited liability partnerships, joint ventures, banks and trust companies. The monetary threshold of subsection (b) of this section shall not apply to action brought under this paragraph;

(14) Transactions governed by the Wyoming Uniform Trust Code; or

(15) Applications to stay or compel arbitration and affirm or disaffirm arbitration awards and related injunctive relief or appeals pursuant to W.S. 1-21-801 through 1-21-804 or 1-36-101 through 1-36-119, involving any of the foregoing enumerated issues. Where any applicable arbitration agreement provides for an arbitration to be heard outside the United States, the monetary threshold set forth in this subsection shall not apply.

(c) Ancillary Jurisdiction. The chancery court shall have supplemental ancillary jurisdiction over any cause of action not listed in subsection (b) of this section.

(d) Concurrent Jurisdiction. All chancery court judges throughout the state shall have concurrent jurisdiction with all district court judges throughout the state only as to the causes of action enumerated in subsection (b) of this section.

(e) Excluded Actions. Except as otherwise provided in this rule or otherwise provided by statute, the following includes, but is not limited to, the actions that are not within the jurisdiction of the chancery court:

(1) Personal injury or wrongful death;

(2) Professional malpractice claims;

(3) Consumer claims against business entities or insurers of business entities, including breach of warranty, product liability, and personal injury cases and cases arising under consumer protection laws;

(4) Matters involving only wages or hours, occupational health or safety, workers' compensation, or unemployment compensation;

(5) Environmental claims, except those described in subsection (b)(xi) above;

(6) Actions in the nature of a change of name of an individual, mental health act, guardianship, conservatorship, or government election matters;

(7) Individual residential real estate disputes, including foreclosure actions, or non-commercial landlord-tenant disputes;

(8) Any criminal matter, other than criminal contempt in connection with a matter pending before the chancery court;

(9) Consumer debts, such as debts or accounts incurred by an individual primarily for a personal, family, or household purpose; credit card debts incurred by individuals; medical services debts incurred by individuals; student loans; tax debts of individuals; personal auto mobile loans; and other similar types of consumer debts; or

(10) Summary or formal probate matters (domiciliary or ancillary).

Rule 3. Commencement of Action, Removal to Chancery Court, and Remand to District Court

(a) Original Filing in Chancery Court. A civil action is commenced in the chancery court when service is completed upon all defendants, pursuant to Rule 4. A civil action is "brought" for statute of limitations purposes

upon filing the initial pleading in chancery court.

(b) Removal to Chancery Court. An action may be removed to chancery court when:

(1) [Del. Ch. Ct. R. 92] *Consent by the Parties*. Provided that the parties and the amount in controversy meet the eligibility requirements in W.S. § 5-13-115 and Rule 2, a written agreement to engage in litigation in the chancery court is acceptable if it contains the following language: "The parties agree that any dispute arising under the docketed case shall be litigated in the Court of Chancery of the State of Wyoming. The parties agree to submit to the jurisdiction of the Court of Chancery of the State of Wyoming and waive trial by jury."

(A) [28 U.S. Code § 1446(a)-(b)(2)] *Notice of Removal*. A defendant or defendants desiring to remove any civil action from district court shall file in the chancery court a notice of removal signed pursuant to Rule 11 and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action**.**

(i) The notice of removal of a civil action or proceeding shall be filed within thirty (30) days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based.

(ii) Each defendant shall have thirty (30) days after receipt by or service on that defendant of the initial pleading or summons described in paragraph (2) to file the notice of removal.

(iii) If defendants are served at different times, and a later-served defendant files a notice of removal, any earlier-served defendant may consent to the removal even though that earlier-served defendant did not previously initiate or consent to removal.

(iv) All defendants must consent to the removal to chancery court.

(B) [28 U.S. Code § 1446(b)(3)] *Removal after Amended Pleading*. If the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.

(C) [28 U.S. Code § 1446(d)] *Written Notice to the District Court*. Promptly after the filing of such notice of removal of a civil action the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the notice with the clerk of such district court, which shall effect the removal and the district court shall proceed no further unless and until the case is remanded.

(D) [WY R USDCT Civ. Rule 81.1] *Order of Removal*. The case shall be deemed removed from district court to chancery court upon entry of an Order of Removal by the chancery court, which shall be issued within three (3) days following the filing of the notice of removal. The Order shall state that the chancery court obtained jurisdiction over both the parties and the subject matter of the district court action and that the district court should proceed no further, unless the case is later remanded. In the event a hearing is pending when the notice of removal is filed with the clerk of the district court, the Order on Removal shall require the removing party to notify the district court clerk of the removal of the action.

(E) [WY R USDCT Civ. Rule 81.1] *Court Record*. Within fourteen (14) days of entry of the Order on Removal, the removing party shall file with the clerk of chancery court a copy of the entire district court record and proceedings, including the docket sheet. In any case removed from district court, the chancery court may issue all necessary orders and process to bring before it all proper parties whether served by process issued by the district court or otherwise.

(c) [28 U.S. Code § 1447(a)] Procedure after Removal Generally. In any case removed from district court, the

chancery court may issue all necessary orders and process to bring before it all proper parties whether served by process issued by the district court or otherwise.

(d) [28 U.S. Code § 1448] Process after Removal. In all cases removed from any district court to chancery court in which any one or more of the defendants has not been served with process or in which the service has not been perfected prior to removal, or in which process served proves to be defective, such process or service may be completed or new process issued in the same manner as in cases originally filed in such chancery court. This section shall not deprive any defendant upon whom process is served after removal of his right to move to remand the case.

(e) Objection to Case in Chancery Court. Any objection to a case being brought before the chancery court shall be filed on or before the party's responsive pleading is due pursuant to Rule 6, or within 20 days after service of the Order of Acceptance, whichever is earlier. The chancery court judge shall determine whether the case should be dismissed from chancery court, either because the case does not meet the jurisdictional requirements of W.S. 5-13-101 through 5-13-116; or for other good cause determined by the chancery court judge in his discretion. A dismissal or remand of a case in chancery court is subject to W.S. § 1-3-118.

Rule 3.1. Civil Cover Sheet

(a) Civil Cover Sheet Required. Every complaint or other document initiating a civil action shall be accompanied by a completed civil cover sheet form available on the Wyoming Judicial Branch website or from the Clerk of Chancery Court.

(b) No Legal Effect. This requirement is solely for administrative purposes and has no legal effect in the action.

(c) Absence of Cover Sheet. If the complaint or other document is filed without a completed civil cover sheet, the Clerk of Chancery Court or the court shall at the time of filing give notice of the omission to the party filing the document. If, after notice of the omission the coversheet is not filed within 14 calendar days, the chancery court may impose an appropriate sanction upon the attorney or party filing the complaint or other document.

Rule 4. Summons

(a) Contents. A summons must:

(1) name the chancery court and the parties;

(2) be directed to the defendant;

(3) state the name and address of the plaintiff's attorney or--if unrepresented--of the plaintiff;

(4) state the time within which the defendant must appear and defend;

(5) notify the defendant that a failure to appear and defend may result in a default judgment against the defendant for the relief demanded in the complaint;

(6) attach a copy or include the langue of Rule 5(d)(2);

(~~6~~7) be signed by the clerk; and

(~~7~~8) bear the chancery court's seal.

(b) Issuance. On or after filing the ~~complaint~~initial pleading, the plaintiff may present a summons to the clerk for signature and seal. If the summons is properly completed, the clerk must sign, seal, and issue it to the plaintiff for service on the defendant. A summons--or a copy of a summons that is addressed to multiple defendants--must be

issued for each defendant to be served.

(c) By Whom Served. Except as otherwise ordered by the chancery court, process may be served:

(1) By any person who is at least 18 years old and not a party to the action;

(2) At the request of the party causing it to be issued, by the sheriff of the county where the service is made or sheriff's designee, or by a United States marshal or marshal's designee;

(3) In the event service is made by a person other than a sheriff or U.S. marshal, the amount of costs assessed therefor, if any, against any adverse party shall be within the discretion of the chancery court.

(d) Personal Service. The summons and ~~complaint~~ initial pleading shall be served together. The plaintiff shall furnish the person making service with such copies as are necessary.

(e) Serving an Individual Within the United States. An individual other than a person under 14 years of age or an incompetent person may be served within the United States:

(1) by delivering a copy of the summons and of the initial pleading ~~complaint~~ to the individual personally,

(2) by leaving copies thereof at the individual's dwelling house or usual place of abode with some person over the age of 14 years then residing therein,

(3) at the defendant's usual place of business with an employee of the defendant then in charge of such place of business, or

(4) by delivering a copy of the summons and of the initial pleading ~~complaint~~ to an agent authorized by appointment or by law to receive service of process.

(f) Serving an Individual in a Foreign Country. An individual--other than a person under 14 years of age or an incompetent person--may be served at a place not within the United States:

(1) by any internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents;

(2) if there is no internationally agreed means, or if an international agreement allows but does not specify other means, by a method that is reasonably calculated to give notice:

(A) as prescribed by the foreign country's law for service in that country in an action in its courts of general jurisdiction;

(B) as the foreign authority directs in response to a letter rogatory or letter of request; or

(C) unless prohibited by the foreign country's law, by:

(i) delivering a copy of the summons and of the initial pleading~~complaint~~ to the individual personally; or

(ii) using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt; or

(3) by other means not prohibited by international agreement, as the court orders.

(g) Serving a Person Under 14 years of Age or an Incompetent Person. An individual under 14 years of age or an incompetent person may be served within the United States by serving a copy of the summons and of the complaint upon the guardian or, if no guardian has been appointed in this state, then upon the person having legal

custody and control or upon a guardian ad litem. An individual under 14 years of age or an incompetent person who is not within the United States must be served in the manner prescribed by Rule 4(f)(2)(A), (f)(2)(B), or (f)(3).

(h) Serving a Corporation, Partnership, or Association.

(1) Service upon a partnership, or other unincorporated association, within the United States shall be made:

(A) by delivery of copies to one or more of the partners or associates, or a managing or general agent thereof, or agent for process, or

(B) by leaving same at the usual place of business of such defendant with any employee then in charge thereof.

(2) Service upon a corporation within the United States shall be made:

(A) by delivery of copies to any officer, manager, general agent, or agent for process, or

(B) If no such officer, manager or agent can be found in the county in which the action is brought such copies may be delivered to any agent or employee found in such county.

(C) If such delivery be to a person other than an officer, manager, general agent or agent for process, the clerk, at least 20 days before default is entered, shall mail copies to the corporation by registered or certified mail and marked "restricted delivery" with return receipt requested, at its last known address.

(3) Service upon a partnership, other unincorporated association, or corporation not within the United States shall be made in any manner prescribed by Rule 4(f) for serving an individual, except personal delivery under (f)(2)(C)(i).

(i) Serving a Department or Agency of the State, or a Municipal or Other Public Corporation. Service upon a department or agency of the state, a municipal or other public corporation shall be made by delivering a copy of the summons and of the initial pleading~~complaint~~ to the chief executive officer thereof, or to its secretary, clerk, person in charge of its principal office or place of business, or any member of its governing body, or as otherwise provided by statute.

(j) Serving the Secretary of State. Service upon the secretary of state, as agent for a party shall be made when and in the manner authorized by statute.

(k) Service by Publication. Service by publication may be had where specifically provided for by statute, and in the following cases:

(1) When the defendant resides out of the state, or the defendant's residence cannot be ascertained, and the action is:

(A) For the recovery of real property or of an estate or interest therein;

(B) For the partition of real property;

(C) For the sale of real property under a mortgage, lien or other encumbrance or charge;

(D) To compel specific performance of a contract of sale of real estate;

(2) Not applicable.

(3) In actions in which it is sought by a provisional remedy to take, or appropriate in any way, the property of the defendant, when:

(A) the defendant is a foreign corporation, or

(B) a nonresident of this state, or

(C) the defendant's place of residence cannot be ascertained,

(D) and in actions against a corporation incorporated under the laws of this state, which has failed to elect officers, or to appoint an agent, upon whom service of summons can be made as provided by these rules and which has no place of doing business in this state;

(4) In actions which relate to, or the subject of which is real or personal property in this state, when

(A) a defendant has or claims a lien thereon, or an actual or contingent interest therein or the relief demanded consists wholly or partly in excluding the defendant from any interest therein, and

(B) the defendant is a nonresident of the state, or a dissolved domestic corporation which has no trustee for creditors and stockholders, who resides at a known address in Wyoming, or

(C) the defendant is a domestic corporation which has failed to elect officers or appoint other representatives upon whom service of summons can be made as provided by these rules, or to appoint an agent as provided by statute, and which has no place of doing business in this state, or

(D) the defendant is a domestic corporation, the certificate of incorporation of which has been forfeited pursuant to law and which has no trustee for creditors and stockholders who resides at a known address in Wyoming, or

(E) the defendant is a foreign corporation, or

(F) the defendant's place of residence cannot be ascertained;

(5) In actions against trustees, personal representatives, conservators, or guardians, when the defendant has given bond as such in this state, but at the time of the commencement of the action is a nonresident of the state, or the defendant's place of residence cannot be ascertained;

(6) In actions where the defendant is a resident of this state, but has departed from the county of residence with the intent to delay or defraud the defendant's creditors, or to avoid the service of process, or keeps concealed with like intent;

(7) Not Applicable.

(8) In an action or proceeding under Rule 60, to modify or vacate a judgment after term of court, or to impeach a judgment or order for fraud, or to obtain an order of satisfaction thereof, when a defendant is a nonresident of the state or the defendant's residence cannot be ascertained;

(9) Not Applicable.

(10) Not Applicable.

(11) In all actions or proceedings which involve or relate to the waters, or right to appropriate the waters of the natural streams, springs, lakes, or other collections of still water within the boundaries of the state, or which involve or relate to the priority of appropriations of such waters ~~including appeals from the determination of the state board of control~~, and in all actions or proceedings which involve or relate to the ownership of means of conveying or transporting water situated wholly or partly within this state, when the defendant or any of the defendants are nonresidents of the state or the defendant's residence or their residence cannot be ascertained.

(l) Requirements for Service by Publication.

(1) *Affidavit Required.* Before service by publication can be made, an affidavit of the party, or the party's agent or attorney, must be filed stating:

(A) that service of a summons cannot be made within this state, on the defendant to be served by publication, and

(B) stating the defendant's address, if known, or that the defendant's address is unknown and cannot with reasonable diligence be ascertained, and

(C) detailing the efforts made to obtain an address, and

(D) that the case is one of those mentioned in subdivision (k), and

(E) when such affidavit is filed, the party may proceed to make service by publication.

(2) *Publication and Notice to Clerk.*

(A) Address in publication. In any case in which service by publication is made when the address of a defendant is known, it must be stated in the publication.

(B) Notice to and from clerk. Immediately after the first publication the party making the service shall deliver to the chancery court clerk copies of the publication, and the chancery court clerk shall mail a copy to each defendant whose name and address is known by registered or certified mail and marked "Restricted Delivery" with return receipt requested, directed to the defendant's address named therein, and make an entry thereof on the appearance docket.

(C) Affidavit at time of hearing. In all cases in which a defendant is served by publication of notice and there has been no delivery of the notice mailed to the defendant by the chancery court clerk, the party who makes the service, or the party's agent or attorney, at the time of the hearing and prior to entry of judgment, shall make and file an affidavit stating

(i) the address of such defendant as then known to the affiant, or if unknown,

(ii) that the affiant has been unable to ascertain the same with the exercise of reasonable diligence, and

(iii) detailing the efforts made to obtain an address.

Such additional notice, if any, shall then be given as may be directed by the chancery court.

(m) Publication of Notice. The publication must be made by the chancery court clerk for four consecutive weeks in a newspaper published:

(1) in the county where the initial pleading~~complaint~~ is filed; or

(2) if there is no newspaper published in the county, then in a newspaper published in this state, and of general circulation in such county; and

(3) if publication is made in a daily newspaper, one insertion a week shall be sufficient; and

(4) publication must contain

(A) a summary statement of the object and prayer of the initial pleading~~complaint~~,

(B) mention the chancery court wherein it is filed,

(C) notify the person or persons to be served when they are required to answer, and

(D) notify the person or persons to be served that judgment by default may be rendered against them if they fail to appear.

(n) When Service by Publication is Complete; Proof.

(1) *Completion.* Service by publication shall be deemed complete at the date of the last publication, when made in the manner and for the time prescribed in the preceding sections; and

(2) *Proof.* Service by publication shall be proved by affidavit.

(3) For purposes of Rule 4(u), when service is made by publication, a defendant shall be deemed served on the date of the first publication.

(o) Service by Publication upon Unknown Persons. When an heir, devisee, or legatee of a deceased person, or a bondholder, lienholder or other person claiming an interest in the subject matter of the action is a necessary party, and it appears by affidavit that the person's name and address are unknown to the party making service, proceedings against the person may be had by designating the person as an unknown heir, devisee or legatee of a named decedent or defendant, or in other cases as an unknown claimant, and service by publication may be had as provided in these rules for cases in which the names of the defendants are known.

(p) Publication in Another County. When it is provided by rule or statute that a notice shall be published in a newspaper, and no such paper is published in the county, or if such paper is published there and the publisher refuses, on tender of the publisher's usual charge for a similar notice, to insert the same in the publisher's newspaper, then a publication in a newspaper of general circulation in the county shall be sufficient.

(q) Costs of Publication. The lawful rates for any legal notice published in any qualified newspaper in this state in connection with or incidental to any cause or proceeding in any court of record in this state shall become a part of the chancery court costs in such action or proceeding, which shall be paid to the clerk of the chancery court in which such action or proceeding is pending by the party causing such notice to be published and finally assessed as the chancery court may direct.

(r) Personal Service Outside the State; Service by Registered or Certified Mail. In all cases where service by publication can be made under these rules, or where a Wyoming statute permits service outside the state, the plaintiff may obtain service without publication by:

(1) *Personal Service Outside the State.* By delivery to the defendant within the United States of copies of the summons and initial pleading~~complaint~~.

(2) *Service by Registered or Certified Mail.* The chancery court clerk shall send by registered or certified mail:

(A) Upon the request of any party

(B) a copy of the initial pleading~~complaint~~ and summons

(C) addressed to the party to be served at the address within the United States given in the affidavit required under subdivision (l) of this rule.

(D) The mail shall be sent marked "Restricted Delivery," requesting a return receipt signed by the addressee or the addressee's agent who has been specifically authorized in writing by a form acceptable to, and deposited with, the postal authorities.

(E) When such return receipt is received signed by the addressee or the addressee's agent the chancery court clerk shall file the same and enter a certificate in the cause showing the making of such service.

(s) Proof of Service.

(1) *In General.* The person serving the process shall make proof of service thereof to the chancery court promptly and within the time during which the person served must respond to the process.

(2) *Proof of Service Within the United States.* Proof of service of process within the United States shall be made as follows:

(A) If served by a Wyoming sheriff, undersheriff or deputy, by a certificate with a statement as to date, place and manner of service, except that a special deputy appointed for the sole purpose of making service shall make proof by the special deputy's affidavit containing such statement;

(B) If by any other person, by the person's affidavit of proof of service with a statement as to date, place and manner of service;

(C) If by registered or certified mail, by the certificate of the chancery court clerk showing the date of the mailing and the date the clerk received the return receipt;

(D) If by publication, by the affidavit of publication together with the certificate of the chancery court clerk as to the mailing of copies where required;

(E) By the written admission~~,~~ or acceptance ~~or waiver~~ of service by the person to be served, duly acknowledged.

(3) *Proof of Service Outside the United States.* Proof of service of process outside the United States shall be made as follows:

(A) if made under Rule 4(f)(1), as provided in the applicable treaty or convention; or

(B) if made under Rule 4(f)(2) or (f)(3), by a receipt signed by the addressee, or by other evidence satisfying the chancery court that the summons and initial pleading ~~complaint~~ were delivered to the addressee.

(4) *Failure to Prove Service.* Failure to make proof of service does not affect the validity of the service.

(t) Amendment. At any time in its discretion and upon such terms as it deems just, the chancery court may permit a summons or proof of service to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

(u) ~~Waiving Service.~~ Not Applicable.

(v) Acceptance of Service.

[From Rule 4(u)(1) - Waiver] (1) *Requesting Acceptance.* An individual, corporation, partnership or other unincorporated association that is subject to service under subdivision 4(e), (f), or (h) has a duty to avoid unnecessary costs of serving the summons. To avoid costs, the plaintiff may notify such a defendant of the commencement of the action and request that the defendant accept service of a summons. The notice and request must:

(A) be in writing and shall be addressed directly to the defendant, if an individual, or else to an officer, manager, general agent, or agent for process, if a corporation, or else to one or more of the partners or associates, or a managing or general agent, or agent for process, if a partnership or other unincorporated association;

(B) be sent through first-class mail or other reliable means;

(C) be accompanied by a copy of the initial pleading and shall identify the chancery court in which it has been filed;

(D) inform the defendant of the consequences of compliance and of a failure to comply with the request;

(E) set forth the date on which the request is sent;

(F) allow the defendant a reasonable time to return the acceptance, which shall be at least 14 days from the date on which the request is sent, or 21 days from that date if the defendant is addressed outside the United States; and

(G) provide the defendant with an extra copy of the notice and request, as well as a prepaid means of compliance in writing.

[From Rule 4(u)(2) - Waiver] (2) *Failure to Accept Service.* If a defendant located within the United States fails to comply with a request for acceptance of service made by a plaintiff located within the United States, the chancery court shall impose the costs subsequently incurred in effecting service on the defendant unless good cause for the failure is shown.

(~~2~~3) The acceptance of service shall:

(A) Be in writing;

(B) Be notarized and executed directly by the defendant or defendant's counsel;

(C) Inform the defendant of the duty to file with the chancery court clerk and serve upon the plaintiff's attorney an answer to the initial pleading~~complaint~~, or a motion under Rule 12, within 20 days after the time of signing the acceptance; and

(D) Be filed by the party requesting the acceptance of service.

(~~3~~4) When an acceptance of service is filed with the chancery court, the action shall proceed as if a summons and initial pleading~~complaint~~ had been served at the time of signing the acceptance, and no proof of service shall be required.

(~~1~~5) *Jurisdiction and Venue Not Waived.* A defendant who accepts service of a summons does not thereby waive any objection to the venue or to the jurisdiction of the chancery court over the person of the defendant.

[From Rule 4(u)(6) - Waiver] (6) *Costs.* The costs to be imposed on a defendant under paragraph (2) for failure to comply with a request to waive service of a summons shall include the costs subsequently incurred in effecting service, together with the costs, including a reasonable attorney's fee, of any motion required to collect the costs of service.

~~(4) Nothing in this Rule 4(v) shall compel any defendant to accept service of a summons under this Rule 4(v).~~

(w) Time Limit for Service. If a defendant is not served within 90 days after the initial pleading~~complaint~~ is filed, the chancery court--on motion or on its own after notice to the plaintiff--must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the chancery court must extend the time for service for an appropriate period. This subdivision (w) does not apply to service in a foreign country under Rule 4(f).

(x) Costs. Any cost of publication or mailing under this rule shall be borne by the party seeking it.

Rule 5. Serving and Filing Pleadings and Other Papers

(a) Service: When required.

(1) *In General.* Unless these rules provide otherwise, each of the following papers must be served on every party:

(A) an order stating that service is required;

(B) a pleading filed after the initial pleading~~original complaint~~, unless the chancery court orders otherwise under Rule 5(c) because there are numerous defendants;

(C) a discovery paper required to be served on a party, unless the chancery court orders otherwise;

(D) a written motion, except one that may be heard ex parte; and

(E) a written notice, appearance, demand, or offer of judgment, or any similar paper.

(2) *If a Party Fails to Appear.* No service is required on a party who is in default for failing to appear. But a pleading that asserts a new claim for relief against such a party must be served on that party under Rule 4.

(3) *Seizing Property.* If an action is begun by seizing property and no person is or need be named as a defendant, any service required before the filing of an appearance, answer, or claim must be made on the person who had custody or possession of the property when it was seized.

(b) Service: How made.

(1) *Serving an Attorney.* If a party is represented by an attorney, service under this rule must be made on the attorney unless the chancery court orders service on the party.

[Wyo. R. App. P. 14.01(c)] (2) *Service in General.* Unless otherwise ordered by the chancery court, which will specify the method of service, ~~A paper is served under this rule by:~~ the notice of electronic filing that is automatically generated constitutes service of the document on ___*Full Court Enterprise*___ users and the additional service of a hardcopy is unnecessary. Each registered user of the ___*Full Court Enterprise*___ system is responsible for assuring that their email account is current, is monitored regularly, and that email notices are opened in a timely manner. The notice of electronic filing generated by ___*Full Court Enterprise*___ does not replace the certificate of service on the document being filed.

[Wyo. R. App. P. 14.01(d)] (3) The registered user's name and password required to submit documents to the ___*Full Court Enterprise*___ serve as the user's signature on all electronic documents filed with the chancery court. An electronically filed document shall contain a signature line in the following manner: s/ Attorney's Name.

(c) Serving numerous defendants.

(1) *In General.* If an action involves an unusually large number of defendants, the chancery court may, on motion or on its own, order that:

(A) defendants' pleadings and replies to them need not be served on other defendants;

(B) any crossclaim, counterclaim, avoidance, or affirmative defense in those pleadings and replies to them will be treated as denied or avoided by all other parties; and

(C) filing any such pleading and serving it on the plaintiff constitutes notice of the pleading to all parties.

(2) *Notifying Parties.* A copy of every such order must be served on the parties as the chancery court directs.

(d) Filing.

(1) *Required Filings; Certificate of Service.* Any ~~paper~~ document after the ~~complaint~~ initial pleading that is required to be served--together with a certificate of service--must be filed within a reasonable time after service. But disclosures under Rule 26(a)(1) or (2) and the following discovery requests and responses must not be filed until they are used in the proceeding or the chancery court orders filing: depositions, interrogatories, requests for documents or tangible things or to permit entry onto land, and requests for admission. A notice of discovery proceedings may be filed concurrently with service of discovery papers to demonstrate substantial and bona fide action of record to avoid dismissal for lack of prosecution.

(2) *How Filing Is Made--In General.* A ~~paper~~ document is filed by ~~delivering it~~:

[Wyo. R. App. P. 1.01(a)] (A) Electronically submitting it to the chancery court using ___*Full Court Enterprise*___, and the electronic version shall be the officially filed document in the case. The current version of the chancery court e-filing training, policies and log-in can be found at www.courts.state.wy.us/Documents/EFiling/_____.pdf.

(i) Electronic filing must be completed within the time set forth in the Wyoming State Court of Chancery, Electronic Filing Administrative Policies and Procedures Manual, www.courts.state.wy.us/Documents/EFiling/_____.pdf, to be considered timely filed on the date it is due. Electronic filing, together with the Notice of Electronic Filing that is automatically generated by ___*Full Court Enterprise*___, constitutes filing of a document.

(ii) When documents filed do not comply with the rules (such as the Rules Governing Redaction from Chancery Court Records), the document may be removed from the public docket and counsel will immediately be notified by email and instructed to re-file the pleading within a specified amount of time. If the pleading is not correctly re-filed within the required time, it shall not be considered timely filed.

(iii) Documents filed by pro se non-attorney parties shall not be electronically filed unless ordered by the chancery court. Attorneys acting in a pro se capacity shall comply with the electronic filing requirements.

[Wyo. R. App. P. 1.01(b)(1)] (B) Attachments to electronically filed documents may be scanned, however the document to which they are attached shall be uploaded directly from the filer's computer using ___*Full Court Enterprise*___.

[Wyo. R. App. P. 1.01(d)] (C) All pleadings shall be 8 ½ ″ x 11″. Any attachments or appendices, which in their original form are larger or smaller, should be reduced or enlarged to 8 ½ ″ x 11″.

(3) *Acceptance by the Clerk.* The chancery court clerk must not refuse to file a ~~paper~~ document solely because it is not in the form prescribed by these rules or by a local practice. However, in order to effectuate the expeditious resolution of a majority of the actions filed in chancery court within one hundred fifty (150) days of the filing of the action, the chancery court clerk shall be active in the management of the docketed cases.

(e) Filing with the court defined. Not Applicable.

Rule 5.1. Constitutional Challenge to a Statute

When the constitutionality of a Wyoming statute is drawn in question in any action to which the state or an officer, agency, or employee thereof is not a party, the party raising the constitutional issue shall serve the attorney general

with a copy of the pleading or motion raising the issue.

Rule 5.2. Privacy Protection for Filings Made with the Chancery Court

Unless otherwise ordered by the chancery court, all documents filed with the chancery court shall comply with the Rules Governing Redactions from Court Records and Rules Governing Access to Court Records.

Rule 6. Time

All timelines are subject to adjustment and reduction by the chancery court judge.

(a) Computation. In computing any period of time prescribed or allowed by these rules, by order of the chancery court, or by any applicable statutes, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper, a day on which weather or other conditions have made the office of the clerk of the court inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days. As used in this rule, "legal holiday" includes any day officially recognized as a legal holiday in this state by designation of the legislature, appointment as a holiday by the governor or the chief justice of the Wyoming Supreme Court, or any day designated as such by local officials.

(b) Extending Time.

(1) *In General.* When by these rules or by a notice given thereunder or by order of chancery court an act is required or allowed to be done at or within a specified time, the chancery court, or a commissioner thereof, may for good cause and in its discretion:

(A) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order; or

(B) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect;

(2) *Exceptions.* ~~A~~ The chancery court may not extend the time for taking any action under Rules 50(b) and (c)(2), 52(b), 59(b), (d) and (e), and 60(b), except to the extent and under the conditions stated in them.

(3) *By Clerk of Chancery Court.* A motion served before the expiration of the time limitations set forth by these rules for an extension of time of not more than 15 days within which to answer or move to dismiss the complaint, or answer, respond or object to discovery under Rules 33, 34, and 36, if accompanied by a statement setting forth:

(A) the specific reasons for the request,

(B) that the motion is timely filed,

(C) that the extension will not conflict with any scheduling or other order of the chancery court, and

(D) that there has been no prior extension of time granted with respect to the matter in question may be granted once by the clerk of chancery court, ex parte and routinely, subject to the right of the opposing party to move to set aside the order so extending time. Motions for further extensions of time with respect to matters extended by the clerk shall be presented to the chancery court, or a commissioner thereof, for determination.

(c) Motions and motion practice.

(1) *In General.* Unless these rules or an order of the chancery court establish time limitations other than those contained herein, all motions shall be served at least 14 days before the hearing on the motion, with the following exceptions:

(A) motions for enlargement of time;

(B) motions made during hearing or trial;

(C) motions which may be heard ex parte; and

(D) motions described in subdivisions (5) and (6) below, together with supporting affidavits, if any.

(2) *Responses.* Except as otherwise provided in Rule 59(c), or unless the chancery court by order permits service at some other time, a party affected by the motion may serve a response, together with affidavits, if any, at least three days prior to the hearing on the motion or within 20 days after service of the motion, whichever is earlier.

(3) *Replies.* Unless the chancery court by order permits service at some other time, the moving party may serve a reply, if any, at least one day prior to the hearing on the motion or within 15 days after service of the response, whichever is earlier. Unless the chancery court otherwise orders, any party may serve supplemental memoranda or rebuttal affidavits at least one day prior to the hearing on the motion.

(4) *Request for Hearing.* A request for hearing may be served by the moving party or any party affected by the motion within ~~20~~ 14 days after service of the motion. The chancery court may, in its discretion, determine such motions without a hearing. Any motion, under Rules 50(b) and (c)(2), 52(b), 59 and 60(b), not determined within ~~90~~ 60 days after filing shall be deemed denied unless, within that period, the determination is continued by order of the court, which continuation may not exceed ~~60~~ 30 days, at which time, if the motion has not been determined, it shall be deemed denied.

(5) *Protective Orders and Motions to Compel.* A party moving for a protective order under Rule 26(c) or to compel discovery under Rule 37(a) may request an immediate hearing thereon. An immediate hearing may be held if the chancery court finds that a delay in determining the motion will cause undue prejudice, expense or inconvenience.

(6) *Motions in Limine.* A motion relating to the exclusion of evidence may be filed at any time. Absent a request for hearing by a moving party or any party affected by the motion, the chancery court may, in its discretion, determine the motion without a hearing.

(d) Additional time after service by mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the party, and the notice or paper is served upon the party by mail or by delivery to the chancery court clerk for service, three days shall be added to the prescribed period, provided however, this rule shall not apply to service of process by registered or certified mail under Rule 4(r). [Wyo. R. App. P. 14.03(a)] No additional time shall be added if the party is served electronically through the chancery court's electronic filing system.

Rule 7. Pleadings Allowed; Form of Motions and other Papers

(a) Pleadings. Only these pleadings are allowed:

(1) a complaint;

(2) an answer to a complaint;

(3) an answer to a counterclaim designated as a counterclaim;

(4) an answer to a crossclaim;

(5) a third-party complaint;

(6) an answer to a third-party complaint; and

(7) if the chancery court orders one, a reply to an answer.

(b) Motions and Other Papers.

(1) *In General.* A request for a chancery court order must be made by motion. The motion must:

(A) be in writing unless made during a hearing or trial;

(B) state with particularity the grounds for seeking the order; and

(C) state the relief sought.

(2) The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion. All motions filed pursuant to Rules 12 and 56 shall, and all other motions may, contain or be accompanied by a memorandum of points and authority.

(3) *Form.* The rules governing captions and other matters of form in pleadings apply to motions and other papers.

(4) All motions shall be signed in accordance with Rule 11.

(c) Demurrers, pleas, etc. abolished. Demurrers, pleas, and exceptions for insufficiency of a pleading shall not be used.

Rule 8. General Rules of Pleading

(a) Claim for Relief. A pleading that states a claim for relief must contain:

(1) a short and plain statement of the grounds for the chancery court's jurisdiction, unless the chancery court already has jurisdiction and the claim needs no new jurisdictional support;

(2) a short and plain statement of the claim showing that the pleader is entitled to relief; and

(3) a demand for the relief sought, which may include relief in the alternative or different types of relief.

(b) Defenses; Admissions and Denials.

(1) *In General.* In responding to a pleading, a party must:

(A) state in short and plain terms its defenses to each claim asserted against it; and

(B) admit or deny the allegations asserted against it by an opposing party.

(2) *Denials--Responding to the Substance.* A denial must fairly respond to the substance of the allegation.

(3) *General and Specific Denials.* A party that intends in good faith to deny all the allegations of a pleading--including the jurisdictional grounds--may do so by a general denial subject to the obligations set forth in Rule 11. A party that does not intend to deny all the allegations must either specifically deny designated allegations

or generally deny all except those specifically admitted.

(4) *Denying Part of an Allegation.* A party that intends in good faith to deny only part of an allegation must admit the part that is true and deny the rest.

(5) *Lacking Knowledge or Information.* A party that lacks knowledge or information sufficient to form a belief about the truth of an allegation must so state, and the statement has the effect of a denial.

(6) *Effect of Failing to Deny.* An allegation--other than one relating to the amount of damages--is admitted if a responsive pleading is required and the allegation is not denied. If a responsive pleading is not required, an allegation is considered denied or avoided.

(c) Affirmative Defenses.

(1) *In General.* In responding to a pleading, a party must affirmatively state any avoidance or affirmative defense, including:

accord and satisfaction;

arbitration and award;

assumption of risk;

contributory negligence;

duress;

discharge in bankruptcy;

estoppel;

failure of consideration;

fraud;

illegality;

injury by fellow servant;

laches;

license;

payment;

release;

res judicata;

statute of frauds;

statute of limitations; and

waiver.

(2) *Mistaken Designation.* If a party mistakenly designates a defense as a counterclaim, or a counterclaim as a defense, the chancery court must, if justice requires, treat the pleading as though it were correctly designated, and may impose terms for doing so.

(d) Pleading to be Concise and Direct; Alternative Statements; Inconsistency.

(1) *In General.* Each allegation must be simple, concise, and direct. No technical form is required.

(2) *Alternative Statements of a Claim or Defense.* A party may set out two or more statements of a claim or defense alternatively or hypothetically, either in a single count or defense or in separate ones. If a party makes alternative statements, the pleading is sufficient if any one of them is sufficient.

(3) *Inconsistent Claims or Defenses.* A party may state as many separate claims or defenses as it has, regardless of consistency.

(e) Construing Pleadings. Pleadings must be construed so as to do justice.

Rule 9. Pleading Special Matters

(a) Capacity or Authority to Sue; Legal Existence.

(1) *In General.* Except when required to show that the chancery court has jurisdiction, a pleading need not allege:

(A) a party's capacity to sue or be sued;

(B) a party's authority to sue or be sued in a representative capacity; or

(C) the legal existence of an organized association of persons that is made a party.

(2) *Raising Those Issues.* To raise any of those issues, a party must do so by a specific denial, which must state any supporting facts that are peculiarly within the party's knowledge.

(b) Fraud or Mistake; Conditions of Mind. In alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake. Malice, intent, knowledge, and other conditions of a person's mind may be alleged generally.

(c) Conditions Precedent. In pleading conditions precedent, it suffices to allege generally that all conditions precedent have occurred or been performed. But when denying that a condition precedent has occurred or been performed, a party must do so with particularity.

(d) Official Document or Act. In pleading an official document or official act, it suffices to allege that the document was legally issued or the act legally done.

(e) Judgment. In pleading a judgment or decision of a domestic or foreign court, a judicial or quasi-judicial tribunal, or a board or officer, it suffices to plead the judgment or decision without showing jurisdiction to render it.

(f) Time and Place. An allegation of time or place is material when testing the sufficiency of a pleading.

(g) Special Damages. If an item of special damage is claimed, it must be specifically stated.

(h) Municipal ordinance. In pleading a municipal ordinance or a right derived therefrom, it shall be sufficient to refer to such ordinance by its title or other applicable designation and the name of the municipality which adopted

the same.

Rule 10. Form of Pleadings

(a) Caption; Names of Parties. Every pleading must have a caption with the court's name, a title, a file number, and a Rule 7(a) designation. The title of the ~~complaint~~ initial pleading must name all the parties; the title of other pleadings, after naming the first party on each side, may refer generally to other parties.

(b) Paragraphs; Separate Statements. A party must state its claims or defenses in numbered paragraphs, each limited as far as practicable to a single set of circumstances. A later pleading may refer by number to a paragraph in an earlier pleading. If doing so would promote clarity, each claim founded on a separate transaction or occurrence--and each defense other than a denial--must be stated in a separate count or defense.

(c) Adoption by Reference; Exhibits. A statement in a pleading may be adopted by reference elsewhere in the same pleading or in any other pleading or motion. A copy of a written instrument that is an exhibit to a pleading is a part of the pleading for all purposes.

(d) Paper Filing. If any document is required to be filed in paper form, it ~~All filed documents~~ shall be on 8 ½ by 11 inch white paper, single-sided, unless (1) the original of the document or written instrument is another size paper and/or double-sided and (2) the law requires the original document or written instrument be filed with the chancery ~~Court~~court~~, as in the case of wills or other documents~~.

Rule 11. Signing Pleadings, Motions, and other Papers; Representations to the Chancery Court; Sanctions

(a) Signature. Every pleading, written motion, and other paper must be signed by at least one attorney of record in the attorney's name--or by a party personally if the party is unrepresented. The paper must state the signer's address, e-mail address, telephone number, and attorney number, if any. Unless a rule or statute specifically states otherwise, a pleading need not be verified or accompanied by an affidavit. The chancery court must strike an unsigned paper unless the omission is promptly corrected after being called to the attorney's or party's attention.

(b) Representations to the Chancery Court. By presenting to the chancery court a pleading, written motion, or other paper--whether by signing, filing, submitting, or later advocating it--an attorney or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;

(2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;

(3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

(c) Sanctions.

(1) *In General.* If, after notice and a reasonable opportunity to respond, the chancery court determines that Rule 11(b) has been violated, the court may impose an appropriate sanction on any attorney, law firm, or party

that violated the rule or is responsible for the violation. Absent exceptional circumstances, a law firm must be held jointly responsible for a violation committed by its partner, associate, or employee.

(2) *Motion for Sanctions.* A motion for sanctions must be made separately from any other motion and must describe the specific conduct that allegedly violates Rule 11(b). The motion must be served under Rule 5, but it must not be filed or be presented to the court if the challenged paper, claim, defense, contention, or denial is withdrawn or appropriately corrected within ~~21~~ 14 days after service or within another time the chancery court sets. If warranted, the court may award to the prevailing party the reasonable expenses, including attorney's fees, incurred for the motion.

(3) *On the Chancery Court's Initiative.* On its own, the chancery court may order an attorney, law firm, or party to show cause why conduct specifically described in the order has not violated Rule 11(b).

(4) *Nature of a Sanction.* A sanction imposed under this rule must be limited to what suffices to deter repetition of the conduct or comparable conduct by others similarly situated. The sanction may include nonmonetary directives; an order to pay a penalty into court; or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of part or all of the reasonable attorney's fees and other expenses directly resulting from the violation.

(5) *Limitations on Monetary Sanctions.* The chancery court must not impose a monetary sanction:

(A) against a represented party for violating Rule 11(b)(2); or

(B) on its own, unless it issued the show-cause order under Rule 11(c)(3) before voluntary dismissal or settlement of the claims made by or against the party that is, or whose attorneys are, to be sanctioned.

(6) *Requirements for an Order.* An order imposing a sanction must describe the sanctioned conduct and explain the basis for the sanction.

(d) Inapplicability to Discovery. This rule does not apply to disclosures and discovery requests, responses, objections, and motions under Rules 26 through 37.

Rule 12. When and How Presented; Motion for Judgment on the Pleadings; Consolidating Motions; Waiving Defenses; Pretrial Hearing

(a) Time to Serve a Responsive Pleading.

(1) *In General.* Unless another time is specified by this rule or a state statute, the time for serving a responsive pleading is as follows:

(A) A defendant must serve an answer:

(i) within 20 days after being served with the summons and initial pleading~~complaint~~;

(ii) within 30 days after being served with the summons and ~~complaint~~ initial pleading if service is made outside the State of Wyoming; or

(iii) within 30 days after the last day of publication.~~; or~~

~~(iv)~~ Not Applicable.

(B) A party must serve an answer to a counterclaim or crossclaim within 20 days after being served with the pleading that states the counterclaim or crossclaim.

(C) A party must serve a reply to an answer within 20 days after being served with an order to reply, unless the order specifies a different time.

(2) *Effect of a Motion.* Unless the chancery court sets a different time, serving a motion under this rule alters these periods as follows:

(A) if the chancery court denies the motion or postpones its disposition until trial, the responsive pleading must be served within 14 days after notice of the chancery court's action; or

(B) if the chancery court grants a motion for a more definite statement, the responsive pleading must be served within 14 days after the more definite statement is served.

(b) How to Present Defenses. Every defense to a claim for relief in any pleading must be asserted in the responsive pleading if one is required. But a party may assert the following defenses by motion:

(1) lack of subject-matter jurisdiction;

(2) lack of personal jurisdiction;

(3) improper venue;

(4) insufficient process;

(5) insufficient service of process;

(6) failure to state a claim upon which relief can be granted; and

(7) failure to join a party under Rule 19.

A motion asserting any of these defenses must be made before pleading if a responsive pleading is allowed. If a pleading sets out a claim for relief that does not require a responsive pleading, an opposing party may assert at trial any defense to that claim. No defense or objection is waived by joining it with one or more other defenses or objections in a responsive pleading or in a motion.

(c) Motion for Judgment on the Pleadings. After the pleadings are closed--but early enough not to delay trial--a party may move for judgment on the pleadings.

(d) Result of Presenting Matters Outside the Pleadings. If, on a motion under Rule 12(b)(6) or 12(c), matters outside the pleadings are presented to and not excluded by the chancery court, the motion must be treated as one for summary judgment under Rule 56. All parties must be given a reasonable opportunity to present all the material that is pertinent to the motion.

(e) Motion for a More Definite Statement. A party may move for a more definite statement of a pleading to which a responsive pleading is allowed but which is so vague or ambiguous that the party cannot reasonably prepare a response. The motion must be made before filing a responsive pleading and must point out the defects complained of and the details desired. If the chancery court orders a more definite statement and the order is not obeyed within 10 days after notice of the order or within the time the chancery court sets, the chancery court may strike the pleading or issue any other appropriate order.

(f) Motion to Strike. The chancery court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter. The court may act:

(1) on its own; or

(2) on motion made by a party either before responding to the pleading or, if a response is not allowed, within 20 days after being served with the pleading.

(g) Joining Motions.

(1) *Right to Join.* A motion under this rule may be joined with any other motion allowed by this rule.

(2) *Limitation on Further Motions.* Except as provided in Rule 12(h)(2) or (3), a party that makes a motion under this rule must not make another motion under this rule raising a defense or objection that was available to the party but omitted from its earlier motion.

(h) Waiving and Preserving Certain Defenses.

(1) *When Some Are Waived.* A party waives any defense listed in Rule 12(b)(2)-(5) by:

(A) omitting it from a motion in the circumstances described in Rule 12(g)(2); or

(B) failing to either:

(i) make it by motion under this rule; or

(ii) include it in a responsive pleading or in an amendment allowed by Rule 15(a)(1) as a matter of course.

(2) *When to Raise Others.* Failure to state a claim upon which relief can be granted, to join a person required by Rule 19(b), or to state a legal defense to a claim may be raised:

(A) in any pleading allowed or ordered under Rule 7(a);

(B) by a motion under Rule 12(c); or

(C) at trial.

(3) *Lack of Subject-Matter Jurisdiction.* If the court determines at any time that it lacks subject-matter jurisdiction, the chancery court must dismiss the action.

(i) Decision Before Trial. If a party so moves, any defense listed in Rule 12(b)(1)-(7)--whether made in a pleading or by motion--and a motion under Rule 12(c) must be decided before trial unless the chancery court orders a deferral until trial.

Rule 13. Counterclaim and Crossclaim

(a) Compulsory Counterclaim.

(1) *In General.* A pleading must state as a counterclaim any claim that--at the time of its service--the pleader has against an opposing party if the claim:

(A) arises out of the transaction or occurrence that is the subject matter of the opposing party's claim; and

(B) does not require adding another party over whom the court cannot acquire jurisdiction.

(2) *Exceptions.* The pleader need not state the claim if:

(A) when the action was commenced, the claim was the subject of another pending action; or

(B) the opposing party sued on its claim by attachment or other process that did not establish personal jurisdiction over the pleader on that claim, and the pleader does not assert any counterclaim under this rule.

(b) Permissive Counterclaim. A pleading may state as a counterclaim against an opposing party any claim that is not compulsory.

(c) Relief Sought in a Counterclaim. A counterclaim need not diminish or defeat the recovery sought by the opposing party. It may request relief that exceeds in amount or differs in kind from the relief sought by the opposing party.

(d) Counterclaim Against the State. These rules do not expand the right to assert a counterclaim--or to claim a credit--against the state or against a county, municipal corporation or other political subdivision, public corporation, or any officer or agency thereof.

(e) Counterclaim Maturing or Acquired After Pleading. The chancery court may permit a party to file a supplemental pleading asserting a counterclaim that matured or was acquired by the party after serving an earlier pleading.

(f) Omitted Counterclaim. When a pleader fails to set up a counterclaim through oversight, inadvertence, or excusable neglect, or when justice requires, the pleader may by leave of chancery court set up the counterclaim by amendment.

(g) Crossclaim Against a Coparty. A pleading may state as a crossclaim any claim by one party against a coparty if the claim arises out of the transaction or occurrence that is the subject matter of the original action or of a counterclaim, or if the claim relates to any property that is the subject matter of the original action. The crossclaim may include a claim that the coparty is or may be liable to the crossclaimant for all or part of a claim asserted in the action against the crossclaimant.

(h) Joining Additional Parties. Rules 19 and 20 govern the addition of a person as a party to a counterclaim or crossclaim.

(i) Separate Trials; Separate Judgments. If the chancery court orders separate trials under Rule 42(b), it may enter judgment on a counterclaim or crossclaim under Rule 54(b) when it has jurisdiction to do so, even if the opposing party's claims have been dismissed or otherwise resolved.

Rule 14. Third-Party Practice

(a) When a Defending Party may Bring in a Third Party.

(1) *Timing of the Summons and Complaint.* A defending party may, as third-party plaintiff, serve a summons and complaint on a nonparty who is or may be liable to it for all or part of the claim against it. But the third-party plaintiff must, by motion, obtain the chancery court's leave if it files the third-party complaint more than 14 days after serving its original answer.

(2) *Third-Party Defendant's Claims and Defenses.* The person served with the summons and third-party complaint--the "third-party defendant":

(A) must assert any defense against the third-party plaintiff's claim under Rule 12;

(B) must assert any counterclaim against the third-party plaintiff under Rule 13(a), and may assert any counterclaim against the third-party plaintiff under Rule 13(b) or any crossclaim against another third-party defendant under Rule 13(g);

(C) may assert against the plaintiff any defense that the third-party plaintiff has to the plaintiff's claim; and

(D) may also assert against the plaintiff any claim arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff.

(3) *Plaintiff's Claims Against a Third-Party Defendant.* The plaintiff may assert against the third-party defendant any claim arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff. The third-party defendant must then assert any defense under Rule 12 and any counterclaim under Rule 13(a), and may assert any counterclaim under Rule 13(b) or any crossclaim under Rule 13(g).

(4) *Motion to Strike, Sever, or Try Separately.* Any party may move to strike the third-party claim, to sever it, or to try it separately.

(5) *Third-Party Defendant's Claim Against a Nonparty.* A third-party defendant may proceed under this rule against a nonparty who is or may be liable to the third-party defendant for all or part of any claim against it.

(b) When a Plaintiff may Bring in a Third Party. When a claim is asserted against a plaintiff, the plaintiff may bring in a third party if this rule would allow a defendant to do so.

Rule 15. Amended and Supplemental Pleadings

(a) Amendments Before Trial.

(1) *Amending as a Matter of Course.* A party may amend its pleading once as a matter of course within:

(A) ~~21~~ 14 days after serving it, or

(B) if the pleading is one to which a responsive pleading is required, ~~21~~ 14 days after service of a responsive pleading or ~~21~~ 14 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

(2) *Other Amendments.* In all other cases, a party may amend its pleading only with the opposing party's written consent or the chancery court's leave. The chancery court should freely give leave when justice so requires.

(3) *Time to Respond.* Unless the chancery court orders otherwise, any required response to an amended pleading must be made within the time remaining to respond to the original pleading or within 14 days after service of the amended pleading, whichever is later.

(b) Amendments During and After Trial.

(1) *Based on an Objection at Trial.* If, at trial, a party objects that evidence is not within the issues raised in the pleadings, the chancery court may permit the pleadings to be amended. The chancery court should freely permit an amendment when doing so will aid in presenting the merits and the objecting party fails to satisfy the chancery court that the evidence would prejudice that party's action or defense on the merits. The chancery court may grant a continuance to enable the objecting party to meet the evidence.

(2) *For Issues Tried by Consent.* When an issue not raised by the pleadings is tried by the parties' express or implied consent, it must be treated in all respects as if raised in the pleadings. A party may move--at any time, even after judgment-- to amend the pleadings to conform them to the evidence and to raise an unpleaded issue. But failure to amend does not affect the result of the trial of that issue.

(c) Relation Back of Amendments.

(1) *When an Amendment Relates Back.* An amendment to a pleading relates back to the date of the original

pleading when:

(A) the law that provides the applicable statute of limitations allows relation back;

(B) the amendment asserts a claim or defense that arose out of the conduct, transaction, or occurrence set out--or attempted to be set out--in the original pleading; or

(C) the amendment changes the party or the naming of the party against whom a claim is asserted, if Rule 15(c)(1)(B) is satisfied and if, within the period provided by Rule 4(w) for serving the summons and ~~complaint~~initial pleading, the party to be brought in by amendment:

(i) received such notice of the action that it will not be prejudiced in defending on the merits; and

(ii) knew or should have known that the action would have been brought against it, but for a mistake concerning the proper party's identity.

(2) *Notice to the State.* When the State or a State officer or agency is added as a defendant by amendment, the notice requirements of Rule 15(c)(1)(C)(i) and (ii) are satisfied if, during the stated period, process was delivered or mailed to the Attorney General of the State or to the officer or agency.

(d) Supplemental Pleadings. On motion and reasonable notice, the chancery court may, on just terms, permit a party to serve a supplemental pleading setting out any transaction, occurrence, or event that happened after the date of the pleading to be supplemented. The chancery court may permit supplementation even though the original pleading is defective in stating a claim or defense. The chancery court may order that the opposing party plead to the supplemental pleading within a specified time.

Rule 16. Pretrial Conferences; Scheduling; Management

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

(1) expediting disposition of the action within one hundred fifty (150) days from the date of filing, as defined by Rule 3;

(2) establishing early and continuing control so that the case will not be protracted because of lack of management;

(3) discouraging wasteful pretrial activities;

(4) improving the quality of the trial through more thorough preparation; and

(5) facilitating settlement.

(b) Scheduling.

(1) *Scheduling Order.* The judge, or a chancery court ~~commissioner~~ magistrate~~when authorized by the Uniform Rules for the District Courts~~, ~~may~~shall, after consulting with the parties' attorneys and any unrepresented parties at a scheduling conference, telephone, mail or other suitable means, enter a scheduling order.

[Fed. R. Civ. P. 16] (2) *Time to Issue.* The judge must issue the scheduling order as soon as practicable~~.~~, but unless the judge finds good cause for delay, the judge must issue it within the earlier of 14 days after any defendant has been served with the initial pleading or 10 days after any defendant has appeared.

(3) *Contents of the Order.*

(A) Required Contents. The scheduling order must limit the time to join other parties, amend the pleadings, complete discovery, and file motions.

(B) Permitted Contents. The scheduling order may:

(i) modify the timing of disclosures under Rules 26(a) and 26(e)(1);

(ii) modify the extent of discovery;

(iii) provide for disclosure, discovery, or preservation of electronically stored information;

(iv) include any agreements the parties reach for asserting claims of privilege or of protection as trial-preparation material after information is produced;

(v) direct that before moving for an order relating to discovery, the movant must request a conference with the court;

(vi) set dates for pretrial conferences and for trial; and

(vii) include other appropriate matters.

(4) *Modifying a Schedule.* A schedule may be modified only for good cause and with the judge's consent.

(c) Attendance and Matters for Consideration at a Pretrial Conference.

(1) *Attendance.* A represented party must authorize at least one of its attorneys to make stipulations and admissions about all matters that can reasonably be anticipated for discussion at a pretrial conference. If appropriate, the chancery court may require that a party or its representative be present or reasonably available by other means to consider possible settlement.

(2) *Matters for Consideration.* At any pretrial conference, the chancery court may consider and take appropriate action on the following matters:

(A) formulating and simplifying the issues, and eliminating frivolous claims or defenses;

(B) amending the pleadings if necessary or desirable;

(C) obtaining admissions and stipulations about facts and documents to avoid unnecessary proof, and ruling in advance on the admissibility of evidence;

(D) avoiding unnecessary proof and cumulative evidence, and limiting the use of testimony under Wyoming Rule of Evidence 702;

(E) determining the appropriateness and timing of summary adjudication under Rule 56;

(F) controlling and scheduling discovery, including orders affecting disclosures and discovery under Rule 26 and Rules 29 through 37;

(G) identifying witnesses and documents, scheduling the filing and exchange of any pretrial briefs, and setting dates for further conferences and for trial;

(H) referring matters to a chancery court magistrate ~~commissioner or~~ master;

(I) settling the case and using special procedures to assist in resolving the dispute under Rule 40(b) or other alternative dispute resolution procedures;

(J) determining the form and content of the pretrial order;

(K) disposing of pending motions;

(L) adopting special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems;

(M) ordering a separate trial under Rule 42(b) of a claim, counterclaim, crossclaim, third-party claim, or particular issue;

(N) ordering the presentation of evidence early in the trial on a manageable issue that might, on the evidence, be the basis for a judgment as a matter of law under Rule 50(a) or a judgment on partial findings under Rule 52(c);

(O) establishing a reasonable limit on the time allowed to present evidence; and

(P) facilitating in other ways the just, speedy, and inexpensive disposition of the action.

(3) *Accelerated Adjudication Actions.* The parties by written consent may authorize the chancery court to apply the accelerated adjudication procedures set forth in this Rule.

(A) In any matter proceeding through the accelerated process, the court may deem the parties to have irrevocably waived:

i. any objections based on lack of personal jurisdiction or the doctrine of forum non conveniens;

ii. the right to recover punitive or exemplary damages;

iii. the right to any interlocutory appeal; and

(B) the right to discovery, except to such discovery as the parties might otherwise agree or as follows:

i. There shall be no more than seven (7) interrogatories and five (5) requests to admit;

ii. Absent a showing of good cause, there shall be no more than seven (7) discovery depositions per side with no deposition to exceed seven (7) hours in length. Such depositions can be done either in person at the location of the deponent, a party or their counsel or in real time by any electronic video device; and

iii. Documents requested by the parties shall be limited to those relevant to a claim or defense in the action and shall be restricted in terms of time from, subject matter and persons or entities to which the requests pertain.

(C) In any accelerated action, electronic discovery shall proceed as follows unless the parties agree otherwise:

i. the production of electronic documents shall normally be made in a searchable format that is usable by the party receiving the e-documents;

ii. the description of custodians from whom electronic documents may be collected shall be narrowly tailored to include only those individuals whose electronic documents may reasonably be expected to contain evidence that is material to the disputes; and

iii. where the costs and burdens of e-discovery are disproportionate to the nature of the dispute or to the amount in controversy, or to the relevance of the materials requested, the court will either deny such requests or order disclosure on condition that the requesting party advance the reasonable cost of production to the other side, subject to the allocation of costs in the final judgment.

(d) Pretrial Orders. After any conference under this rule, the chancery court shall issue an order reciting the action taken. This order controls the course of the action unless the chancery court modifies it.

(e) Final Pretrial Conference and Orders. The chancery court may hold a final pretrial conference to formulate a trial plan, including a plan to facilitate the admission of evidence. The conference must be held as close to the start of trial as is reasonable, and must be attended by at least one attorney who will conduct the trial for each party and by any unrepresented party. The chancery court may modify the order issued after a final pretrial conference only to prevent manifest injustice.

(f) Sanctions.

(1) *In General.* On motion or on its own, the chancery court may issue any just orders, including those authorized by Rule 37(b)(2)(A)(ii)-(vii), if a party or its attorney:

(A) fails to appear at a scheduling or other pretrial conference;

(B) is substantially unprepared to participate--or does not participate in good faith--in the conference; or

(C) fails to obey a scheduling or other pretrial order.

(2) *Imposing Fees and Costs.* Instead of or in addition to any other sanction, the chancery court must order the party, its attorney, or both to pay the reasonable expenses--including attorney's fees--incurred because of any noncompliance with this rule, unless the noncompliance was substantially justified or other circumstances make an award of expenses unjust.

Rule 17. Plaintiff and Defendant; Capacity; Public Officers

(a) Real Party in Interest.

(1) *Designation in General.* An action must be prosecuted in the name of the real party in interest. The following may sue in their own names without joining the person for whose benefit the action is brought:

(A) an executor;

(B) an administrator;

(C) a guardian;

(D) a bailee;

(E) a trustee of an express trust;

(F) a party with whom or in whose name a contract has been made for another's benefit; and

(G) a party authorized by statute.

(2) *Action in the Name of the United States for Another's Use or Benefit.* When a federal statute so provides,

an action for another's use or benefit must be brought in the name of the United States.

(3) *Joinder of the Real Party in Interest.* The chancery court may not dismiss an action for failure to prosecute in the name of the real party in interest until, after an objection, a reasonable time has been allowed for the real party in interest to ratify, join, or be substituted into the action. After ratification, joinder, or substitution, the action proceeds as if it had been originally commenced by the real party in interest.

(b) Capacity to sue or be sued.

(1) The capacity of an individual, including one acting in a representative capacity, to sue or be sued, shall be determined by the law of this State.

(2) A married person may sue or be sued in all respects as if he or she were single.

(3) The capacity of a corporation to sue or be sued shall be determined by the law under which it was organized, unless a statute of this State provides to the contrary.

(4) A partnership or other unincorporated association may sue or be sued in its common name.

(c) Minor or Incompetent Person.

(1) *With a Representative.* The following representatives may sue or defend on behalf of a minor or an incompetent person:

(A) a general guardian;

(B) a committee;

(C) a conservator; or

(D) a like fiduciary.

(2) *Without a Representative.* A minor or an incompetent person who does not have a duly appointed representative, or if such representative fails to act the minor or incompetent person may sue by a next friend or by a guardian ad litem. The chancery court must appoint a guardian ad litem--or issue another appropriate order--to protect a minor or incompetent person who is unrepresented in an action.

(d) Suing person by fictitious name. When the identity of a defendant is unknown, such defendant may be designated in any pleading or proceeding by any name and description, and when the true name is discovered the pleading or proceeding may be amended accordingly; and the plaintiff in such case must state in the complaint that the plaintiff could not discover the true name, and the summons must contain the words, "real name unknown", and a copy thereof must be served personally upon the defendant.

(e) Public Officer's Title and Name. A public officer who sues or is sued in an official capacity may be designated by official title rather than by name, but the chancery court may order that the officer's name be added.

Rule 18. Joinder of Claims

(a) In General. A party asserting a claim, counterclaim, crossclaim, or third-party claim may join, as independent or alternative claims, as many claims as it has against an opposing party.

(b) Joinder of Contingent Claims. A party may join two claims even though one of them is contingent on the disposition of the other; but the chancery court may grant relief only in accordance with the parties' relative substantive rights. In particular, a plaintiff may state a claim for money and a claim to set aside a conveyance that

is fraudulent as to that plaintiff, without first obtaining a judgment for the money.

Rule 19. Required Joinder of Parties

(a) Persons Required to Be Joined if Feasible.

(1) *Required Party.* A person who is subject to service of process and whose joinder will not deprive the chancery court of subject-matter jurisdiction must be joined as a party if:

(A) in that person's absence, the court cannot accord complete relief among existing parties; or

(B) that person claims an interest relating to the subject of the action and is so situated that disposing of the action in the person's absence may:

(i) as a practical matter impair or impede the person's ability to protect the interest; or

(ii) leave an existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations because of the interest.

(2) *Joinder by Chancery Court Order.* If a person has not been joined as required, the chancery court must order that the person be made a party. A person who refuses to join as a plaintiff may be made either a defendant or, in a proper case, an involuntary plaintiff.

(3) *Venue.* If a joined party objects to venue and the joinder would make venue improper, the chancery court must dismiss that party.

(b) When Joinder Is Not Feasible. If a person who is required to be joined if feasible cannot be joined, the chancery court must determine whether, in equity and good conscience, the action should proceed among the existing parties or should be dismissed. The factors for the chancery court to consider include:

(1) the extent to which a judgment rendered in the person's absence might prejudice that person or the existing parties;

(2) the extent to which any prejudice could be lessened or avoided by:

(A) protective provisions in the judgment;

(B) shaping the relief; or

(C) other measures;

(3) whether a judgment rendered in the person's absence would be adequate; and

(4) whether the plaintiff would have an adequate remedy if the action were dismissed for nonjoinder.

(c) Pleading the Reasons for Nonjoinder. When asserting a claim for relief, a party must state:

(1) the name, if known, of any person who is required to be joined if feasible but is not joined; and

(2) the reasons for not joining that person.

(d) Exception for Class Actions. This rule is subject to Rule 23.

Rule 20. Permissive Joinder of Parties

(a) Persons Who May Join or Be Joined.

(1) *Plaintiffs.* Persons may join in one action as plaintiffs if:

(A) they assert any right to relief jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and

(B) any question of law or fact common to all plaintiffs will arise in the action.

(2) *Defendants.* Persons may be joined in one action as defendants if:

(A) any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and

(B) any question of law or fact common to all defendants will arise in the action.

(3) *Extent of Relief.* Neither a plaintiff nor a defendant need be interested in obtaining or defending against all the relief demanded. The chancery court may grant judgment to one or more plaintiffs according to their rights, and against one or more defendants according to their liabilities.

(b) Protective Measures. The chancery court may issue orders--including an order for separate trials--to protect a party against embarrassment, delay, expense, or other prejudice that arises from including a person against whom the party asserts no claim and who asserts no claim against the party.

Rule 21. Misjoinder and Nonjoinder of Parties

Misjoinder of parties is not a ground for dismissing an action. On motion or on its own, the chancery court may at any time, on just terms, add or drop a party. The chancery court may also sever any claim against a party.

Rule 22. Interpleader

(a) Grounds.

(1) *By a Plaintiff.* Persons with claims that may expose a plaintiff to double or multiple liability may be joined as defendants and required to interplead. Joinder for interpleader is proper even though:

(A) the claims of the several claimants, or the titles on which their claims depend, lack a common origin or are adverse and independent rather than identical; or

(B) the plaintiff denies liability in whole or in part to any or all of the claimants.

(2) *By a Defendant.* A defendant exposed to similar liability may seek interpleader through a crossclaim or counterclaim.

(b) Relation to Other Rules. This rule supplements--and does not limit--the joinder of parties allowed by Rule 20.

Rule 23. Class Actions

(a) Prerequisites. One or more members of a class may sue or be sued as representative parties on behalf of all members only if:

(1) the class is so numerous that joinder of all members is impracticable;

(2) there are questions of law or fact common to the class;

(3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and

(4) the representative parties will fairly and adequately protect the interests of the class.

(b) Types of Class Actions. A class action may be maintained if Rule 23(a) is satisfied and if:

(1) prosecuting separate actions by or against individual class members would create a risk of:

(A) inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for the party opposing the class; or

(B) adjudications with respect to individual class members that, as a practical matter, would be dispositive of the interests of the other members not parties to the individual adjudications or would substantially impair or impede their ability to protect their interests;

(2) the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole; or

(3) the chancery court finds that the questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy. The matters pertinent to these findings include:

(A) the class members' interests in individually controlling the prosecution or defense of separate actions;

(B) the extent and nature of any litigation concerning the controversy already begun by or against class members;

(C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and

(D) the likely difficulties in managing a class action.

(c) Certification Order; Notice to Class Members; Judgment; Issues Classes; Subclasses.

(1) *Certification Order.*

(A) Time to Issue. At an early practicable time after a person sues or is sued as a class representative, the chancery court must determine by order whether to certify the action as a class action.

(B) Defining the Class; Appointing Class Counsel. An order that certifies a class action must define the class and the class claims, issues, or defenses, and must appoint class counsel under Rule 23(f).

(C) Altering or Amending the Order. An order that grants or denies class certification may be altered or amended before final judgment.

(2) *Notice.*

(A) For (b)(1) or (b)(2) Classes. For any class certified under Rule 23(b)(1) or (b)(2), the chancery court may direct appropriate notice to the class.

(B) For (b)(3) Classes. For any class certified under Rule 23(b)(3), the chancery court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice must clearly and concisely state in plain, easily understood language:

(i) the nature of the action;

(ii) the definition of the class certified;

(iii) the class claims, issues, or defenses;

(iv) that a class member may enter an appearance through an attorney if the member so desires;

(v) that the chancery court will exclude from the class any member who requests exclusion;

(vi) the time and manner for requesting exclusion; and

(vii) the binding effect of a class judgment on members under Rule 23(c)(3).

(3) *Judgment.* Whether or not favorable to the class, the judgment in a class action must:

(A) for any class certified under Rule 23(b)(1) or (b)(2), include and describe those whom the chancery court finds to be class members; and

(B) for any class certified under Rule 23(b)(3), include and specify or describe those to whom the Rule 23(c)(2) notice was directed, who have not requested exclusion, and whom the chancery court finds to be class members.

(4) *Particular Issues.* When appropriate, an action may be brought or maintained as a class action with respect to particular issues.

(5) *Subclasses.* When appropriate, a class may be divided into subclasses that are each treated as a class under this rule.

(d) Conducting the Action.

(1) *In General.* In conducting an action under this rule, the chancery court may issue orders that:

(A) determine the course of proceedings or prescribe measures to prevent undue repetition or complication in presenting evidence or argument;

(B) require--to protect class members and fairly conduct the action--giving appropriate notice to some or all class members of:

(i) any step in the action;

(ii) the proposed extent of the judgment; or

(iii) the members' opportunity to signify whether they consider the representation fair and adequate, to intervene and present claims or defenses, or to otherwise come into the action;

(C) impose conditions on the representative parties or on intervenors;

(D) require that the pleadings be amended to eliminate allegations about representation of absent persons and that the action proceed accordingly; or

(E) deal with similar procedural matters.

(2) *Combining and Amending Orders.* An order under Rule 23(d)(1) may be altered or amended from time to time and may be combined with an order under Rule 16.

(e) Settlement, Voluntary Dismissal, or Compromise. The claims, issues, or defenses of a certified class may be settled, voluntarily dismissed, or compromised only with the chancery court's approval. The following procedures apply to a proposed settlement, voluntary dismissal, or compromise:

(1) The chancery court must direct notice in a reasonable manner to all class members who would be bound by the proposal.

(2) If the proposal would bind class members, the chancery court may approve it only after a hearing and on finding that it is fair, reasonable, and adequate.

(3) The parties seeking approval must file a statement identifying any agreement made in connection with the proposal.

(4) If the class action was previously certified under Rule 23(b)(3), the court may refuse to approve a settlement unless it affords a new opportunity to request exclusion to individual class members who had an earlier opportunity to request exclusion but did not do so.

(5) Any class member may object to the proposal if it requires court approval under this subdivision (e); the objection may be withdrawn only with the court's approval.

(f) Class Counsel.

(1) *Appointing Class Counsel.* Unless a statute provides otherwise, a chancery court that certifies a class must appoint class counsel. In appointing class counsel, the chancery court:

(A) must consider:

(i) the work counsel has done in identifying or investigating potential claims in the action;

(ii) counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action;

(iii) counsel's knowledge of the applicable law; and

(iv) the resources that counsel will commit to representing the class;

(B) may consider any other matter pertinent to counsel's ability to fairly and adequately represent the interests of the class;

(C) may order potential class counsel to provide information on any subject pertinent to the appointment and to propose terms for attorney's fees and nontaxable costs;

(D) may include in the appointing order provisions about the award of attorney's fees or nontaxable costs under Rule 23(g); and

(E) may make further orders in connection with the appointment.

(2) *Standard for Appointing Class Counsel.* When one applicant seeks appointment as class counsel, the

chancery court may appoint that applicant only if the applicant is adequate under Rule 23(f)(1) and (4). If more than one adequate applicant seeks appointment, the chancery court must appoint the applicant best able to represent the interests of the class.

(3) *Interim Counsel.* The chancery court may designate interim counsel to act on behalf of a putative class before determining whether to certify the action as a class action.

(4) *Duty of Class Counsel.* Class counsel must fairly and adequately represent the interests of the class.

(g) Attorney's Fees and Nontaxable Costs. In a certified class action, the chancery court may award reasonable attorney's fees and nontaxable costs that are authorized by law or by the parties' agreement. The following procedures apply:

(1) A claim for an award must be made by motion under Rule 54(d)(2), subject to the provisions of this subdivision (h), at a time the chancery court sets. Notice of the motion must be served on all parties and, for motions by class counsel, directed to class members in a reasonable manner.

(2) A class member, or a party from whom payment is sought, may object to the motion.

(3) The chancery court may hold a hearing and must find the facts and state its legal conclusions under Rule 52(a).

(4) The chancery court may refer issues related to the amount of the award to a master, as provided in Rule 54(d)(2)(D).

Rule 23.1. Derivative Actions

(a) Prerequisites. This rule applies when one or more shareholders or members of a corporation or an unincorporated association bring a derivative action to enforce a right that the corporation or association may properly assert but has failed to enforce. The derivative action may not be maintained if it appears that the plaintiff does not fairly and adequately represent the interests of shareholders or members who are similarly situated in enforcing the right of the corporation or association.

(b) Pleading Requirements. The complaint must be verified and must:

(1) allege that the plaintiff was a shareholder or member at the time of the transaction complained of, or that the plaintiff's share or membership later devolved on it by operation of law;

(2) allege that the action is not a collusive one to confer jurisdiction that the chancery court would otherwise lack; and

(3) state with particularity:

(A) any effort by the plaintiff to obtain the desired action from the directors or comparable authority and, if necessary, from the shareholders or members; and

(B) the reasons for not obtaining the action or not making the effort.

(c) Settlement, Dismissal, and Compromise. A derivative action may be settled, voluntarily dismissed, or compromised only with the chancery court's approval. Notice of a proposed settlement, voluntary dismissal, or compromise must be given to shareholders or members in the manner that the chancery court orders.

Rule 23.2. Actions Relating to Unincorporated Associations

This rule applies to an action brought by or against the members of an unincorporated association as a class by naming certain members as representative parties. The action may be maintained only if it appears that those parties will fairly and adequately protect the interests of the association and its members. In conducting the action, the chancery court may issue any appropriate orders corresponding with those in Rule 23(d), and the procedure for settlement, voluntary dismissal, or compromise must correspond with the procedure in Rule 23(e).

Rule 24. Intervention

(a) Intervention of Right. On timely motion, the chancery court must permit anyone to intervene who:

(1) is given an unconditional right to intervene by statute; or

(2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

(b) Permissive Intervention.

(1) *In General.* On timely motion, the chancery court may permit anyone to intervene who:

(A) is given a conditional right to intervene by statute; or

(B) has a claim or defense that shares with the main action a common question of law or fact.

(2) *By a Government Officer or Agency.* On timely motion, the chancery court may permit a federal or state governmental officer or agency to intervene if a party's claim or defense is based on:

(A) a statute or executive order administered by the officer or agency; or

(B) any regulation, order, requirement, or agreement issued or made under the statute or executive order.

(3) *Delay or Prejudice.* In exercising its discretion, the chancery court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights.

(c) Notice and Pleading Required. A motion to intervene must be served on the parties as provided in Rule 5. The motion must state the grounds for intervention and be accompanied by a pleading that sets out the claim or defense for which intervention is sought.

Rule 25. Substitution of Parties

(a) Death.

(1) *Substitution if the Claim Is Not Extinguished.* If a party dies and the claim is not extinguished, the chancery court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

(2) *Continuation Among the Remaining Parties.* After a party's death, if the right sought to be enforced survives only to or against the remaining parties, the action does not abate, but proceeds in favor of or against

the remaining parties. The death should be noted on the record.

(3) *Service.* A motion to substitute, together with a notice of hearing, must be served on the parties as provided in Rule 5 and on nonparties as provided in Rule 4. A statement noting death must be served in the same manner. ~~Service may be made in any judicial district.~~

(b) Incompetency. If a party becomes incompetent, the chancery court may, on motion, permit the action to be continued by or against the party's representative. The motion must be served as provided in Rule 25(a)(3).

(c) Transfer of Interest. If an interest is transferred, the action may be continued by or against the original party unless the chancery court, on motion, orders the transferee to be substituted in the action or joined with the original party. The motion must be served as provided in Rule 25(a)(3).

(d) Public Officers; Death or Separation from Office.

(1) An action does not abate when a public officer who is a party in an official capacity dies, resigns, or otherwise ceases to hold office while the action is pending. The officer's successor is automatically substituted as a party. Later proceedings should be in the substituted party's name, but any misnomer not affecting the parties' substantial rights must be disregarded.

(2) A public officer who sues or is sued in an official capacity may be described as a party by the officer's official title rather than by name; but the chancery court may require the officer's name to be added.

(e) Substitution at any stage. Substitution of parties under the provisions of this rule may be made, either before or after judgment, by the chancery court then having jurisdiction.

Rule 26. Duty to Disclose; General Provisions Governing Discovery

(a) Required Disclosures.

(1) *Initial Disclosure.*

(A) In General. Except as exempted by Rule 26(a)(1)(B) or as otherwise stipulated or ordered by the chancery court, a party must, without awaiting a discovery request, provide to the other parties, but not file with the chancery court, unless otherwise ordered by the chancery court or required by other rule:

(i) the name and, if known, the address and telephone number of each individual likely to have discoverable information--along with the subjects of that information--that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment;

(ii) a copy--or a description by category and location-- of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment;

(iii) a computation of each category of damages claimed by the disclosing party--who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered; and

(iv) for inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

(B) Proceedings Exempt from Initial Disclosure. The following proceedings are exempt from initial

disclosure:

(~~v~~i) a forfeiture action in rem arising from a Wyoming statute;

(~~v~~ii) an action brought without an attorney by a person in the custody of the State, county, or other political subdivision of the State;

(~~ix~~iii) a proceeding ancillary to a proceeding in another court; and

(~~x~~iv) an action to enforce an arbitration award.

(1.1) *Initial disclosures in divorce actions.* Not Applicable.

(1.2) *Initial disclosures in custody and support actions where the parties are not married.* Not Applicable.

(1.3) *Timing of disclosures; requirement to disclose.* Unless a different time is set by stipulation in writing or by chancery court order, these disclosures pursuant to 26(a)(1)~~, 26(a)(1.1) and 26(a)(1.2)~~ shall be made within 30 days after a party's answer is required to be served under Rule 12(a) or as that period may be altered as described in Rule 12(a) by the party's service of a dispositive motion as described in Rule 12(b). Any party later served or otherwise joined must make these disclosures within 30 days after being served or joined unless a different time is set by stipulation in writing or by chancery court order. A party must make its initial disclosures based on the information then reasonably available to it. A party is not excused from making its disclosures because it has not fully investigated the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures.

(2) *Disclosure of Expert Testimony.*

(A) In addition to the disclosures required by paragraph (1)~~, (1.1) or (1.2)~~, a party must disclose to the other parties the identity of any witness it may use at trial to present evidence under Wyoming Rule of Evidence 702, 703, or 705.

(B) Witnesses Who Must Provide a Written Report. Unless otherwise stipulated or ordered by the chancery court, if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony, this disclosure must be accompanied by a written report prepared and signed by the witness or a disclosure signed by counsel for the party. The report must contain:

(i) a complete statement of all opinions the witness will express and the basis and reasons for them;

(ii) the facts or data considered by the witness in forming them;

(iii) any exhibits that will be used to summarize or support them;

(iv) the witness's qualifications, including a list of all publications authored in the previous 10 years;

(v) a list of all other cases in which, during the previous four years, the witness testified as an expert at trial or by deposition; and

(vi) a statement of the compensation to be paid for the study and testimony in the case.

(C) Witnesses Who Do Not Provide a Written Report. Unless otherwise stipulated or ordered by the chancery court, if the witness is not required to provide a written report, this disclosure must state:

(i) the subject matter on which the witness is expected to present evidence under Wyoming Rule of Evidence 702, 703, or 705; and

(ii) a summary of the facts and opinions to which the witness is expected to testify.

(D) Time to Disclose Expert Testimony. A party must make these disclosures at the times and in the sequence that the chancery court orders. Absent a stipulation or a chancery court order, the disclosures must be made:

(i) at least 90 days before the date set for trial or for the case to be ready for trial; or

(ii) if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under Rule 26(a)(2)(B) or (C), within 30 days after the other party's disclosure.

(E) Supplementing the Disclosure. The parties must supplement these disclosures when required under Rule 26(e).

(3) *Pretrial Disclosures.*

(A) In General. In addition to the disclosures required by Rule 26(a)(1)~~, (1.1), (1.2)~~ and (2), a party must provide to the other parties and promptly file the following information about the evidence that it may present at trial other than solely for impeachment:

(i) the name and, if not previously provided, the address and telephone number of each witness--separately identifying those the party expects to present and those it may call if the need arises;

(ii) the designation of those witnesses whose testimony the party expects to present by deposition and, if not taken stenographically, a transcript of the pertinent parts of the deposition; and

(iii) an identification of each document or other exhibit, including summaries of other evidence--separately identifying those items the party expects to offer and those it may offer if the need arises.

(B) Time for Pretrial Disclosures; Objections. Unless the chancery court orders otherwise, these disclosures must be made at least 30 days before trial. Within 14 days after they are made, unless the chancery court sets a different time, a party may serve and promptly file a list of the following objections: any objections to the use under Rule 32(a) of a deposition designated by another party under Rule 26(a)(3)(A)(ii); and any objection, together with the grounds for it, that may be made to the admissibility of materials identified under Rule 26(a)(3)(A)(iii). An objection not so made--except for one under Wyoming Rule of Evidence 402 or 403--is waived unless excused by the chancery court for good cause.

(4) *Form of Disclosures.* Unless the chancery court orders otherwise, all disclosures under Rule 26(a)(1), ~~(1.1), (1.2),~~ (2), or (3) must be in writing, signed, and served.

(b) Discovery Scope and Limits.

(1) *Scope in General.* Unless otherwise limited by chancery court order, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.

(2) *Limitations on Frequency and Extent.*

(A) When Permitted. By order, the court may alter the limits in these rules on the number of depositions

and interrogatories or on the length of depositions under Rule 30. By order, the chancery court may also limit the number of requests under Rule 36.

(B) Specific Limitations on Electronically Stored Information. A party need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the party from whom discovery is sought must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the chancery court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(C) When Required. On motion or on its own, the court must limit the frequency or extent of discovery otherwise allowed by these rules or by the chancery court if it determines that:

(i) the discovery sought is unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive;

(ii) the party seeking discovery has had ample opportunity to obtain the information by discovery in the action; or

(iii) the proposed discovery is outside the scope permitted by Rule 26(b)(1).

(3) *Trial Preparation: Materials.*

(A) Documents and Tangible Things. Ordinarily, a party may not discover documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative (including the other party's attorney, consultant, surety, indemnitor, insurer, or agent). But, subject to Rule 26(b)(4), those materials may be discovered if:

(i) they are otherwise discoverable under Rule 26(b)(1); and

(ii) the party shows that it has substantial need for the materials to prepare its case and cannot, without undue hardship, obtain their substantial equivalent by other means.

(B) Protection Against Disclosure. If the chancery court orders discovery of those materials, it must protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of a party's attorney or other representative concerning the litigation.

(C) Previous Statement. Any party or other person may, on request and without the required showing, obtain the person's own previous statement about the action or its subject matter. If the request is refused, the person may move for a chancery court order, and Rule 37(a)(5) applies to the award of expenses. A previous statement is either:

(i) a written statement that the person has signed or otherwise adopted or approved; or

(ii) a contemporaneous stenographic, mechanical, electrical, or other recording--or a transcription of it--that recites substantially verbatim the person's oral statement.

(4) *Trial Preparation: Experts.*

(A) Deposition of an Expert Who May Testify. A party may depose any person who has been identified as an expert whose opinions may be presented at trial. If Rule 26(a)(2)(B) requires a report from the expert, the deposition may be conducted only after the report is provided.

(B) Trial-Preparation Protection for Draft Reports or Disclosures. Rules 26(b)(3)(A) and (B) protect drafts of any report or disclosure required under Rule 26(a)(2), regardless of the form in which the draft

is recorded.

(C) Trial-Preparation Protection for Communications Between a Party's Attorney and Expert Witnesses. Rules 26(b)(3)(A) and (B) protect communications between the party's attorney and any witness required to provide a report under Rule 26(a)(2)(B), regardless of the form of the communications, except to the extent that the communications:

(i) relate to compensation for the expert's study or testimony;

(ii) identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed; or

(iii) identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions to be expressed.

(D) Expert Employed Only for Trial Preparation. Ordinarily, a party may not, by interrogatories or deposition, discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or to prepare for trial and who is not expected to be called as a witness at trial. But a party may do so only:

(i) as provided in Rule 35(b); or

(ii) on showing exceptional circumstances under which it is impracticable for the party to obtain facts or opinions on the same subject by other means.

(E) Payment. Unless manifest injustice would result, the chancery court must require that the party seeking discovery:

(i) pay the expert a reasonable fee for time spent in responding to discovery under Rule 26(b)(4)(A) or (D); and

(ii) for discovery under (D), also pay the other party a fair portion of the fees and expenses it reasonably incurred in obtaining the expert's facts and opinions.

(5) *Claiming Privilege or Protecting Trial-Preparation Materials.*

(A) Information Withheld. When a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, the party must:

(i) expressly make the claim; and

(ii) describe the nature of the documents, communications, or tangible things not produced or disclosed-- and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.

(B) Information Produced. If information produced in discovery is subject to a claim of privilege or of protection as trial-preparation material, the party making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The producing party must preserve the information until the claim is resolved.

(c) Protective Orders.

(1) *In General.* A party or any person from whom discovery is sought may move for a protective order in the chancery court where the action is pending ~~– or as an alternative on matters relating to a deposition, in the court for the district where the deposition will be taken~~. The motion must include a certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without chancery court action. The chancery court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(A) forbidding the disclosure or discovery;

(B) specifying terms, including time and place or the allocation of expenses, for the disclosure or discovery;

(C) prescribing a discovery method other than the one selected by the party seeking discovery;

(D) forbidding inquiry into certain matters, or limiting the scope of disclosure or discovery to certain matters;

(E) designating the persons who may be present while the discovery is conducted;

(F) requiring that a deposition be sealed and opened only on chancery court order;

(G) requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way; and

(H) requiring that the parties simultaneously file specified documents or information in sealed envelopes, to be opened as the chancery court directs.

(2) *Ordering Discovery.* If a motion for a protective order is wholly or partly denied, the chancery court may, on just terms, order that any party or person provide or permit discovery.

(3) *Awarding Expenses.* Rule 37(a)(5) applies to the award of expenses.

(d) Timing and Sequence of Discovery.

(1) *Timing.* Except in a proceeding exempted from initial disclosure under Rule 26(a)(1)(B), or when authorized by these rules, by stipulation, or by chancery court order, a party may not seek discovery from any source before the period for initial disclosures has expired and that party has provided the disclosures required under Rule 26(a)(1)~~, (1.1), or (1.2)~~.

(2) *Sequence.* Unless the parties stipulate or the chancery court orders otherwise for the parties' and witnesses' convenience and in the interests of justice:

(A) methods of discovery may be used in any sequence; and

(B) discovery by one party does not require any other party to delay its discovery.

(e) Supplementing Disclosures and Responses.

(1) *In General.* A party who has made a disclosure under Rule 26(a)--or who has responded to an interrogatory, request for production, or request for admission--must supplement or correct its disclosure or response:

(A) in a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made

known to the other parties during the discovery process or in writing; or

(B) as ordered by the chancery court.

(2) *Expert Witness.* For an expert whose report must be disclosed under Rule 26(a)(2)(B), the party's duty to supplement extends both to information included in the report and to information given during the expert's deposition. Any additions or changes to this information must be disclosed by the time the party's pretrial disclosures under Rule 26(a)(3) are due.

(f) Discovery Conference. At any time after commencement of an action the chancery court may direct the attorneys for the parties to appear before it for a conference on the subject of discovery. The chancery court shall do so upon motion by the attorney for any party if the motion includes:

(1) a statement of the issues as they then appear;

(2) a proposed plan and schedule of discovery;

(3) any expansion or further limitation proposed to be placed on discovery;

(4) any other proposed orders with respect to discovery; and

(5) a statement showing that the attorney making the motion has made a reasonable effort to reach agreement with opposing attorneys on the matters set forth in the motion. Each party and each party's attorney are under a duty to participate in good faith in the framing of a discovery plan if a plan is proposed by the attorney for any party. Notice of the motion shall be served on all parties. Objections or additions to matters set forth in the motion shall be served not later than 14 days after service of the motion.

Following the discovery conference, the chancery court shall enter an order tentatively identifying the issues for discovery purposes, establishing a plan and schedule for discovery, setting limitations on discovery, if any; and determining such other matters, including the allocation of expenses, as are necessary for the proper management of discovery in the action. An order may be altered or amended whenever justice so requires.

Subject to the right of a party who properly moves for a discovery conference to prompt convening of the conference, the chancery court may combine the discovery conference with a pretrial conference authorized by Rule 16.

(g) Signing Disclosures and Discovery Requests, Responses, and Objections.

(1) *Signature Required; Effect of Signature.* Every disclosure under Rule 26(a)(1)~~, (1.1), (1.2),~~ or (3) and every discovery request, response, or objection must be signed by at least one attorney of record in the attorney's own name--or by the party personally, if unrepresented-and must state the signer's address, email address, and telephone number. By signing, an attorney or party certifies that to the best of the person's knowledge, information, and belief formed after a reasonable inquiry:

(A) with respect to a disclosure, it is complete and correct as of the time it is made; and

(B) with respect to a discovery request, response, or objection, it is:

(i) consistent with these rules and warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law, or for establishing new law;

(ii) not interposed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and

(iii) neither unreasonable nor unduly burdensome or expensive, considering the needs of the case,

prior discovery in the case, the amount in controversy, and the importance of the issues at stake in the action.

(2) *Failure to Sign.* Other parties have no duty to act on an unsigned disclosure, request, response, or objection until it is signed, and the chancery court must strike it unless a signature is promptly supplied after the omission is called to the attorney's or party's attention.

(3) *Sanction for Improper Certification.* If a certification violates this rule without substantial justification, the chancery court, on motion or on its own, must impose an appropriate sanction on the signer, the party on whose behalf the signer was acting, or both. The sanction may include an order to pay the reasonable expenses, including attorney's fees, caused by the violation.

Rule 27. Depositions to Perpetuate Testimony

(a) Before an Action is Filed.

(1) *Petition.* A person who wants to perpetuate testimony about any matter cognizable in ~~any~~ the chancery court ~~of the state~~ may file a verified petition in the chancery~~district~~ court ~~for the district where any expected adverse party resides~~. The petition must ask for an order authorizing the petitioner to depose the named persons in order to perpetuate their testimony. The petition must be titled in the petitioner's name and must show:

(A) that the petitioner expects to be a party to an action cognizable in ~~a~~ the chancery court of the state but cannot presently bring it or cause it to be brought;

(B) the subject matter of the expected action and the petitioner's interest;

(C) the facts that the petitioner wants to establish by the proposed testimony and the reasons to perpetuate it;

(D) the names or a description of the persons whom the petitioner expects to be adverse parties and their addresses, so far as known; and

(E) the name, address, and expected substance of the testimony of each deponent.

(2) *Notice and Service.* At least 20 days before the hearing date, the petitioner must serve each expected adverse party with a copy of the petition and a notice stating the time and place of the hearing. The notice may be served either inside or outside the state in the manner provided in Rule 4. If that service cannot be made with reasonable diligence on an expected adverse party, the chancery court may order service by publication or otherwise. The chancery court must appoint an attorney to represent persons not served in the manner provided in Rule 4 and to cross-examine the deponent if an unserved person is not otherwise represented. If any expected adverse party is a minor or is incompetent, Rule 17(c) applies.

(3) *Order and Examination.* If satisfied that perpetuating the testimony may prevent a failure or delay of justice, the chancery court must issue an order that designates or describes the persons whose depositions may be taken, specifies the subject matter of the examinations, and states whether the depositions will be taken orally or by written interrogatories. The depositions may then be taken under these rules, and the chancery court may issue orders like those authorized by Rules 34 and 35. ~~A reference in these rules to the court where an action is pending means, for purposes of this rule, the court where the petition for the deposition was filed.~~

(4) *Using the Deposition.* A deposition to perpetuate testimony may be used under Rule 32(a) in any later-filed chancery~~district~~ court action involving the same subject matter if the deposition either was taken under these rules or, although not so taken, would be admissible in evidence in the courts of the state where it was taken.

(b) Pending Appeal.

(1) *In General.* The chancery court where a judgment has been rendered may, if an appeal has been taken or may still be taken, permit a party to depose witnesses to perpetuate their testimony for use in the event of further proceedings in that chancery court.

(2) *Motion.* The party who wants to perpetuate testimony may move for leave to take the depositions, on the same notice and service as if the action were pending in the chancery~~trial~~ court. The motion must show:

(A) the name, address, and expected substance of the testimony of each deponent; and

(B) the reasons for perpetuating the testimony.

(3) *Chancery Court Order.* If the chancery court finds that perpetuating the testimony may prevent a failure or delay of justice, the chancery court may permit the depositions to be taken and may issue orders like those authorized by Rules 34 and 35. The depositions may be taken and used as any other deposition taken in a pending chancery~~district~~ court action.

(c) Perpetuation by an Action. This rule does not limit a chancery court's power to entertain an action to perpetuate testimony.

Rule 28. Persons Before whom Depositions may be Taken

(a) Within the United States.

(1) *In General.* Within the United States or a territory or insular possession subject to United States jurisdiction, a deposition must be taken before:

(A) an officer authorized to administer oaths either by the laws of this state or of the United States or of the place of examination; or

(B) a person appointed by the chancery court where the action is pending to administer oaths and take testimony.

(2) *Definition of "Officer."* The term "officer" in Rules 30, 31, and 32 includes a person appointed by the chancery court under this rule or designated by the parties under Rule 29(a).

(b) In a Foreign Country.

(1) *In General.* A deposition may be taken in a foreign country:

(A) under an applicable treaty or convention;

(B) under a letter of request, whether or not captioned a "letter rogatory";

(C) on notice, before a person authorized to administer oaths either by federal law or by the law in the place of examination; or

(D) before a person commissioned by the chancery court to administer any necessary oath and take testimony.

(2) *Issuing a Letter of Request or a Commission.* A letter of request, a commission, or both may be issued:

(A) on appropriate terms after an application and notice of it; and

(B) without a showing that taking the deposition in another manner is impracticable or inconvenient.

(3) *Form of a Request, Notice, or Commission.* When a letter of request or any other device is used according to a treaty or convention, it must be captioned in the form prescribed by that treaty or convention. A letter of request may be addressed "To the Appropriate Authority in [name of country]." A deposition notice or a commission must designate by name or descriptive title the person before whom the deposition is to be taken.

(4) *Letter of Request--Admitting Evidence.* Evidence obtained in response to a letter of request need not be excluded merely because it is not a verbatim transcript, because the testimony was not taken under oath, or because of any similar departure from the requirements for depositions taken within the United States.

(c) Disqualification. A deposition must not be taken before a person who is any party's relative, employee, or attorney; who is related to or employed by any party's attorney; or who is financially interested in the action.

Rule 29. Stipulations about Discovery Procedure

Unless the chancery court orders otherwise, the parties may stipulate that:

(a) a deposition may be taken before any person, at any time or place, on any notice, and in the manner specified--in which event it may be used in the same way as any other deposition; and

(b) other procedures governing or limiting discovery be modified-- but a stipulation extending the time for any form of discovery must have chancery court approval if it would interfere with the time set for completing discovery, for hearing a motion, or for trial.

Rule 30. Depositions by Oral Examination

(a) When a Deposition May Be Taken.

(1) *Without Leave.* A party may, by oral questions, depose any person, including a party, without leave of chancery court except as provided in Rule 30(a)(2). The deponent's attendance may be compelled by subpoena under Rule 45.

(2) *With Leave.* A party must obtain leave of chancery court, and the chancery court must grant leave to the extent consistent with Rule 26(b)(1) and (2):

(A) if the parties have not stipulated to the deposition and:

(i) the deposition would result in more than 10 depositions being taken under this rule or Rule 31 by the plaintiffs, or by the defendants, or by the third-party defendants;

(ii) the deponent has already been deposed in the case; or

(iii) the party seeks to take the deposition before the time specified in Rule 26(d), unless the party certifies in the notice, with supporting facts, that the deponent is expected to leave the State of Wyoming and be unavailable for examination in this State after that time; or

(B) if the deponent is confined in prison.

(b) Notice of the Deposition; Other Formal Requirements.

(1) *Notice in General.* A party who wants to depose a person by oral questions must give reasonable written notice to every other party. The notice must state the time and place of the deposition and, if known, the deponent's name and address. If the name is unknown, the notice must provide a general description sufficient

to identify the person or the particular class or group to which the person belongs.

(2) *Producing Documents.* If a subpoena duces tecum is to be served on the deponent, the materials designated for production, as set out in the subpoena, must be listed in the notice or in an attachment. The notice to a party deponent may be accompanied by a request under Rule 34 to produce documents and tangible things at the deposition.

(3) *Method of Recording.*

(A) Method Stated in the Notice. The party who notices the deposition must state in the notice the method for recording the testimony. Unless the chancery court orders otherwise, testimony may be recorded by audio, audiovisual, or stenographic means. The noticing party bears the recording costs. Any party may arrange to transcribe a deposition.

(B) Additional Method. With prior notice to the deponent and other parties, any party may designate another method for recording the testimony in addition to that specified in the original notice. That party bears the expense of the additional record or transcript unless the chancery court orders otherwise.

(4) *By Remote Means.* The parties may stipulate--or the chancery court may on motion order--that a deposition be taken by telephone or other remote means. For the purpose of this rule and Rules 28(a), 37(a)(2), and 37(b)(1), the deposition takes place where the deponent answers the questions.

(5) *Officer's Duties.*

(A) Before the Deposition. Unless the parties stipulate otherwise, a deposition must be conducted before an officer appointed or designated under Rule 28. The officer must begin the deposition with an on-the-record statement that includes:

(i) the officer's name and business address;

(ii) the date, time, and place of the deposition;

(iii) the deponent's name;

(iv) the officer's administration of the oath or affirmation to the deponent; and

(v) the identity of all persons present.

(B) Conducting the Deposition; Avoiding Distortion. If the deposition is recorded nonstenographically, the officer must repeat the items in Rule 30(b)(5)(A)(i)-(iii) at the beginning of each unit of the recording medium. The deponent's and attorneys' appearance or demeanor must not be distorted through recording techniques.

(C) After the Deposition. At the end of a deposition, the officer must state on the record that the deposition is complete and must set out any stipulations made by the attorneys about custody of the transcript or recording and of the exhibits, or about any other pertinent matters.

(6) *Notice or Subpoena Directed to an Organization.* In its notice or subpoena, a party may name as the deponent a public or private corporation, a partnership, an association, a governmental agency, or other entity and must describe with reasonable particularity the matters for examination. The named organization must then designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on its behalf; and it may set out the matters on which each person designated will testify. A subpoena must advise a nonparty organization of its duty to make this designation. The persons designated must testify about information known or reasonably available to the organization. This paragraph (6) does not preclude a deposition by any other procedure allowed by these rules.

(c) Examination and Cross-Examination; Record of the Examination; Objections; Written Questions.

(1) *Examination and Cross-Examination.* The examination and cross-examination of a deponent proceed as they would at trial under the Wyoming Rules of Evidence, except Rules 103 and 615. After putting the deponent under oath or affirmation, the officer must record the testimony by the method designated under Rule 30(b)(3)(A). The testimony must be recorded by the officer personally or by a person acting in the presence and under the direction of the officer.

(2) *Objections.* An objection at the time of the examination-- whether to evidence, to a party's conduct, to the officer's qualifications, to the manner of taking the deposition, or to any other aspect of the deposition--must be noted on the record, but the examination still proceeds; the testimony is taken subject to any objection. An objection must be stated concisely in a nonargumentative and nonsuggestive manner. A person may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation ordered by the court, or to present a motion under Rule 30(d)(3).

(3) *Participating Through Written Questions.* Instead of participating in the oral examination, a party may serve written questions in a sealed envelope on the party noticing the deposition, who must deliver them to the officer. The officer must ask the deponent those questions and record the answers verbatim.

(d) Duration; Sanction; Motion to Terminate or Limit.

(1) *Duration.* Unless otherwise stipulated or ordered by the chancery court, a deposition is limited to one day of seven hours. The chancery court must allow additional time consistent with Rule 26(b)(1) and (2) if needed to fairly examine the deponent or if the deponent, another person, or any other circumstance impedes or delays the examination.

(2) *Sanction.* The chancery court may impose an appropriate sanction-- including the reasonable expenses and attorney's fees incurred by any party--on a person who impedes, delays, or frustrates the fair examination of the deponent.

(3) *Motion to Terminate or Limit.*

(A) Grounds. At any time during a deposition, the deponent or a party may move to terminate or limit it on the ground that it is being conducted in bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses the deponent or party. The motion may be filed in the court where the action is pending or the deposition is being taken. If the objecting deponent or party so demands, the deposition must be suspended for the time necessary to obtain an order.

(B) Order. The chancery court may order that the deposition be terminated or may limit its scope and manner as provided in Rule 26(c). If terminated, the deposition may be resumed only by order of the chancery court where the action is pending.

(C) Award of Expenses. Rule 37(a)(5) applies to the award of expenses.

(e) Review by the Witness; Changes.

(1) *Review; Statement of Changes.* On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) *Changes Indicated in the Officer's Certificate.* The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

(f) Certification and Delivery; Exhibits; Copies of the Transcript or Recording; Filing.

(1) *Certification and Delivery.* The officer must certify in writing that the witness was duly sworn and that the deposition accurately records the witness's testimony. The certificate must accompany the record of the deposition. Unless the chancery court orders otherwise, the officer must seal the deposition in an envelope or package bearing the title of the action and marked "Deposition of [witness's name]" and must promptly send it to the attorney who arranged for the transcript or recording. The attorney must store it under conditions that will protect it against loss, destruction, tampering, or deterioration.

(2) *Documents and Tangible Things.*

(A) Originals and Copies. Documents and tangible things produced for inspection during a deposition must, on a party's request, be marked for identification and attached to the deposition. Any party may inspect and copy them. But if the person who produced them wants to keep the originals, the person may:

(i) offer copies to be marked, attached to the deposition, and then used as originals--after giving all parties a fair opportunity to verify the copies by comparing them with the originals; or

(ii) give all parties a fair opportunity to inspect and copy the originals after they are marked--in which event the originals may be used as if attached to the deposition.

(B) Order Regarding the Originals. Any party may move for an order that the originals be attached to the deposition pending final disposition of the case.

(3) *Copies of the Transcript or Recording.* Unless otherwise stipulated or ordered by the chancery court, the officer must retain the stenographic notes of a deposition taken stenographically or a copy of the recording of a deposition taken by another method. When paid reasonable charges, the officer must furnish a copy of the transcript or recording to any party or the deponent.

(4) *Notice of Filing.* A party who files the deposition must promptly notify all other parties of the filing.

(g) Failure to Attend a Deposition or Serve a Subpoena; Expenses. A party who, expecting a deposition to be taken, attends in person or by an attorney may recover reasonable expenses for attending, including attorney's fees, if the noticing party failed to:

(1) attend and proceed with the deposition; or

(2) serve a subpoena on a nonparty deponent, who consequently did not attend.

Rule 31. Depositions by Written Questions

(a) When a Deposition May Be Taken.

(1) *Without Leave.* A party may, by written questions, depose any person, including a party, without leave of chancery court except as provided in Rule 31(a)(2). The deponent's attendance may be compelled by subpoena under Rule 45.

(2) *With Leave.* A party must obtain leave of chancery court, and the chancery court must grant leave to the extent consistent with Rule 26(b)(1) and (2):

(A) if the parties have not stipulated to the deposition and:

(i) the deposition would result in more than 10 depositions being taken under this rule or Rule 30 by the plaintiffs, or by the defendants, or by the third-party defendants;

(ii) the deponent has already been deposed in the case; or

(iii) the party seeks to take a deposition before the time specified in Rule 26(d); or

(B) if the deponent is confined in prison.

(3) *Service; Required Notice.* A party who wants to depose a person by written questions must serve them on every other party, with a notice stating, if known, the deponent's name and address. If the name is unknown, the notice must provide a general description sufficient to identify the person or the particular class or group to which the person belongs. The notice must also state the name or descriptive title and the address of the officer before whom the deposition will be taken.

(4) *Questions Directed to an Organization.* A public or private corporation, a partnership, an association, or a governmental agency may be deposed by written questions in accordance with Rule 30(b)(6).

(5) *Questions from Other Parties.* Any questions to the deponent from other parties must be served on all parties as follows: cross-questions, within 14 days after being served with the notice and direct questions; redirect questions, within seven days after being served with cross-questions; and recross-questions, within seven days after being served with redirect questions. The court may, for good cause, extend or shorten these times.

(b) Delivery to the Officer; Officer's Duties. The party who noticed the deposition must deliver to the officer a copy of all the questions served and of the notice. The officer must promptly proceed in the manner provided in Rule 30(c), (e), and (f) to:

(1) take the deponent's testimony in response to the questions;

(2) prepare and certify the deposition; and

(3) send it to the party, attaching a copy of the questions and of the notice.

(c) Notice of Completion or Filing.

(1) *Completion.* The party who noticed the deposition must notify all other parties when it is completed.

(2) *Filing.* A party who files the deposition must promptly notify all other parties of the filing.

Rule 32. Using Depositions in Court Proceedings

(a) Using Depositions.

(1) *In General.* At a hearing or trial, all or part of a deposition may be used against a party on these conditions:

(A) the party was present or represented at the taking of the deposition or had reasonable notice of it;

(B) it is used to the extent it would be admissible under the Wyoming Rules of Evidence if the deponent were present and testifying; and

(C) the use is allowed by Rule 32(a)(2) through (8).

(2) *Impeachment and Other Uses.* Any party may use a deposition to contradict or impeach the testimony given by the deponent as a witness, or for any other purpose allowed by the Wyoming Rules of Evidence.

(3) *Deposition of Party, Agent, or Designee.* An adverse party may use for any purpose the deposition of a party or anyone who, when deposed, was the party's officer, director, managing agent, or designee under Rule 30(b)(6) or 31(a)(4).

(4) *Unavailable Witness.* A party may use for any purpose the deposition of a witness, whether or not a party, if the court finds:

(A) that the witness is dead;

(B) that the witness is absent from the state, unless it appears that the witness's absence was procured by the party offering the deposition;

(C) that the witness cannot attend or testify because of age, illness, infirmity, or imprisonment;

(D) that the party offering the deposition could not procure the witness's attendance by subpoena; or

(E) on motion and notice, that exceptional circumstances make it desirable--in the interest of justice and with due regard to the importance of live testimony in open court--to permit the deposition to be used.

(5) *Limitations on Use.*

(A) Deposition Taken on Short Notice. A deposition must not be used against a party who, having received less than 14 days' notice of the deposition, promptly moved for a protective order under Rule 26(c)(1)(B) requesting that it not be taken or be taken at a different time or place--and this motion was still pending when the deposition was taken.

(B) Unavailable Deponent; Party Could Not Obtain an Attorney. A deposition taken without leave of chancery court under the unavailability provision of Rule 30(a)(2)(A)(iii) must not be used against a party who shows that, when served with the notice, it could not, despite diligent efforts, obtain an attorney to represent it at the deposition.

(6) *Using Part of a Deposition.* If a party offers in evidence only part of a deposition, an adverse party may require the offeror to introduce other parts that in fairness should be considered with the part introduced, and any party may itself introduce any other parts.

(7) *Substituting a Party.* Substituting a party under Rule 25 does not affect the right to use a deposition previously taken.

(8) *Deposition Taken in an Earlier Action.* A deposition lawfully taken and, if required, filed in any federal or state court action may be used in a later action involving the same subject matter between the same parties, or their representatives or successors in interest, to the same extent as if taken in the later action. A deposition previously taken may also be used as allowed by the Wyoming Rules of Evidence.

(b) Objections to Admissibility. Subject to Rules 28(b) and 32(d)(3), an objection may be made at a hearing or trial to the admission of any deposition testimony that would be inadmissible if the witness were present and testifying.

(c) Form of Presentation. Unless the chancery court orders otherwise, a party must provide a transcript of any deposition testimony the party offers, but may provide the chancery court with the testimony in nontranscript form as well. ~~On any party's request, deposition testimony offered in a jury trial for any purpose other than impeachment must be presented in nontranscript form, if available, unless the court for good cause orders otherwise.~~

(d) Waiver of Objections.

(1) *To the Notice.* An objection to an error or irregularity in a deposition notice is waived unless promptly served in writing on the party giving the notice.

(2) *To the Officer's Qualification.* An objection based on disqualification of the officer before whom a deposition is to be taken is waived if not made:

(A) before the deposition begins; or

(B) promptly after the basis for disqualification becomes known or, with reasonable diligence, could have been known.

(3) *To the Taking of the Deposition.*

(A) Objection to Competence, Relevance, or Materiality. An objection to a deponent's competence--or to the competence, relevance, or materiality of testimony--is not waived by a failure to make the objection before or during the deposition, unless the ground for it might have been corrected at that time.

(B) Objection to an Error or Irregularity. An objection to an error or irregularity at an oral examination is waived if:

(i) it relates to the manner of taking the deposition, the form of a question or answer, the oath or affirmation, a party's conduct, or other matters that might have been corrected at that time; and

(ii) it is not timely made during the deposition.

(C) Objection to a Written Question. An objection to the form of a written question under Rule 31 is waived if not served in writing on the party submitting the question within the time for serving responsive questions or, if the question is a recross-question, within seven days after being served with it.

(4) *To Completing and Returning the Deposition.* An objection to how the officer transcribed the testimony--or prepared, signed, certified, sealed, endorsed, sent, or otherwise dealt with the deposition--is waived unless a motion to suppress is made promptly after the error or irregularity becomes known or, with reasonable diligence, could have been known.

Rule 33. Interrogatories to Parties

(a) In General.

(1) *Number.* Unless otherwise stipulated or ordered by the chancery court, a party may serve on any other party no more than 25 written interrogatories, including all discrete subparts. Leave to serve additional interrogatories may be granted to the extent consistent with Rule 26(b)(1) and (2).

(2) *Scope.* An interrogatory may relate to any matter that may be inquired into under Rule 26(b). An interrogatory is not objectionable merely because it asks for an opinion or contention that relates to fact or the application of law to fact, but the chancery court may order that the interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time.

(b) Answers and Objections.

(1) *Responding Party.* The interrogatories must be answered:

(A) by the party to whom they are directed; or

(B) if that party is a public or private corporation, a partnership, an association, or a governmental agency, by any officer or agent, who must furnish the information available to the party.

(2) *Time to Respond.* The responding party must serve its answers and any objections within 30 days after being served with the interrogatories. A shorter or longer time may be stipulated to under Rule 29 or be ordered by the chancery court.

(3) *Answering Each Interrogatory.* Each interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath.

(4) *Objections.* The grounds for objecting to an interrogatory must be stated with specificity. Any ground not stated in a timely objection is waived unless the chancery court, for good cause, excuses the failure.

(5) *Signature.* The person who makes the answers must sign them, and the attorney who objects must sign any objections.

(c) Use. An answer to an interrogatory may be used to the extent allowed by the Wyoming Rules of Evidence.

(d) Option to Produce Business Records. If the answer to an interrogatory may be determined by examining, auditing, compiling, abstracting, or summarizing a party's business records (including electronically stored information), and if the burden of deriving or ascertaining the answer will be substantially the same for either party, the responding party may answer by:

(1) specifying the records that must be reviewed, in sufficient detail to enable the interrogating party to locate and identify them as readily as the responding party could; and

(2) giving the interrogating party a reasonable opportunity to examine and audit the records and to make copies, compilations, abstracts, or summaries.

Rule 34. Producing Documents, Electronically Stored Information, and Tangible Things, or Entering onto Land for Inspection and other Purposes

(a) In General. A party may serve on any other party a request within the scope of Rule 26(b):

(1) to produce and permit the requesting party or its representative to inspect, copy, test, or sample the following items in the responding party's possession, custody, or control:

(A) any designated documents or electronically stored information--including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations--stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form; or

(B) any designated tangible things; or

(2) to permit entry onto designated land or other property possessed or controlled by the responding party, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

(b) Procedure.

(1) *Contents of the Request.* The request:

(A) must describe with reasonable particularity each item or category of items to be inspected;

(B) must specify a reasonable time, place, and manner for the inspection and for performing the related acts; and

(C) may specify the form or forms in which electronically stored information is to be produced.

(2) *Responses and Objections.*

(A) Time to Respond. The party to whom the request is directed must respond in writing within 30 days after being served. A shorter or longer time may be stipulated to under Rule 29 or be ordered by the chancery court.

(B) Responding to Each Item. For each item or category, the response must either state that inspection and related activities will be permitted as requested or state with specificity the grounds for objecting to the request, including the reasons. The responding party may state that it will produce copies of documents or of electronically stored information instead of permitting inspection. The production must then be completed no later than the time for inspection specified in the request or another reasonable time specified in the response.

(C) Objections. An objection must state whether any responsive materials are being withheld on the basis of that objection. An objection to part of a request must specify the part and permit inspection of the rest.

(D) Responding to a Request for Production of Electronically Stored Information. The response may state an objection to a requested form for producing electronically stored information. If the responding party objects to a requested form--or if no form was specified in the request--the party must state the form or forms it intends to use.

(E) Producing the Documents or Electronically Stored Information. Unless otherwise stipulated or ordered by the chancery court, these procedures apply to producing documents or electronically stored information:

(i) A party must produce documents as they are kept in the usual course of business or must organize and label them to correspond to the categories in the request;

(ii) If a request does not specify a form for producing electronically stored information, a party must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms; and

(iii) A party need not produce the same electronically stored information in more than one form.

(c) Nonparties. As provided in Rule 45, a nonparty may be compelled to produce documents and tangible things or to permit an inspection.

Rule 35. Physical and Mental Examinations

(a) Order for an Examination.

(1) *In General.* The chancery court where the action is pending may order a party whose mental or physical condition--including blood group--is in controversy to submit to a physical or mental examination by a suitably licensed or certified examiner. The chancery court has the same authority to order a party to produce for examination a person who is in its custody or under its legal control.

(2) *Motion and Notice*; Contents of the Order. The order:

(A) may be made only on motion for good cause and on notice to all parties and the person to be examined; and

(B) must specify the time, place, manner, conditions, and scope of the examination, as well as the person or persons who will perform it.

(b) Examiner's Report.

(1) *Request by the Party or Person Examined.* The party who moved for the examination must, on request, deliver to the requester a copy of the examiner's report, together with like reports of all earlier examinations of the same condition. The request may be made by the party against whom the examination order was issued or by the person examined.

(2) *Contents.* The examiner's report must be in writing and must set out in detail the examiner's findings, including diagnoses, conclusions, and the results of any tests.

(3) *Request by the Moving Party.* After delivering the reports, the party who moved for the examination may request--and is entitled to receive--from the party against whom the examination order was issued like reports of all earlier or later examinations of the same condition. But those reports need not be delivered by the party with custody or control of the person examined if the party shows that it could not obtain them.

(4) *Waiver of Privilege.* By requesting and obtaining the examiner's report, or by deposing the examiner, the party examined waives any privilege it may have--in that action or any other action involving the same controversy--concerning testimony about all examinations of the same condition.

(5) *Failure to Deliver a Report.* The chancery court on motion may order--on just terms--that a party deliver the report of an examination. If the report is not provided, the court may exclude the examiner's testimony at trial.

(6) *Scope.* This subdivision (b) applies also to an examination made by the parties' agreement, unless the agreement states otherwise. This subdivision does not preclude obtaining an examiner's report or deposing an examiner under other rules.

Rule 36. Requests for Admission

(a) Scope and Procedure.

(1) *Scope.* A party may serve on any other party a written request to admit, for purposes of the pending action only, the truth of any matters within the scope of Rule 26(b)(1) relating to:

(A) facts, the application of law to fact, or opinions about either; and

(B) the genuineness of any described documents.

(2) *Form; Copy of a Document.* Each matter must be separately stated. A request to admit the genuineness of a document must be accompanied by a copy of the document unless it is, or has been, otherwise furnished or made available for inspection and copying.

(3) *Time to Respond; Effect of Not Responding.* A matter is admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party or its attorney. A shorter or longer time for responding may be stipulated to under Rule 29 or be ordered by the chancery court.

(4) *Answer.* If a matter is not admitted, the answer must specifically deny it or state in detail why the answering party cannot truthfully admit or deny it. A denial must fairly respond to the substance of the matter; and when good faith requires that a party qualify an answer or deny only a part of a matter, the answer must specify the part admitted and qualify or deny the rest. The answering party may assert lack of knowledge or information as a reason for failing to admit or deny only if the party states that it has made reasonable inquiry and that the information it knows or can readily obtain is insufficient to enable it to admit or deny.

(5) *Objections.* The grounds for objecting to a request must be stated. A party must not object solely on the ground that the request presents a genuine issue for trial.

(6) *Motion Regarding the Sufficiency of an Answer or Objection.* The requesting party may move to determine the sufficiency of an answer or objection. Unless the chancery court finds an objection justified, it must order that an answer be served. On finding that an answer does not comply with this rule, the chancery court may order either that the matter is admitted or that an amended answer be served. The chancery court may defer its final decision until a pretrial conference or a specified time before trial. Rule 37(a)(5) applies to an award of expenses.

(b) Effect of an Admission; Withdrawing or Amending It. A matter admitted under this rule is conclusively established unless the chancery court, on motion, permits the admission to be withdrawn or amended. Subject to Rule 16(e), the chancery court may permit withdrawal or amendment if it would promote the presentation of the merits of the action and if the chancery court is not persuaded that it would prejudice the requesting party in maintaining or defending the action on the merits. An admission under this rule is not an admission for any other purpose and cannot be used against the party in any other proceeding.

Rule 37. Failure to Make Disclosures or to Cooperate in Discovery; Sanctions

(a) Motion for an Order Compelling Disclosure or Discovery.

(1) *In General.* ~~On notice to other parties and all affected persons, a party may move for an order compelling disclosure or discovery. The motion must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action.~~ **[Fed. R. Civ. P. 37.1(b)]** Except as otherwise ordered, the Court will not entertain any motions relating to discovery disputes unless counsel for the moving party has first conferred orally, in person or by telephone, and has made reasonable good faith efforts to resolve the dispute with opposing counsel. In the event that the parties cannot settle the discovery dispute on their own, then counsel shall jointly contact the chancery court judge's chambers for approval prior to filing any written discovery motion. The Court will attempt to resolve as many disputes as possible in this informal manner. If the Court determines that the issue requires the formal filing of a motion and briefing, the Court will permit the parties to file a written motion. If the chancery court is satisfied with the party's compliance with this provision, permission may be granted to the parties to proceed as set forth below.

(2) *Appropriate Court.* A motion for an order to a party or a nonparty must be made in the chancery court where the action is pending. ~~A motion for an order to a nonparty must be made in the court where the discovery is or will be taken.~~

(3) *Specific Motions.*

(A) To Compel Disclosure. If a party fails to make a disclosure required by Rule 26(a), any other party may move to compel disclosure and for appropriate sanctions.

(B) To Compel a Discovery Response. A party seeking discovery may move for an order compelling an answer, designation, production, or inspection. This motion may be made if:

(i) a deponent fails to answer a question asked under Rule 30 or 31;

(ii) a corporation or other entity fails to make a designation under Rule 30(b)(6) or 31(a)(4);

(iii) a party fails to answer an interrogatory submitted under Rule 33; or

(iv) a party fails to produce documents or fails to respond that inspection will be permitted--or fails to permit inspection--as requested under Rule 34.

(C) Related to a Deposition. When taking an oral deposition, the party asking a question may complete or adjourn the examination before moving for an order.

(4) *Evasive or Incomplete Disclosure, Answer, or Response.* For purposes of this subdivision (a), an evasive or incomplete disclosure, answer, or response must be treated as a failure to disclose, answer, or respond.

(5) *Payment of Expenses; Protective Orders.*

(A) If the Motion Is Granted (or Disclosure or Discovery Is Provided After Filing). If the motion is granted--or if the disclosure or requested discovery is provided after the motion was filed--the chancery court must, after giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees. But the chancery court must not order this payment if:

(i) the movant filed the motion before attempting in good faith to obtain the disclosure or discovery without chancery court action;

(ii) the opposing party's nondisclosure, response, or objection was substantially justified; or

(iii) other circumstances make an award of expenses unjust.

(B) If the Motion Is Denied. If the motion is denied, the chancery court may issue any protective order authorized under Rule 26(c) and must, after giving an opportunity to be heard, require the movant, the attorney filing the motion, or both to pay the party or deponent who opposed the motion its reasonable expenses incurred in opposing the motion, including attorney's fees. But the chancery court must not order this payment if the motion was substantially justified or other circumstances make an award of expenses unjust.

(C) If the Motion Is Granted in Part and Denied in Part. If the motion is granted in part and denied in part, the chancery court may issue any protective order authorized under Rule 26(c) and may, after giving an opportunity to be heard, apportion the reasonable expenses for the motion.

(b) Failure to Comply with Chancery Court Order.

(1) *Sanctions Sought in the District Where the Deposition Is Taken.* If the chancery court where the discovery is taken orders a deponent to be sworn or to answer a question and the deponent fails to obey, the failure may be treated as contempt of court. If a deposition-related motion is transferred to the court where the action is pending, and that court orders a deponent to be sworn or to answer a question and the deponent fails to obey, the failure may be treated as contempt of either the court where the discovery is taken or the court where the action is pending.

(2) *Sanctions Sought in ~~the District Where the Action Is~~ Pending Action.*

(A) For Not Obeying a Discovery Order. If a party or a party's officer, director, or managing agent--or a witness designated under Rule 30(b)(6) or 31(a)(4)--fails to obey an order to provide or permit discovery, including an order under Rule 26(f), 35, or 37(a), the chancery court ~~where the action is~~

~~pending~~ may issue further just orders. They may include the following:

(i) directing that the matters embraced in the order or other designated facts be taken as established for purposes of the action, as the prevailing party claims;

(ii) prohibiting the disobedient party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence;

(iii) striking pleadings in whole or in part;

(iv) staying further proceedings until the order is obeyed;

(v) dismissing the action or proceeding in whole or in part;

(vi) rendering a default judgment against the disobedient party; or

(vii) treating as contempt of chancery court the failure to obey any order except an order to submit to a physical or mental examination.

(B) For Not Producing a Person for Examination. If a party fails to comply with an order under Rule 35(a) requiring it to produce another person for examination, the chancery court may issue any of the orders listed in Rule 37(b)(2)(A)(i)-(vi), unless the disobedient party shows that it cannot produce the other person.

(C) Payment of Expenses. Instead of or in addition to the orders above, the chancery court must order the disobedient party, the attorney advising that party, or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the failure was substantially justified or other circumstances make an award of expenses unjust.

(c) Failure to Disclose, to Supplement an Earlier Response, or to Admit.

(1) *Failure to Disclose or Supplement.* If a party fails to provide information or identify a witness as required by Rule 26(a) or (e), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless. In addition to or instead of this sanction, the chancery court, on motion and after giving an opportunity to be heard:

(A) may order payment of the reasonable expenses, including attorney's fees, caused by the failure; and

~~(B) may inform the jury of the party's failure; and~~

(~~C~~B) may impose other appropriate sanctions, including any of the orders listed in Rule 37(b)(2)(A)(i)-(vi).

(2) *Failure to Admit.* If a party fails to admit what is requested under Rule 36 and if the requesting party later proves a document to be genuine or the matter true, the requesting party may move that the party who failed to admit pay the reasonable expenses, including attorney's fees, incurred in making that proof. The chancery court must so order unless:

(A) the request was held objectionable under Rule 36(a);

(B) the admission sought was of no substantial importance;

(C) the party failing to admit had a reasonable ground to believe that it might prevail on the matter; or

(D) there was other good reason for the failure to admit.

(d) Party's Failure to Attend Its Own Deposition, Serve Answers to Interrogatories, or Respond to a Request for Inspection.

(1) *In General.*

(A) Motion; Grounds for Sanctions. The court where the action is pending may, on motion, order sanctions if:

(i) a party or a party's officer, director, or managing agent--or a person designated under Rule 30(b)(6) or 31(a)(4)--fails, after being served with proper notice, to appear for that person's deposition; or

(ii) a party, after being properly served with interrogatories under Rule 33 or a request for inspection under Rule 34, fails to serve its answers, objections, or written response.

(B) Certification. A motion for sanctions for failing to answer or respond must include a certification that the movant has in good faith conferred or attempted to confer with the party failing to act in an effort to obtain the answer or response without chancery court action.

(2) *Unacceptable Excuse for Failing to Act.* A failure described in Rule 37(d)(1)(A) is not excused on the ground that the discovery sought was objectionable, unless the party failing to act has a pending motion for a protective order under Rule 26(c).

(3) *Types of Sanctions.* Sanctions may include any of the orders listed in Rule 37(b)(2)(A)(i)-(vi). Instead of or in addition to these sanctions, the chancery court shall require the party failing to act, the attorney advising that party, or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the failure was substantially justified or other circumstances make an award of expenses unjust.

(e) Failure to Preserve Electronically Stored Information. If electronically stored information that should have been preserved in the anticipation or conduct of litigation is lost because a party failed to take reasonable steps to preserve it, and it cannot be restored or replaced through additional discovery, the chancery court:

(1) upon finding prejudice to another party from loss of the information, may order measures no greater than necessary to cure the prejudice; or

(2) only upon finding that the party acted with the intent to deprive another party of the information's use in the litigation may:

(A) presume that the lost information was unfavorable to the party; or

(~~C~~B) dismiss the action or enter a default judgment.

(f) Failure to Participate in Framing a Discovery Plan. If a party or its attorney fails to participate in good faith in developing and submitting a proposed discovery plan as required by Rule 26(f), the chancery court may, after giving an opportunity to be heard, require that party or attorney to pay to any other party the reasonable expenses, including attorney's fees, caused by the failure.

Rule 38. Right to a Jury Trial; Demand

Not Applicable.

Rule 39. Trial by ~~Jury or by~~ the Chancery Court

(a) Not Applicable.

~~(b)~~ **By the Chancery Court.** All matters in chancery court ~~Issues on which a jury trial is not properly demanded~~ are to be tried by the chancery court. ~~But the court may, on motion, order a jury trial on any issue for which a jury might have been demanded.~~

(c) Not Applicable

Rule 39.1. Jury Trial; Jury Note Taking; Juror Notebooks

Not Applicable.

Rule 39.2. Juror Questionnaires

Not Applicable.

Rule 39.3. Copies of Instructions for Jurors

Not Applicable.

Rule 39.4. Juror Questions for Witnesses

Not Applicable.

Rule 40. Assignment for Trial or Alternative Dispute Resolution

(a) Scheduling Actions for Trial. The chancery court shall place actions upon the trial calendar:

(1) without request of the parties; or

(2) upon request of a party and notice to the other parties; or

(3) in such other manner as the chancery court deems expedient.

~~Precedence shall be given to actions entitled to trial by statute.~~

(b) Limited Assignment for Alternative Dispute Resolution.

(1) *Assignment.* For the purpose of invoking nonbinding alternative dispute resolution methods:

(A) Chancery Court Assignment. The chancery court may, or at the request of any party, shall, assign the case to:

(i) another active judge,

(ii) a retired judge,

(iii) retired justice, or

(iv) other qualified person on limited assignment.

(B) By Agreement. By agreement, the parties may select the person to conduct the settlement

conference or to serve as the mediator.

(i) If the parties are unable to agree, they may advise the chancery court of their recommendations, and

(ii) the chancery court shall then appoint a person to conduct the settlement conference or to serve as the mediator.

(2) *Alternative Dispute Resolution Procedure.* A settlement conference or mediation may be conducted in accordance with procedures prescribed by the person conducting the settlement conference or mediation. A mediation also may be conducted in accordance with the following recommended rules of procedure:

(A) Written Submissions. Prior to the session, the mediator may require confidential ex parte written submissions from each party. Those submissions should include:

(i) each party's honest assessment of the strengths and weaknesses of the case with regard to liability, damages, and other relief,

(ii) a history of all settlement offers and counteroffers in the case,

(iii) an honest statement from plaintiff's counsel of the minimum settlement authority that plaintiff's counsel has or is able to obtain, and

(iv) an honest statement from defense counsel of the maximum settlement authority that defense counsel has or is able to obtain.

(B) Authority to Settle. Prior to the session, a commitment must be obtained from the parties that their representatives at the session have full and complete authority to represent them and to settle the case. If any party's representative lacks settlement authority, the session should not proceed. The mediator may also require the presence at the session of the parties themselves.

(C) Conduct of Alternative Dispute Resolution.

(i) Commencement. The mediator may begin the session by stating the objective, which is to seek a workable resolution that is in the best interests of all involved and that is fair and acceptable to the parties. The parties should be informed of statutory provisions governing mediation, including provisions relating to confidentiality, privilege, and immunity.

(ii) Opening Statements. Each party or attorney may then make an opening statement stating the party's case in its best light, the issues involved, supporting law, prospects for success, and the party's evaluation of the case.

(iii) Responses. Each party or attorney may then respond to the other's presentation.

(iv) Conferences. From time to time, the parties and their attorneys may confer privately.

(v) Mediator's Role. The mediator may adjourn the session for short periods of time. After a full, open discussion, the mediator may summarize, identify the strong and weak points in each case, point out the risks of trial to each party, suggest a probable ~~verdict or~~ judgment range, and suggest a fair settlement of the case. This may be done in the presence of all parties or separately.

(vi) Settlement. If settlement results, it should promptly be reduced to a writing executed by the settling parties or recorded by other reliable means. The mediator may suggest to the parties such reasonable additions or requirements as may be appropriate or beneficial in a particular case.

(D) Fees and Costs. For those cases filed in chancery court and assigned for settlement conference or

mediation:

(i) compensation for services shall be arranged by agreement between the parties and the person conducting the settlement conference or serving as the mediator, and

(ii) that person's statement shall be paid within 30 days of receipt by the parties.

(E) Other forms of Alternative Dispute Resolution. Nothing in this rule is intended to preclude the parties from agreeing to submit their dispute to other forms of alternative dispute resolution, including arbitration ~~and summary jury trial~~.

(F) Retained Jurisdiction. Assignment of a case to alternative dispute resolution shall not suspend any deadlines or cancel any hearings or trial. The chancery court retains jurisdiction for any and all purposes while the case is assigned to any alternative dispute resolution.

Rule 40.1. Transfer of Trial and Change of Judge

(a) Transfer of Trial.

(1) *Time.* Any party may move to transfer trial within 15 days after the last pleading is filed.

(2) *Transfer.* The chancery court shall transfer the action to another county for trial if the chancery court is satisfied ~~that:~~

~~(A) there exists within the county where the action is pending such prejudice against the party or the party's cause that the party cannot obtain a fair and impartial trial, or~~

~~(B)~~ that the convenience of witnesses would be promoted thereby.

(3) *Hearing.* All parties shall have an opportunity to be heard at the hearing on the motion and any party may urge objections to any county.

(4) *Transfer.* If the motion is granted the chancery court shall order that the action be transferred to the most convenient county to which the objections of the parties do not apply or are the least applicable, whether or not such county is specified in the motion.

(5) *Additional Motions to Transfer.* After the first motion has been ruled upon, no party may move for transfer without permission of the chancery court.

(6) *Upon Transfer.* When a transfer is ordered~~:~~

~~(A) The clerk shall transmit to the clerk of the court to which the action has been transferred all papers in the action or duplicates thereof.~~

~~(B) The party applying for the transfer shall within 14 days pay the costs of preparing and transmitting such papers and shall pay a docket fee to the clerk of court of the county to which the action is transferred.~~

~~(C) T~~the action shall continue in the county to which it is transferred as though it had been originally filed therein.

(7) The presiding judge may at any time upon the judge's own motion order a transfer of trial when it appears that the ends of justice would be promoted thereby.

(b) Change of Judge.

(1) *Peremptory Disqualification*. Not Applicable.

(2) *Disqualification for Cause.*

(A) Grounds. Whenever the grounds for such motion become known, any party may move for a change of ~~district~~ chancery judge on the ground that the presiding judge

(i) has been engaged as counsel in the action prior to being appointed as judge,

(ii) is interested in the action,

(iii) is related by consanguinity to a party,

(iv) is a material witness in the action, or

(v) is biased or prejudiced against the party or the party's counsel.

(B) Motion, Affidavits and Counter-Affidavits. The motion shall be supported by an affidavit or affidavits of any person or persons, stating sufficient facts to show the existence of such grounds. Prior to a hearing on the motion any party may file counter-affidavits.

(C) Hearing. The motion shall be heard by the presiding judge, or at the discretion of the presiding judge by another judge. If the motion is granted, the presiding judge shall immediately call in another judge to try the action.

(3) *Effect of Ruling.* A ruling on a motion for a change of ~~district~~ chancery judge shall not be an appealable order, but the ruling shall be entered on the docket and made a part of the record and may be assigned as error in an appeal of the case.

(4) *Motion by Judge.* The presiding judge may at any time on the judge's own motion order a change of judge when it appears that the ends of justice would be promoted thereby.

~~(5) *Probate Matters.* In any controverted matter arising in a probate proceeding, a change of judge, or in cases where a jury is demandable, a transfer of trial, or both, may be had for any cause authorizing such change in a civil action. The procedure for such change shall be in accordance with this rule. Except for the determination of such controverted matter, the judge having original jurisdiction of such probate proceeding shall retain jurisdiction in all other matters in connection with said proceeding.~~

Rule 41. Dismissal of Actions

(a) Voluntary Dismissal.

(1) *By the Plaintiff.*

(A) Without a Chancery Court Order. Subject to Rules 23(e), 23.1(c), 23.2, and 66 and any applicable statute, the plaintiff may dismiss an action without a court order by filing:

(i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or

(ii) a stipulation of dismissal signed by all parties who have appeared.

(B) Effect. Unless the notice or stipulation states otherwise, the dismissal is without prejudice. But if

the plaintiff previously dismissed any federal or state court action based on or including the same claim, a notice of dismissal operates as an adjudication on the merits.

(2) *By Chancery Court Order; Effect.* Except as provided in Rule 41(a)(1), an action may be dismissed at the plaintiff's request only by chancery court order, on terms that the court considers proper. If a counterclaim was plead by a defendant prior to the service upon the defendant of the plaintiff's motion to dismiss, the counterclaim shall remain pending for independent adjudication by the chancery court to the extent permitted by the chancery court's subject matter jurisdiction. Unless otherwise specified in the order, a dismissal under this paragraph is without prejudice.

(b) Involuntary Dismissal; Effect.

(1) *By Defendant.* If the plaintiff fails to prosecute or to comply with these rules or a chancery court order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order states otherwise, a dismissal under this subdivision (b) and any dismissal not under this rule--except one for lack of jurisdiction, improper venue, or failure to join a party under Rule 19--operates as an adjudication on the merits.

(2) *By the Chancery Court.* Upon its own motion, after reasonable notice to the parties, the chancery court may dismiss, without prejudice, any action not prosecuted or brought to trial with due diligence. See U.R.D.C. 203.

(c) Dismissing a Counterclaim, Crossclaim, or Third-Party Claim. This rule applies to a dismissal of any counterclaim, crossclaim, or third-party claim. A claimant's voluntary dismissal under Rule 41(a)(1)(A)(i) must be made:

(1) before a responsive pleading is served; or

(2) if there is no responsive pleading, before evidence is introduced at a hearing or trial.

(d) Costs of a Previously Dismissed Action. If a plaintiff who previously dismissed an action in any court files an action based on or including the same claim against the same defendant, the chancery court:

(1) may order the plaintiff to pay all or part of the costs of that previous action; and

(2) may stay the proceedings until the plaintiff has complied.

Rule 42. Consolidation; Separate Trials

(a) Consolidation. If actions before the court involve a common question of law or fact, the chancery court may:

(1) join for hearing or trial any or all matters at issue in the actions;

(2) consolidate the actions; or

(3) issue any other orders to avoid unnecessary cost or delay.

(b) Separate Trials. For convenience, to avoid prejudice, or to expedite and economize, the chancery court may order a separate trial of one or more separate issues, claims, crossclaims, counterclaims, or third-party claims. When ordering a separate trial, the court must preserve any right to a jury trial.

Rule 43. Taking Testimony

(a) In Open Court. At trial, the witnesses' testimony must be taken in open court unless these rules, a statute, the Wyoming Rules of Evidence, or other rules adopted by the Supreme Court of Wyoming provide otherwise. For good cause in compelling circumstances and with appropriate safeguards, the chancery court may permit testimony in open court by contemporaneous transmission from a different location.

(b) Affirmation Instead of an Oath. When these rules require an oath, a solemn affirmation suffices.

(c) Evidence on a Motion. When a motion relies on facts outside the record, the chancery court may hear the matter on affidavits or may hear it wholly or partly on oral testimony or on depositions.

(d) Interpreter. The chancery court may appoint an interpreter of its choosing; fix reasonable compensation to be paid from funds provided by law or by one or more parties; and tax the compensation as costs.

Rule 44. Determining Foreign Law

A party who intends to raise an issue about a foreign country's law must give notice by a pleading or other writing. In determining foreign law, the chancery court may consider any relevant material or source, including testimony, whether or not submitted by a party or admissible under the Wyoming Rules of Evidence. The chancery court's determination must be treated as a ruling on a question of law.

Rule 45. Subpoena

(a) In General.

(1) *Form and Contents.*

(A) Requirements--In General. Every subpoena must:

(i) state the court from which it issued;

(ii) state the title of the action and its civil action number;

(iii) command each person to whom it is directed to do the following at a specified time and place: attend and testify; produce and permit inspection, copying, testing, or sampling of designated documents, electronically stored information, or tangible things in that person's possession, custody, or control; or permit the inspection of premises; and

(iv) set out the text of Rule 45 (c), (d) and (e).

(v) A command to produce evidence or to permit inspection, copying, testing, or sampling may be joined with a command to appear at trial or hearing or at deposition, or may be issued separately. A subpoena may specify the form or forms in which electronically stored information is to be produced.

(2) A subpoena must issue as follows:

(A) Command to Attend Trial. For attendance at a trial or hearing, from the chancery court ~~for the district~~ in which the action is pending;

(B) Command to Attend a Deposition. For attendance at a deposition, from the chancery court in which the action is pending, stating the method for recording the testimony; and

(C) Command to Produce. For production, inspection, copying, testing, or sampling, if separate from a subpoena commanding a person's attendance, from the chancery court in which the action is pending~~for the district where the production or inspection is to be made~~.

(3) *Issued by Whom.* The chancery court clerk shall issue a subpoena, signed but otherwise in blank, to a party requesting it, who shall complete it before service. An attorney as officer of the chancery court may also issue and sign a subpoena on behalf of

(A) a court in which the attorney is authorized to practice; or

(B) a court for a district in which a deposition or production is compelled by the subpoena, if the deposition or production pertains to an action pending in a court in which the attorney is authorized to practice.

(4) *Notice to Other Parties Before Service.* If the subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, then before it is served, a notice must be served on each party.

(b) Service; place of attendance; notice before service.

(1) *By Whom and How; Fees.* A subpoena may be served by the sheriff, by a deputy sheriff, or by any other person who is not a party and is not a minor, at any place within the State of Wyoming. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and, if the person's attendance is commanded, by tendering to that person the fees for one day's attendance and the mileage allowed by law. The party subpoenaing any witness residing in a county other than that in which the action is pending shall pay to such witness, after the hearing or trial, the statutory per diem allowance for state employees for each day or part thereof necessarily spent by such witness in traveling to and from the court and in attendance at the hearing or trial.

(2) *Proof of Service.* Proving service, when necessary, requires filing with the clerk of the chancery court by which the subpoena is issued, a statement of the date and manner of service and of the names of the persons served. The statement must be certified by the person who made the service.

(3) *Place of Compliance for Trial.* A subpoena for trial or hearing may require the person subpoenaed to appear at the trial or hearing irrespective of the person's place of residence, place of employment, or where such person regularly transacts business in person.

(4) *Place of Compliance for Deposition.* A person commended by subpoena to appear at a deposition may be required to attend only in the county wherein that person resides or is employed or regularly transacts business in person, or at such other convenient place as is fixed by an order of chancery court. A nonresident of the state may be required to attend only in the county wherein that nonresident is served with a subpoena or at such other convenient place as is fixed by an order of chancery court.

(c) Protecting a Person Subject to Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The chancery court ~~on behalf of which the subpoena was issued~~ shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) *Command to Produce Materials or Permit Inspection.*

(A) Appearance not Required. A person commanded to produce and permit inspection, copying, testing, or sampling of designated electronically stored information, books, papers, documents or tangible

things, or inspection of premises need not appear in person at the place of production or inspection unless also commanded to appear for deposition, hearing or trial.

(B) Objections. Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection, copying, testing, or sampling may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to producing any or all of the designated materials or inspection of the premises--or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect, copy, test, or sample the materials or inspect the premises except pursuant to an order of the chancery court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production, inspection, copying, testing, or sampling. Such an order to compel shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection, copying, testing, or sampling commanded.

(3) *Quashing or Modifying a Subpoena.*

(A) When Required. On timely motion, the chancery court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel outside that person's county of residence or employment or a county where that person regularly transacts business in person except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel to attend trial.

The chancery court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the chancery court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) *Producing Documents or Electronically Stored Information.*

(A) Documents. A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) Form of Electronically Stored Information if Not Specified. If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(C) Electronically Stored Information Produced in Only One Form. A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the chancery court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The chancery court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) Making a Claim. When information or material subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) Information Produced. If information is produced in response to a subpoena that is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the chancery court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt. Failure of any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the chancery court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a nonparty to attend or produce at a place not within the limits provided by subparagraph (c)(3)(A)(ii).

Rule 46. Objecting to a Ruling or Order

A formal exception to a ruling or order is unnecessary. When the ruling or order is requested or made, a party need only state the action that it wants the chancery court to take or objects to, along with the grounds for the request or objection. Failing to object does not prejudice a party who had no opportunity to do so when the ruling or order was made.

Rule 47. Selecting Jurors for Trial

Not Applicable.

Rule 48. Number of Jurors; Verdict; Polling

Not Applicable.

Rule 49. Special Verdict; General Verdict and Questions

Not Applicable.

Rule 50. Judgment as a Matter of Law in Jury Trials; Alternative Motion for New Trial; Conditional Rulings

(a) Judgment as a matter of law. Not Applicable.

(b) Renewing the motion after trial; alternative motion for a new trial. Not Applicable.

(c) Granting Renewed Motion for Judgment as a Matter of Law; Conditional Rulings; Motion for a New Trial.

(1) *In General.* If the court grants a renewed motion for judgment as a matter of law, the court shall also conditionally rule on the motion for a new trial, if any, by determining whether a new trial should be granted if the judgment is thereafter vacated or reversed. The court shall specify the grounds for conditionally granting or denying the motion for the new trial.

(2) *Effect of Conditional Ruling.* If the motion for a new trial is thus conditionally granted, the order thereon does not affect the finality of the judgment. In case the motion for a new trial has been conditionally granted and the judgment is reversed on appeal, the new trial shall proceed unless the appellate court has otherwise ordered. In case the motion for a new trial has been conditionally denied, the appellee on appeal may assert error in that denial; and if the judgment is reversed on appeal, subsequent proceedings shall be in accordance with the order of the appellate court.

(d) Time for a Losing Party's New Trial Motion. Any motion for a new trial under Rule 59 by a party against whom judgment as a matter of law is rendered shall be filed no later than 28 days after entry of the judgment.

(e) Denial of Motion for Judgment as a Matter of Law. If the motion for judgment as a matter of law is denied, the party who prevailed on that motion may, as appellee, assert grounds entitling the party to a new trial in the event the appellate court concludes that the trial court erred in denying the motion for judgment. If the appellate court reverses the judgment, nothing in this rule precludes it from determining that the appellee is entitled to a new trial, or from directing the trial court to determine whether a new trial shall be granted.

Rule 51. Instructions to the Jury; Objections; Preserving a Claim of Error

Not Applicable.

Rule 52. Findings by the Chancery Court; Judgment on Partial Findings; Reserved Questions

(a) General and Special Findings by Chancery Court.

(1) *Trials by the Chancery Court ~~or Advisory Jury~~*. Upon the trial of questions of fact by the chancery court, ~~or with an advisory jury,~~ it shall not be necessary for the chancery court to state its findings, except generally for the plaintiff or defendant. Findings of fact and conclusions of law are unnecessary on decisions of motions under Rule 12 or 56 or any other motion except as provided in Rule 52(c).

(A) Requests for Written Findings. If one of the parties requests it before the introduction of any evidence, with the view of excepting to the decision of the chancery court upon the questions of law involved in the trial, the chancery court shall state in writing its special findings of fact separately from its conclusions of law;

(B) Written Findings Absent Request. Without a request from the parties, the chancery court may make such special findings of fact and conclusions of law as it deems proper and if the same are preserved in the record either by stenographic report or by the court's written memorandum, the same may be considered on appeal. Requests for findings are not necessary for purposes of review.

(2) *Findings of a Master.* The findings of a master, to the extent that the court adopts them, shall be considered as the findings of the chancery court.

(b) Amendment or Additional Findings. On a party's motion filed no later than 28 days after entry of judgment; the chancery court may amend its findings--or make additional findings--and may amend the judgment accordingly. The motion may accompany a motion for a new trial under Rule 59. When special findings of fact are made ~~in actions tried without a jury~~, the sufficiency of the evidence supporting the findings may be later questioned whether or not in the court the party raising the question objected to the findings, moved to amend them, or moved for partial findings.

(c) Judgment on Partial Findings. If a party has been fully heard on an issue in a trial ~~without a jury~~ and the chancery court finds against the party on that issue, the chancery court may enter judgment as a matter of law against that party with respect to a claim or defense that cannot under the controlling law be maintained or defeated without a favorable finding on that issue, or the chancery court may decline to render any judgment until the close of all the evidence. The party against whom entry of such a judgment is considered shall be entitled to no special inference as a consequence of such consideration, and the chancery court may weigh the evidence and resolve conflicts. Such a judgment shall be supported by findings as provided in Rule 52(a).

(d) Reserved Questions.

(1) *In General.* In all cases in which a chancery court reserves an important and difficult constitutional question arising in an action or proceeding pending before it, the chancery court, before sending the question to the supreme court for decision, shall

(A) dispose of all necessary and controlling questions of fact and make special findings of fact thereon, and

(B) state its conclusions of law on all points of common law and of construction, interpretation and meaning of statutes and of all instruments necessary for a complete decision of the case.

(2) *Constitutional Questions.* No constitutional question shall be deemed to arise in an action unless, after all necessary special findings of fact and conclusions of law have been made by the chancery court, a decision on the constitutional question is necessary to the rendition of final judgment. The constitutional question reserved shall be specific and shall identify the constitutional provision to be interpreted. The special findings of fact and conclusions of law required by this subdivision of this rule shall be deemed to be a final order from which

either party may appeal, and such appeal may be considered by the supreme court simultaneously with the reserved question.

Rule 53. Masters

(a) Appointment and compensation.

(1) *Appointment.* The chancery court in which any action is pending may appoint a master therein. As used in these rules the word "master" includes, but is not limited to, a referee, an auditor, or an examiner.

(2) *Compensation.* The compensation to be allowed to a master shall be fixed by the chancery court, and may be charged against one or more of the parties, paid out of any fund or subject matter of the action which is in the custody and control of the court, or as the chancery court may direct. The master shall not retain the master's report as security for the master's compensation; but when the party ordered to pay the compensation allowed by the chancery court does not pay it after notice and within the time prescribed by the chancery court, the master is entitled to a writ of execution against the delinquent party.

(b) Reference. A reference to a master shall be the exception and not the rule.

~~(1) *Jury Trials.*~~ Not Applicable.

~~(2) *Nonjury Trials.* In actions to be tried without a jury, save in matters of account and of difficult computation of damages, a reference shall be made only upon a showing that some exceptional condition requires it.~~

(c) Powers. The order of reference to the master may specify or limit the master's powers and may direct the master to report only upon particular issues or to do or perform particular acts or to receive and report evidence only and may fix the time and place for beginning and closing the hearings and for the filing of the master's report. Subject to the specifications and limitations stated in the order, the master has and shall exercise the power to regulate all proceedings in every hearing before the master and to do all acts and take all measures necessary or proper for the efficient performance of the master's duties under the order. The master may require the production before the master of evidence upon all matters embraced in the reference, including the production of all books, papers, vouchers, documents, and writings applicable thereto. The master may rule upon the admissibility of evidence unless otherwise directed by the order of reference and has the authority to put witnesses on oath and may examine them and may call the parties to the action and examine them upon oath. When a party so requests, the master shall make a record of the evidence received, offered and excluded in the same manner and subject to the same limitations as provided in the Wyoming Rules of Evidence for a court sitting without a jury.

(d) Proceedings.

(1) *Meetings.* When a reference is made, the chancery court clerk shall forthwith furnish the master with a copy of the order of reference.

(A) Time. Upon receipt thereof unless the order of reference otherwise provides, the master shall forthwith set a time and place for the first meeting of the parties or their attorneys to be held within ~~20~~ 14 days after the date of the order of reference and shall notify the parties or their attorneys.

(B) Delay. It is the duty of the master to proceed with all reasonable diligence. Either party, on notice to the parties and master, may apply to the chancery court for an order requiring the master to speed the proceedings and to make the master's report.

(C) Appearance of Parties Required. If a party fails to appear at the time and place appointed, the master may proceed ex parte, or in the master's discretion, adjourn the proceedings to a future day, giving notice to the absent party of the adjournment.

(2) *Witnesses.* The parties may procure the attendance of witnesses before the master by the issuance and service of subpoenas as provided in Rule 45. If without adequate excuse a witness fails to appear or give evidence, the witness may be punished as for a contempt and be subjected to the consequences, penalties, and remedies provided in Rules 37 and 45.

(3) *Statement of Accounts.* When matters of accounting are in issue before the master, the master may prescribe the form in which the accounts shall be submitted and in any proper case may require or receive in evidence a statement by a certified public accountant who is called as a witness. Upon objection of a party to any of the items thus submitted or upon a showing that the form of statement is insufficient, the master may require a different form of statement to be furnished, or the accounts or specific items thereof to be proved by oral examination of the accounting parties or upon written interrogatories or in such other manner as the master directs.

(e) Report.

(1) *Contents and Filing.* The master shall prepare a report upon the matters submitted to the master by the order of reference and, if required to make findings of fact and conclusions of law, the master shall set them forth in the report. The master shall file the report with the clerk of the chancery court and serve on all parties notice of the filing, pursuant to Rule 5. Unless otherwise directed by the order of reference, the master shall also serve a copy of the report on each party, pursuant to Rule 5.

(2) ~~*In Nonjury Actions*~~*Filing Master's Report*. ~~In an action to be tried without a jury, u~~Unless otherwise directed by the order of reference, the master shall file with the report a transcript of the proceedings and of the evidence and the original exhibits.

(A) Findings Accepted. ~~In an action to be tried without a jury t~~The chancery court shall accept the master's findings of fact unless clearly erroneous.

(B) Objections. Within 14 days after being served with notice of the filing of the report any party may serve written objections thereto upon the other parties. Application to the chancery court for action upon the report and upon objections thereto shall be by motion and upon notice. The chancery court, after hearing, may adopt the report or may modify it or may reject it in whole or in part or may receive further evidence or may recommit it with instructions.

(3) *In Jury Actions.* Not applicable.

(4) *Stipulation as to Findings.* The effect of a master's report is the same whether or not the parties have consented to the reference; but, when the parties stipulate that a master's findings of fact shall be final, only questions of law arising upon the report shall thereafter be considered.

(5) *Draft of Report.* Before filing the master's report, a master may submit a draft thereof to counsel for all parties for the purpose of receiving their suggestions.

Rule 54. Judgment; Costs

(a) Definition; Form. "Judgment" as used in these rules includes a decree and any order from which an appeal lies. A judgment should not include recitals of pleadings, a master's report, or a record of prior proceedings. A court's decision letter or opinion letter, made or entered in writing, is not a judgment.

(b) Judgment on Multiple Claims or Involving Multiple Parties. When an action presents more than one claim for relief-- whether as a claim, counterclaim, crossclaim, or third-party claim--or when multiple parties are involved, the chancery court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the chancery court expressly determines that there is no just reason for delay. Otherwise, any order or other

decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities.

(c) Demand for Judgment; Relief to be Granted. A default judgment must not differ in kind from, or exceed in amount, what is demanded in the pleadings. Every other final judgment should grant the relief to which each party is entitled, even if the party has not demanded that relief in its pleadings.

(d) Costs; Attorney's Fees.

(1) *Costs Other Than Attorney's Fees.* Unless a statute, these rules, or a chancery court order provides otherwise, costs--other than attorney's fees--should be allowed to the prevailing party, when a motion for such costs is filed no later than 21 days after the entry of judgment. But costs against the State of Wyoming, its officers, and its agencies may be imposed only to the extent allowed by law.

(2) *Attorney's Fees.*

(A) Claim to Be by Motion. A claim for attorney's fees and allowable costs shall be made by motion unless the substantive law requires those fees to be proved at trial as an element of damages.

(B) Timing and Contents of the Motion. Unless a statute or a chancery court order provides otherwise, the motion must:

(i) be filed no later than 21 days after the entry of judgment;

(ii) specify the judgment and the statute, rule, or other grounds entitling the movant to the award;

(iii) state the amount sought or provide a fair estimate of it; and

(iv) disclose, if the chancery court so orders, the terms of any agreement about fees for the services for which the claim is made.

(C) Proceedings. Subject to Rule 23(g), the chancery court must, on a party's request, give an opportunity for adversary submissions on the motion in accordance with Rule 43(c) or 78. The chancery court may decide issues of liability for fees before receiving submissions on the value of services. The chancery court must find the facts and state its conclusions of law as provided in Rule 52(a).

(D) Special Procedures; Reference to a Master. The chancery court may establish special procedures to resolve fee-related issues without extensive evidentiary hearings. Also, the chancery court may refer issues concerning the value of services to a special master under Rule 53 without regard to the limitations of Rule 53(a)(1).

(E) Exceptions. Subparagraphs (A)-(D) do not apply to claims for fees and expenses as sanctions for violating these rules.

(3) *Contents of the Motion.* Unless a statute or a chancery court order provides otherwise, any motion must:

(A) specify the judgment and the statute, rule, or other grounds entitling the movant to the award;

(B) state the amount sought or provide a fair estimate of it; and

(C) disclose, if the chancery court so orders, the terms of any agreement about fees for the services for which the claim is made.

Rule 55. Default; Default Judgment

(a) Entering a Default. When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the chancery court clerk must enter the party's default.

(b) Entering a Default Judgment.

(1) *By the Clerk.* If the plaintiff's claim is for a sum certain or a sum that can be made certain by computation, the chancery court clerk-- on the plaintiff's request, with an affidavit showing the amount due--must enter judgment for that amount and costs against a defendant who has been defaulted for not appearing and who is neither a minor nor an incompetent person.

(2) *By the Chancery Court.* In all other cases, the party must apply to the chancery court for a default judgment. A default judgment may be entered against a minor or incompetent person only if represented by a guardian, guardian ad litem, trustee, conservator, or other like fiduciary who has appeared. If the party against whom a default judgment is sought has appeared personally or by a representative, that party or its representative must be served with written notice of the application at least 7 days before the hearing. The chancery court may conduct hearings or make referrals ~~– preserving any statutory right to a jury trial –~~ when, to enter or effectuate judgment, it needs to:

(A) conduct an accounting;

(B) determine the amount of damages;

(C) establish the truth of any allegation by evidence; or

(D) investigate any other matter.

(c) Setting Aside a Default or a Default Judgment. The chancery court may set aside an entry of default for good cause, and it may set aside a final default judgment under Rule 60(b).

(d) Judgment Against State. A default judgment may be entered against the state, its officers, or its agencies only if the claimant establishes a claim or right to relief by evidence that satisfies the chancery court.

Rule 56. Summary Judgment

(a) Motion for Summary Judgment or Partial Summary Judgment. A party may move for summary judgment, identifying each claim or defense--or the part of each claim or defense--on which summary judgment is sought. The chancery court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The chancery court should state on the record the reasons for granting or denying the motion.

(b) Time to File a Motion. Unless a different time is set by chancery court order otherwise, a party may file a motion for summary judgment at any time.

(c) Procedures.

(1) *Supporting Factual Positions.* A party asserting that a fact cannot be or is genuinely disputed must support the assertion by:

(A) citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the

motion only), admissions, interrogatory answers, or other materials; or

(B) showing that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.

(2) *Objection That a Fact Is Not Supported by Admissible Evidence.* A party may object that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence.

(3) *Materials Not Cited.* The chancery court need consider only the cited materials, but it may consider other materials in the record.

(4) *Affidavits or Declarations.* An affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated.

(d) When Facts are Unavailable to the Nonmovant. If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the chancery court may:

(1) defer considering the motion or deny it;

(2) allow time to obtain affidavits or declarations or to take discovery; or

(3) issue any other appropriate order.

(e) Failing to Properly Support or Address a Fact. If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c), the chancery court may:

(1) give an opportunity to properly support or address the fact;

(2) consider the fact undisputed for purposes of the motion;

(3) grant summary judgment if the motion and supporting materials--including the facts considered undisputed--show that the movant is entitled to it; or

(4) issue any other appropriate order.

(f) Judgment Independent of the Motion. After giving notice and a reasonable time to respond, the chancery court may:

(1) grant summary judgment for a nonmovant;

(2) grant the motion on grounds not raised by a party; or

(3) consider summary judgment on its own after identifying for the parties material facts that may not be genuinely in dispute.

(g) Failing to Grant All the Requested Relief. If the chancery court does not grant all the relief requested by the motion, it may enter an order stating any material fact--including an item of damages or other relief--that is not genuinely in dispute and treating the fact as established in the case.

(h) Affidavit or Declaration Submitted in Bad Faith. If satisfied that an affidavit or declaration under this rule is submitted in bad faith or solely for delay, the chancery court--after notice and a reasonable time to respond--may order the submitting party to pay the other party the reasonable expenses, including attorney's fees, it incurred as a result. An offending party or attorney may also be held in contempt or subjected to other appropriate sanctions.

Rule 56.1. Summary Judgment--Required Statement of Material Facts

(a) Upon any motion for summary judgment pursuant to Rule 56 of the Rules of Civil Procedure for the Chancery Court, in addition to the materials supporting the motion, there shall be annexed to the motion a separate, short and concise statement of the material facts as to which the moving party contends there is no genuine issue to be tried.

(b) In addition to the materials opposing a motion for summary judgment, there shall be annexed a separate, short and concise statement of material facts as to which it is contended that there exists a genuine issue to be tried.

(c) Such statements shall include pinpoint citations to the specific portions of the record and materials relied upon in support of the parties' position.

Rule 57. Declaratory Judgment

These rules govern the procedure for obtaining a declaratory judgment pursuant to statute. ~~Rules 38 and 39 govern a demand for a jury trial.~~ The existence of another adequate remedy does not preclude a declaratory judgment that is otherwise appropriate. The chancery court may order a speedy hearing of a declaratory judgment action.

Rule 58. Entering Judgment

(a) Presentation. Subject to the provisions of Rule 55(b) and unless otherwise ordered by the chancery court, if the parties are unable to agree on the form and content of a proposed judgment or order, it shall be presented to the chancery court and served upon the other parties within 14 days after the chancery court's decision is made known. Any objection to the form or content of a proposed judgment or order, together with an alternate form of judgment or order which cures the objection(s), shall be filed with the court and served upon the other parties within 5 days after service of the proposed judgment or order. If no written objection is timely filed, the chancery court may sign the judgment or order. If objection is timely filed, the chancery court will resolve the matter with or without a hearing.

(b) Form and Entry. Subject to the provisions of Rule 54(b), in all cases, the judge shall promptly settle or approve the form of the judgment or order and direct that it be entered by the chancery court clerk. Every judgment shall be set forth on a separate document, shall be identified as such, and may include findings of fact and conclusions of law. The names of all parties shall be set out in the caption of all final orders, judgments and decrees. All judgments must ~~and orders must be entered on the journal of the court and~~ specify clearly the relief granted or order made in the action.

(c) Time of Entry. A judgment or final order shall be deemed to be entered whenever a form of such judgment or final order pursuant to these rules is filed in the office of the clerk of chancery court in which the case is pending.

(d) Cost or Fee Awards. Ordinarily, the entry of judgment may not be delayed, nor the time for appeal extended, in order to tax costs or award fees. But if a timely motion for attorney's fees is made under Rule 54(d)(2), the chancery court may act before a notice of appeal has been filed and become effective to order that the motion have the same effect under Wyoming Rule of Appellate Procedure 2.02(a) as a timely motion under Rule 59.

Rule 59. New Trial; Altering or Amending a Judgment

(a) In General.

(1) *Grounds for New Trial.* The chancery court may, on motion, grant a new trial on all or some of the issues,

for any of the following causes:

(A) Irregularity in the proceedings of the chancery court, ~~jury,~~ referee, master or prevailing party, or any order of the chancery court or referee, or abuse of discretion, by which the party was prevented from having a fair trial;

(B) Misconduct of the ~~jury or~~ prevailing party;

(C) Accident or surprise, which ordinary prudence could not have guarded against;

(D) Excessive damages appearing to have been given under the influence of passion or prejudice;

(E) Error in the assessment of the amount of recovery, whether too large or too small;

(F) That the ~~verdict,~~ report or decision is not sustained by sufficient evidence or is contrary to law;

(G) Newly discovered evidence, material for the party applying, which the party could not, with reasonable diligence, have discovered and produced at the trial;

(H) Error of law occurring at the trial.

(2) *Further Action After a ~~Nonjury~~ Trial.* After a ~~nonjury~~ trial, the chancery court may, on motion for a new trial, open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new ones, and direct the entry of a new judgment.

(b) Time to File a Motion for a New Trial. A motion for a new trial must be filed no later than 28 days after the entry of judgment.

(c) Time to Serve Affidavits. When a motion for a new trial is based on affidavits, they must be filed with the motion. The opposing party has 14 days after being served to file opposing affidavits, but that period may be extended for up to 21 days, either by the chancery court for good cause or by the parties' written stipulation. The chancery court may permit reply affidavits.

(d) New Trial on the Chancery Court's Initiative or for Reasons Not in the Motion. No later than 28 days after the entry of judgment, the chancery court, on its own, may order a new trial for any reason that would justify granting one on a party's motion. After giving the parties notice and an opportunity to be heard, the chancery court may grant a timely motion for a new trial for a reason not stated in the motion. In either event, the chancery court must specify the reasons in its order.

(e) Motion to Alter or Amend a Judgment. A motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment.

Rule 60. Relief from a Judgment or Order

(a) Corrections Based on Clerical Mistakes; Oversights and Omissions. The chancery court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. The chancery court may do so on motion or on its own, with or without notice. But after an appeal has been docketed in the Supreme Court, and while it is pending, such a mistake may be corrected only with leave of the Supreme Court.

(b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just terms, the chancery court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect;

(2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);

(3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;

(4) the judgment is void;

(5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or

(6) any other reason that justifies relief.

(c) Timing and Effect of the Motion.

(1) *Timing.* A motion under Rule 60(b) must be made within a reasonable time--and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order or the date of the proceeding.

(2) *Effect on Finality.* The motion does not affect the judgment's finality or suspend its operation.

(d) Other Powers to Grant Relief. This rule does not limit a chancery court's power to:

(1) entertain an independent action to relieve a party from a judgment, order, or proceeding;

(2) grant relief as provided by statute; or

(3) set aside a judgment for fraud on the chancery court.

(e) Bills and Writs Abolished. The following are abolished: bills of review, bills in the nature of bills of review, and writs of coram nobis, coram vobis, and audita querela.

Rule 61. Harmless Error

Unless justice requires otherwise, no error in admitting or excluding evidence--or any other error by the chancery court or a party--is ground for granting a new trial~~, for setting aside a verdict,~~ or for vacating, modifying, or otherwise disturbing a judgment or order. At every stage of the proceeding, the chancery court must disregard all errors and defects that do not affect any party's substantial rights.

Rule 62. Stay of Proceedings to Enforce a Judgment

(a) Automatic Stay; Exceptions for Injunctions, and Receiverships. Except as stated in this rule or otherwise provided by statute or chancery court order, no execution may issue on a judgment, nor may proceedings be taken to enforce it, until 14 days have passed after its entry. But unless the chancery court orders otherwise, an interlocutory or final judgment in an action for an injunction or a receivership is not stayed after being entered, even if an appeal is taken.

(b) Stay Pending Disposition of a Motion. On appropriate terms for the opposing party's security, the chancery court may stay the execution of a judgment--or any proceedings to enforce it--pending disposition of any of the following motions:

(1) under Rule 50, for judgment as a matter of law;

(2) under Rule 52(b), to amend the findings or for additional findings;

(3) under Rule 59, for a new trial or to alter or amend a judgment; or

(4) under Rule 60, for relief from a judgment or order.

(c) Injunction Pending an Appeal. While an appeal is pending from an interlocutory order or final judgment that grants, dissolves, or denies an injunction, the chancery court may suspend, modify, restore, or grant an injunction on terms for bond or other terms that secure the opposing party's rights.

(d) Stay with Bond on Appeal. If an appeal is taken, the appellant may obtain a stay by supersedeas bond, except in the limitations contained in the Wyoming Rules of Appellate Procedure and an action described in the last sentence of Rule 62(a). The bond may be given upon or after filing the notice of appeal or after obtaining the order allowing the appeal. The stay takes effect when the chancery court approves the bond.

(e) Stay Without Bond on Appeal by the State, Its Officers, or Its Agencies. The chancery court must not require a bond, obligation, or other security from the appellant when granting a stay on an appeal by the State, its officers, or its agencies.

(f) Supreme Court's Power Not Limited. This rule does not limit the power of the Supreme Court or one of its justices:

(1) to stay proceedings--or suspend, modify, restore, or grant an injunction--while an appeal is pending; or

(2) to issue an order to preserve the status quo or the effectiveness of the judgment to be entered.

(g) Stay with Multiple Claims or Parties. A chancery court may stay the enforcement of a final judgment entered under Rule 54(b) until it enters a later judgment or judgments, and may prescribe terms necessary to secure the benefit of the stayed judgment for the party in whose favor it was entered.

Rule 62.1. Indicative Ruling on a Motion for Relief that is Barred by a Pending Appeal

(a) Relief Pending Appeal. If a timely motion is made for relief that the chancery court lacks authority to grant because of an appeal that has been docketed and is pending, the chancery court may:

(1) defer considering the motion;

(2) deny the motion; or

(3) state either that it would grant the motion if the appellate court remands for that purpose or that the motion raises a substantial issue.

(b) Notice to the appellate court. The movant must promptly notify the Clerk of the appellate court if the trial court states that it would grant the motion or that the motion raises a substantial issue.

(c) Remand. The chancery~~trial~~ court may decide the motion if the appellate court remands for that purpose.

Rule 63. Judge's Inability to Proceed

(a) If a judge conducting a hearing or trial is unable to proceed, any other judge may proceed upon certifying familiarity with the record and determining that the case may be completed without prejudice to the parties. ~~In a hearing or a nonjury trial, t~~The successor judge must, at a party's request, recall any witness whose testimony is

material and disputed and who is available to testify again without undue burden. The successor judge may also recall any other witness.

(b) *After ~~verdict or~~ filing of findings of fact and conclusions of law*. If by reason of death, sickness, or other disability, a judge before whom an action has been tried is unable to perform the duties to be performed by the chancery court under these rules after ~~a verdict is returned or~~ findings of fact and conclusions of law are filed, then any other judge sitting in or assigned, ~~to the district in which the action was tried~~ or any active or retired district judge, or supreme court justice designated by the supreme court may perform those duties; but if the successor judge cannot perform those duties because the successor judge did not preside at the trial or for any other reason, the successor judge may grant a new trial.

Rule 64. Seizing a Person or Property

At the commencement of and during the course of an action, all remedies provided by statute for seizure of person or property for the purpose of securing satisfaction of the judgment ultimately to be entered in the action are available under these rules.

Rule 65. Injunctions and Restraining Orders

(a) Preliminary Injunction.

(1) *Notice.* The chancery court may issue a preliminary injunction only on notice to the adverse party.

(2) *Consolidating the Hearing with the Trial on the Merits.* Before or after beginning the hearing on a motion for a preliminary injunction, the chancery court may advance the trial on the merits and consolidate it with the hearing. Even when consolidation is not ordered, evidence that is received on the motion and that would be admissible at trial becomes part of the trial record and need not be repeated at trial. ~~But the court must preserve any party's right to a jury trial.~~

(b) Temporary Restraining Order.

(1) *Issuing Without Notice.* The chancery court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if:

(A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and

(B) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

(2) *Contents; Expiration.* Every temporary restraining order issued without notice must state the date and hour it was issued; describe the injury and state why it is irreparable; state why the order was issued without notice; and be promptly filed in the chancery court clerk's office and entered in the record. The order expires at the time after entry--not to exceed 14 days--that the chancery court sets, unless before that time the chancery court, for good cause, extends it for a like period or the adverse party consents to a longer extension. The reasons for an extension must be entered in the record.

(3) *Expediting the Preliminary-Injunction Hearing.* If the order is issued without notice, the motion for a preliminary injunction must be set for hearing at the earliest possible time, taking precedence over all other matters except hearings on older matters of the same character. At the hearing, the party who obtained the

order must proceed with the motion; if the party does not, the chancery court must dissolve the order.

(4) *Motion to Dissolve.* On 2 days' notice to the party who obtained the order without notice--or on shorter notice set by the chancery court--the adverse party may appear and move to dissolve or modify the order. The chancery court must then hear and decide the motion as promptly as justice requires.

(c) Security. The chancery court may issue a preliminary injunction or a temporary restraining order only if the movant gives security in an amount that the chancery court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained.

(d) Contents and Scope of Every Injunction and Restraining Order.

(1) *Contents.* Every order granting an injunction and every restraining order must:

(A) state the reasons why it issued;

(B) state its terms specifically; and

(C) describe in reasonable detail--and not by referring to the complaint or other document--the act or acts restrained or required.

(2) *Persons Bound.* The order binds only the following who receive actual notice of it by personal service or otherwise:

(A) the parties;

(B) the parties' officers, agents, servants, employees, and attorneys; and

(C) other persons who are in active concert or participation with anyone described in Rule 65(d)(2)(A) or (B).

Rule 65.1. Proceedings against a Surety

Whenever these rules require or allow a party to give security, and security is given through a bond or other undertaking with one or more sureties, each surety submits to the chancery court's jurisdiction and irrevocably appoints the chancery court clerk as its agent for receiving service of any papers that affect its liability on the bond or undertaking. The surety's liability may be enforced on motion without an independent action. The motion and any notice that the chancery court orders may be served on the chancery court clerk, who must promptly mail a copy of each to every surety whose address is known.

Rule 66. Receivers

An action wherein a receiver has been appointed shall not be dismissed except by order of the chancery court. The practice in the administration of estates by receivers shall be in accordance with the practice heretofore followed in the chancery courts of Wyoming. In all other respects the action in which the appointment of a receiver is sought or which is brought by or against a receiver is governed by these rules.

Rule 67. Deposit into Chancery Court

(a) Depositing Property. If any part of the relief sought is a money judgment or the disposition of a sum of money or some other deliverable thing, a party--on notice to every other party and by leave of chancery court--may deposit with the chancery court all or part of the money or thing, whether or not that party claims any of it. The depositing

party must deliver to the chancery court clerk a copy of the order permitting deposit.

(b) Investing and Withdrawing Funds. Money paid into chancery court under this rule shall be held by the clerk of the chancery court subject to withdrawal in whole or in part at any time upon order of the chancery court or written stipulation of the parties. The money shall be deposited in an interest-bearing account or invested in a chancery court-approved, interest-bearing instrument.

(c) Prior to the disbursement of the funds, all information necessary for the chancery court clerk to make a proper disbursement shall be provided by the party seeking disbursement, in a form that complies with the Rules Governing Redaction From Court Records.

Rule 68. Offer of Settlement or Judgment

(a) Making an Offer; Acceptance of Offer. At any time more than 60 days after service of the complaint and at least 28 days before the date set for trial, any party may serve on an opposing party an offer to allow settlement or judgment on specified terms, with the costs then accrued. If, within 14 days after being served, the opposing party serves written notice accepting the offer, either party may then file the offer and notice of acceptance, plus proof of service.

(b) Unaccepted Offer. An unaccepted offer is considered withdrawn, but it does not preclude a later offer. Evidence of an unaccepted offer is not admissible except in a proceeding to determine costs. As used herein, "costs" do not include attorney's fees.

(c) Offer After Liability is Determined. When one party's liability to another has been determined but the extent of liability remains to be determined by further proceedings, the party held liable may make an offer of judgment. It must be served within a reasonable time not less than 14 days before the date set for a hearing to determine the extent of liability.

(d) Paying Costs After an Unaccepted Offer. If the judgment that the offeree finally obtains is not more favorable than the unaccepted offer, the offeree must pay the costs incurred after the offer was made.

Rule 69. Execution

(a) Money Judgment; Applicable Procedure. A money judgment is enforced by a writ of execution, unless the chancery court directs otherwise.

(b) Obtaining Discovery. In aid of the judgment or execution, the judgment creditor or a successor in interest whose interest appears of record may obtain discovery from any person--including the judgment debtor--as provided in these rules.

Rule 70. Enforcing a Judgment for a Specific Act

(a) Party's Failure to Act; Ordering Another to Act. If a judgment requires a party to convey land, to deliver a deed or other document, or to perform any other specific act and the party fails to comply within the time specified, the chancery court may order the act to be done--at the disobedient party's expense--by another person appointed by the chancery court. When done, the act has the same effect as if done by the party.

(b) Vesting Title. ~~If the real or personal property is within the district, t~~The chancery court--instead of ordering a conveyance--may enter a judgment divesting any party's title and vesting it in others. That judgment has the effect of a legally executed conveyance.

(c) Obtaining a Writ of Attachment or Sequestration. On application by a party entitled to performance of an act, the chancery court clerk must issue a writ of attachment or sequestration against the disobedient party's property to compel obedience.

(d) Obtaining a Writ of Execution or Assistance. On application by a party who obtains a judgment or order for possession, the chancery court clerk must issue a writ of execution or assistance.

(e) Holding in Contempt. The chancery court may also hold the disobedient party in contempt.

Rule 71. Enforcing Relief for or against a Nonparty

When an order grants relief for a nonparty or may be enforced against a nonparty, the procedure for enforcing the order is the same as for a party.

Rule 71.1. Condemnation of Property

Not Applicable.

Rules 72 to 76. [ReservedSuperseded]

Rules 72 to 76. [ReservedSuperseded]

Rules 72 to 76. [ReservedSuperseded]

Rules 72 to 76. [ReservedSuperseded]

Rules 72 to 76. [ReservedSuperseded]

Rule 77. ~~District~~ Chancery Courts and Clerks; Notice of an Order or Judgment

(a) ~~District~~ Chancery Court~~s~~ Always Open. The ~~district~~ chancery courts shall be deemed always open for the purpose of filing an~~y~~ initial pleading or other paper, of issuing and returning any mesne or final process, and of making and directing all interlocutory motions, orders and rules.

(b) Trials and Hearings; Orders in Chambers. All trials upon the merits shall be conducted in open court and, so far as convenient, in a regular courtroom. Any other act or proceeding may be done or conducted electronically, in chambers without the attendance of the chancery court clerk or other chancery court officials and at any place within the state~~; but no hearing, other than one ex parte, may be conducted outside of the county in which the action is pending without the consent of all parties affected thereby who are not in default~~.

(c) The Chancery Court Clerk's Office Hours; Clerk's Orders.

(1) *Hours.* The chancery court clerk's office, with the clerk or a deputy in attendance, must be open during all business hours every day except Saturdays, Sundays, and legal holidays (by designation of the legislature, appointment as a holiday by the governor or the chief justice of the Wyoming Supreme Court, or any day designated as such by local officials).

(2) *Orders.* All motions and applications in the chancery court clerk's office for issuing mesne process, for issuing final process to enforce and execute judgments, for entering defaults or judgments by default, and for other proceedings which do not require allowance or order of the chancery court are grantable of course by the chancery court clerk; but the chancery court clerk's action may be suspended, altered or rescinded by the

chancery court upon cause shown.

(d) Service of Orders or Judgments.

(1) *Service.* Immediately upon the entry of an order or judgment the chancery court clerk shall provide and serve a copy thereof to every party who is not in default for failure to appear. The chancery court clerk shall record the date of service and the parties served in the docket. Service by the chancery court clerk may be accomplished by mail~~, hand delivery, clerk's boxes,~~ or electronic means. The chancery court clerk shall provide envelopes and postage for the mailings. ~~If service is accomplished by electronic means, this rule supersedes the requirements of W.S. § 5-3-210 to attach the seal of the court to all writs and orders.~~ Any party may in addition serve a notice of such entry in the manner provided in Rule 5(b) for the service of papers.

(2) *Time to Appeal Not Affected by Lack of Notice.* Lack of notice of the entry by the chancery court clerk does not affect the time to appeal or relieve, or authorize the chancery court to relieve, a party for failure to appeal within the time allowed, except as permitted by the Wyoming Rules of Appellate Procedure.

Rule 78. Hearing Motions; Decision on Briefs

(a) Providing a Regular Schedule for Oral Hearings. A chancery court may establish regular times and places for oral hearings on motions.

(b) Providing for Decision on Briefs. The chancery court may provide for submitting or deciding motions on briefs, without oral hearings.

Rule 79. Books and Records Kept by the Chancery Court Clerk

(a) Books and Records. Except as herein otherwise specifically provided, the clerk of chancery court shall keep books and records as provided by statute.

(b) Other Books and Records. The clerk of chancery court shall also keep such other books, records, data and statistics as may be required from time to time by the Supreme Court or the chancery court judge ~~of the district in which the clerk is acting~~.

[WY R USDCT Civ. Rule 79.1] Rule 79.1 Records of the Court

(a) Access to Public Court Records. Cases filed are available for review electronically via the chancery court's website at http://www._____. To access an electronic case file, users must first register for _____E-FILING SYSTEM_____ at http://_____. Lengthy exhibits and other supporting materials that cannot be converted to electronic format are accessible in the chancery court clerk's office.

(b) Sealed Records. Submissions or documents ordered sealed by the chancery court are not public records.

Rule 80. Stenographic Transcript as Evidence

If stenographically reported testimony at a hearing or trial is admissible in evidence at a later trial, the testimony may be proved by a transcript certified by the person who reported it.

Rule 81. Applicability in General

Statutory provisions shall not apply whenever inconsistent with these rules, provided:

(a) that in special statutory proceedings any rule shall not apply insofar as it is clearly inapplicable; and

(b) where the statute creating a special proceeding provides the form, content, time of service or filing of any pleading, writ, notice or process, either the statutory provisions relating thereto or these rules may be followed.

Rule 82. Jurisdiction and Venue Unaffected

These rules do not extend ~~or limit~~ the jurisdiction of the chancery~~district~~ courts or the venue of actions in the chancery ~~ose~~ court~~s~~.

Rule 83. Rules by Courts of Record; Judge's Directives

(a) Uniform Rules.

(1) *In General.* A chancery court conference, acting by a majority of the judges of the conference and approval by the Supreme Court, may adopt and amend uniform rules governing its practice. A uniform rule must be consistent with--but not duplicate--Wyoming statutes and rules. A uniform rule takes effect on the date specified by the Supreme Court and remains in effect unless amended ~~by the court~~. Approved uniform rules shall be published in the Wyoming Chancery Court Rules volume.

~~(2) No court may establish rules of procedure applicable only in that court~~.

(~~3~~2) *Requirement of Form.* A uniform rule imposing a requirement of form must not be enforced in a way that causes a party to lose any right because of a nonwillful failure to comply.

(b) Procedure When There is No Controlling Law. A judge may regulate practice in any manner consistent with state law, rules, and the uniform rules. No sanction or other disadvantage may be imposed for noncompliance with any requirement not in state law, state rules, or the uniform rules unless the alleged violator has been furnished in the particular case with actual notice of the requirement.

Rule 84. Forms

No forms are provided with these rules.

Rule 85. Title

These rules shall be known as the Wyoming Rules of Civil Procedure for the Court of Chancery and may be cited as W.R.C.P.C.C.

Rule 86. Effective Dates

(a) In General. These rules take effect on _____. They govern:

(1) proceedings in an action commenced after their effective date; and

(2) proceedings after that date in an action then pending unless:

(A) the Supreme Court specifies otherwise; or

(B) the chancery court determines that applying them in a particular action would be infeasible or work an injustice.

(b) Amendments and additions. Amendments or additions to these rules shall take effect on dates to be fixed by the supreme court subject to the exception above set out as to pending actions. If no date is fixed by the supreme court, the amendments or additions take effect 60 days after their publication in the Pacific Reporter Advance Sheets.

Rule 1. Scope and Purpose

These rules govern the procedure in all civil actions and proceedings in the State of Wyoming chancery courts, except as stated in Rule 81. They should be construed, administered, and employed by the court and the parties to secure the just, effective, and expeditious resolution of every action and proceeding. In order to effectuate the expeditious resolution of disputes, it is a goal of the chancery court to resolve a majority of the actions filed in its court within one hundred fifty (150) days of the filing of the action. Accordingly, the chancery court staff shall be active in the management of the docketed cases.

Rule 2. Jurisdiction, Eligible Actions, Excluded Action

[W.S. 5-13-115] **(a) Limited Jurisdiction.** The chancery court shall be a court of limited jurisdiction for the expeditious resolution of disputes involving commercial, business, trust and similar issues.

(b) Eligible Actions. The chancery court shall have jurisdiction to hear and decide actions for equitable or declaratory relief and for actions where the prayer for money recovery is an amount exceeding fifty thousand dollars ($50,000.00), exclusive of claims for punitive or exemplary damages, prejudgment or post judgment interest, costs and attorney fees provided the cause of action arises from at least one (1) of the following:

(1) Breach of contract;

(2) Breach of fiduciary duty;

(3) Fraud;

(4) Misrepresentation;

(5) A statutory or common law violation involving:

(A) The sale of assets or securities;

(B) A corporate restructuring;

(C) A partnership, shareholder, joint venture or other business agreement;

(D) Trade secrets; or

(E) Employment agreements not including claims that principally involve alleged discriminatory practices.

(6) Transactions governed by the Uniform Commercial Code;

(7) Shareholder derivative actions. The monetary threshold in subsection (b) of this section shall not apply to action brought under this paragraph;

(8) Commercial class actions;

(9) Business transactions involving or arising out of dealings with commercial banks and other financial institutions;

(10) A dispute concerning the internal affairs of business organizations;

(11) A dispute concerning environmental insurance coverage;

(12) A dispute concerning commercial insurance coverage;

(13) Dissolution of corporations, partnerships, limited liability companies, limited liability partnerships, joint ventures, banks and trust companies. The monetary threshold of subsection (b) of this section shall not apply to action brought under this paragraph;

(14) Transactions governed by the Wyoming Uniform Trust Code; or

(15) Applications to stay or compel arbitration and affirm or disaffirm arbitration awards and related injunctive relief or appeals pursuant to W.S. 1-21-801 through 1-21-804 or 1-36-101 through 1-36-119, involving any of the foregoing enumerated issues. Where any applicable arbitration agreement provides for an arbitration to be heard outside the United States, the monetary threshold set forth in this subsection shall not apply.

(c) Ancillary Jurisdiction. The chancery court shall have supplemental ancillary jurisdiction over any cause of action not listed in subsection (b) of this section.

(d) Concurrent Jurisdiction. All chancery court judges throughout the state shall have concurrent jurisdiction with all district court judges throughout the state only as to the causes of action enumerated in subsection (b) of this section.

(e) Excluded Actions. Except as otherwise provided in this rule or otherwise provided by statute, the following includes, but is not limited to, the actions that are not within the jurisdiction of the chancery court:

(1) Personal injury or wrongful death;

(2) Professional malpractice claims;

(3) Consumer claims against business entities or insurers of business entities, including breach of warranty, product liability, and personal injury cases and cases arising under consumer protection laws;

(4) Matters involving only wages or hours, occupational health or safety, workers' compensation, or unemployment compensation;

(5) Environmental claims, except those described in subsection (b)(xi) above;

(6) Actions in the nature of a change of name of an individual, mental health act, guardianship, conservatorship, or government election matters;

(7) Individual residential real estate disputes, including foreclosure actions, or non-commercial landlord-tenant disputes;

(8) Any criminal matter, other than criminal contempt in connection with a matter pending before the chancery court;

(9) Consumer debts, such as debts or accounts incurred by an individual primarily for a personal, family, or household purpose; credit card debts incurred by individuals; medical services debts incurred by individuals; student loans; tax debts of individuals; personal auto mobile loans; and other similar types of consumer debts; or

(10) Summary or formal probate matters (domiciliary or ancillary).

Rule 3. Commencement of Action, Removal to Chancery Court, and Remand to District Court

(a) Original Filing in Chancery Court. A civil action is commenced in the chancery court when service is completed upon all defendants, pursuant to Rule 4. A civil action is "brought" for statute of limitations purposes

upon filing the initial pleading in chancery court.

(b) Removal to Chancery Court. An action may be removed to chancery court when:

(1) [Del. Ch. Ct. R. 92] *Consent by the Parties*. Provided that the parties and the amount in controversy meet the eligibility requirements in W.S. § 5-13-115 and Rule 2, a written agreement to engage in litigation in the chancery court is acceptable if it contains the following language: "The parties agree that any dispute arising under the docketed case shall be litigated in the Court of Chancery of the State of Wyoming. The parties agree to submit to the jurisdiction of the Court of Chancery of the State of Wyoming and waive trial by jury."

(A) [28 U.S. Code § 1446(a)-(b)(2)] *Notice of Removal*. A defendant or defendants desiring to remove any civil action from district court shall file in the chancery court a notice of removal signed pursuant to Rule 11 and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action**.**

(i) The notice of removal of a civil action or proceeding shall be filed within thirty (30) days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based.

(ii) Each defendant shall have thirty (30) days after receipt by or service on that defendant of the initial pleading or summons described in paragraph (2) to file the notice of removal.

(iii) If defendants are served at different times, and a later-served defendant files a notice of removal, any earlier-served defendant may consent to the removal even though that earlier-served defendant did not previously initiate or consent to removal.

(iv) All defendants must consent to the removal to chancery court.

(B) [28 U.S. Code § 1446(b)(3)] *Removal after Amended Pleading*. If the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.

(C) [28 U.S. Code § 1446(d)] *Written Notice to the District Court*. Promptly after the filing of such notice of removal of a civil action the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the notice with the clerk of such district court, which shall effect the removal and the district court shall proceed no further unless and until the case is remanded.

(D) [WY R USDCT Civ. Rule 81.1] *Order of Removal*. The case shall be deemed removed from district court to chancery court upon entry of an Order of Removal by the chancery court, which shall be issued within three (3) days following the filing of the notice of removal. The Order shall state that the chancery court obtained jurisdiction over both the parties and the subject matter of the district court action and that the district court should proceed no further, unless the case is later remanded. In the event a hearing is pending when the notice of removal is filed with the clerk of the district court, the Order on Removal shall require the removing party to notify the district court clerk of the removal of the action.

(E) [WY R USDCT Civ. Rule 81.1] *Court Record.* Within fourteen (14) days of entry of the Order on Removal, the removing party shall file with the clerk of chancery court a copy of the entire district court record and proceedings, including the docket sheet. In any case removed from district court, the chancery court may issue all necessary orders and process to bring before it all proper parties whether served by process issued by the district court or otherwise.

(c) [28 U.S. Code § 1447(a)] Procedure after Removal Generally. In any case removed from district court, the

chancery court may issue all necessary orders and process to bring before it all proper parties whether served by process issued by the district court or otherwise.

(d) [28 U.S. Code § 1448] Process after Removal. In all cases removed from any district court to chancery court in which any one or more of the defendants has not been served with process or in which the service has not been perfected prior to removal, or in which process served proves to be defective, such process or service may be completed or new process issued in the same manner as in cases originally filed in such chancery court. This section shall not deprive any defendant upon whom process is served after removal of his right to move to remand the case.

(e) Objection to Case in Chancery Court. Any objection to a case being brought before the chancery court shall be filed on or before the party's responsive pleading is due pursuant to Rule 6, or within 20 days after service of the Order of Acceptance, whichever is earlier. The chancery court judge shall determine whether the case should be dismissed from chancery court, either because the case does not meet the jurisdictional requirements of W.S. 5-13-101 through 5-13-116; or for other good cause determined by the chancery court judge in his discretion. A dismissal or remand of a case in chancery court is subject to W.S. § 1-3-118.

Rule 3.1. Civil Cover Sheet

(a) Civil Cover Sheet Required. Every complaint or other document initiating a civil action shall be accompanied by a completed civil cover sheet form available on the Wyoming Judicial Branch website or from the Clerk of Chancery Court.

(b) No Legal Effect. This requirement is solely for administrative purposes and has no legal effect in the action.

(c) Absence of Cover Sheet. If the complaint or other document is filed without a completed civil cover sheet, the Clerk of Chancery Court or the court shall at the time of filing give notice of the omission to the party filing the document. If, after notice of the omission the coversheet is not filed within 14 calendar days, the chancery court may impose an appropriate sanction upon the attorney or party filing the complaint or other document.

Rule 4. Summons

(a) Contents. A summons must:

(1) name the chancery court and the parties;

(2) be directed to the defendant;

(3) state the name and address of the plaintiff's attorney or--if unrepresented--of the plaintiff;

(4) state the time within which the defendant must appear and defend;

(5) notify the defendant that a failure to appear and defend may result in a default judgment against the defendant for the relief demanded in the complaint;

(6) attach a copy or include the langue of Rule 5(d)(2);

(7) be signed by the clerk; and

(8) bear the chancery court's seal.

(b) Issuance. On or after filing the initial pleading, the plaintiff may present a summons to the clerk for signature and seal. If the summons is properly completed, the clerk must sign, seal, and issue it to the plaintiff for service on the defendant. A summons--or a copy of a summons that is addressed to multiple defendants--must be issued for

each defendant to be served.

(c) By Whom Served. Except as otherwise ordered by the chancery court, process may be served:

(1) By any person who is at least 18 years old and not a party to the action;

(2) At the request of the party causing it to be issued, by the sheriff of the county where the service is made or sheriff's designee, or by a United States marshal or marshal's designee;

(3) In the event service is made by a person other than a sheriff or U.S. marshal, the amount of costs assessed therefor, if any, against any adverse party shall be within the discretion of the chancery court.

(d) Personal Service. The summons and initial pleading shall be served together. The plaintiff shall furnish the person making service with such copies as are necessary.

(e) Serving an Individual Within the United States. An individual other than a person under 14 years of age or an incompetent person may be served within the United States:

(1) by delivering a copy of the summons and of the initial pleading to the individual personally,

(2) by leaving copies thereof at the individual's dwelling house or usual place of abode with some person over the age of 14 years then residing therein,

(3) at the defendant's usual place of business with an employee of the defendant then in charge of such place of business, or

(4) by delivering a copy of the summons and of the initial pleading to an agent authorized by appointment or by law to receive service of process.

(f) Serving an Individual in a Foreign Country. An individual--other than a person under 14 years of age or an incompetent person--may be served at a place not within the United States:

(1) by any internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents;

(2) if there is no internationally agreed means, or if an international agreement allows but does not specify other means, by a method that is reasonably calculated to give notice:

(A) as prescribed by the foreign country's law for service in that country in an action in its courts of general jurisdiction;

(B) as the foreign authority directs in response to a letter rogatory or letter of request; or

(C) unless prohibited by the foreign country's law, by:

(i) delivering a copy of the summons and of the initial pleading to the individual personally; or

(ii) using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt; or

(3) by other means not prohibited by international agreement, as the court orders.

(g) Serving a Person Under 14 years of Age or an Incompetent Person. An individual under 14 years of age or an incompetent person may be served within the United States by serving a copy of the summons and of the complaint upon the guardian or, if no guardian has been appointed in this state, then upon the person having legal custody and control or upon a guardian ad litem. An individual under 14 years of age or an incompetent person who

is not within the United States must be served in the manner prescribed by Rule 4(f)(2)(A), (f)(2)(B), or (f)(3).

(h) Serving a Corporation, Partnership, or Association.

(1) Service upon a partnership, or other unincorporated association, within the United States shall be made:

(A) by delivery of copies to one or more of the partners or associates, or a managing or general agent thereof, or agent for process, or

(B) by leaving same at the usual place of business of such defendant with any employee then in charge thereof.

(2) Service upon a corporation within the United States shall be made:

(A) by delivery of copies to any officer, manager, general agent, or agent for process, or

(B) If no such officer, manager or agent can be found in the county in which the action is brought such copies may be delivered to any agent or employee found in such county.

(C) If such delivery be to a person other than an officer, manager, general agent or agent for process, the clerk, at least 20 days before default is entered, shall mail copies to the corporation by registered or certified mail and marked "restricted delivery" with return receipt requested, at its last known address.

(3) Service upon a partnership, other unincorporated association, or corporation not within the United States shall be made in any manner prescribed by Rule 4(f) for serving an individual, except personal delivery under (f)(2)(C)(i).

(i) Serving a Department or Agency of the State, or a Municipal or Other Public Corporation. Service upon a department or agency of the state, a municipal or other public corporation shall be made by delivering a copy of the summons and of the initial pleading to the chief executive officer thereof, or to its secretary, clerk, person in charge of its principal office or place of business, or any member of its governing body, or as otherwise provided by statute.

(j) Serving the Secretary of State. Service upon the secretary of state, as agent for a party shall be made when and in the manner authorized by statute.

(k) Service by Publication. Service by publication may be had where specifically provided for by statute, and in the following cases:

(1) When the defendant resides out of the state, or the defendant's residence cannot be ascertained, and the action is:

(A) For the recovery of real property or of an estate or interest therein;

(B) For the partition of real property;

(C) For the sale of real property under a mortgage, lien or other encumbrance or charge;

(D) To compel specific performance of a contract of sale of real estate;

(2) Not applicable.

(3) In actions in which it is sought by a provisional remedy to take, or appropriate in any way, the property of the defendant, when:

(A) the defendant is a foreign corporation, or

(B) a nonresident of this state, or

(C) the defendant's place of residence cannot be ascertained,

(D) and in actions against a corporation incorporated under the laws of this state, which has failed to elect officers, or to appoint an agent, upon whom service of summons can be made as provided by these rules and which has no place of doing business in this state;

(4) In actions which relate to, or the subject of which is real or personal property in this state, when

(A) a defendant has or claims a lien thereon, or an actual or contingent interest therein or the relief demanded consists wholly or partly in excluding the defendant from any interest therein, and

(B) the defendant is a nonresident of the state, or a dissolved domestic corporation which has no trustee for creditors and stockholders, who resides at a known address in Wyoming, or

(C) the defendant is a domestic corporation which has failed to elect officers or appoint other representatives upon whom service of summons can be made as provided by these rules, or to appoint an agent as provided by statute, and which has no place of doing business in this state, or

(D) the defendant is a domestic corporation, the certificate of incorporation of which has been forfeited pursuant to law and which has no trustee for creditors and stockholders who resides at a known address in Wyoming, or

(E) the defendant is a foreign corporation, or

(F) the defendant's place of residence cannot be ascertained;

(5) In actions against trustees, personal representatives, conservators, or guardians, when the defendant has given bond as such in this state, but at the time of the commencement of the action is a nonresident of the state, or the defendant's place of residence cannot be ascertained;

(6) In actions where the defendant is a resident of this state, but has departed from the county of residence with the intent to delay or defraud the defendant's creditors, or to avoid the service of process, or keeps concealed with like intent;

(7) Not Applicable.

(8) In an action or proceeding under Rule 60, to modify or vacate a judgment after term of court, or to impeach a judgment or order for fraud, or to obtain an order of satisfaction thereof, when a defendant is a nonresident of the state or the defendant's residence cannot be ascertained;

(9) Not Applicable.

(10) Not Applicable.

(11) In all actions or proceedings which involve or relate to the waters, or right to appropriate the waters of the natural streams, springs, lakes, or other collections of still water within the boundaries of the state, or which involve or relate to the priority of appropriations of such waters, and in all actions or proceedings which involve or relate to the ownership of means of conveying or transporting water situated wholly or partly within this state, when the defendant or any of the defendants are nonresidents of the state or the defendant's residence or their residence cannot be ascertained.

(l) Requirements for Service by Publication.

(1) *Affidavit Required.* Before service by publication can be made, an affidavit of the party, or the party's

agent or attorney, must be filed stating:

(A) that service of a summons cannot be made within this state, on the defendant to be served by publication, and

(B) stating the defendant's address, if known, or that the defendant's address is unknown and cannot with reasonable diligence be ascertained, and

(C) detailing the efforts made to obtain an address, and

(D) that the case is one of those mentioned in subdivision (k), and

(E) when such affidavit is filed, the party may proceed to make service by publication.

(2) *Publication and Notice to Clerk.*

(A) Address in publication. In any case in which service by publication is made when the address of a defendant is known, it must be stated in the publication.

(B) Notice to and from clerk. Immediately after the first publication the party making the service shall deliver to the chancery court clerk copies of the publication, and the chancery court clerk shall mail a copy to each defendant whose name and address is known by registered or certified mail and marked "Restricted Delivery" with return receipt requested, directed to the defendant's address named therein, and make an entry thereof on the appearance docket.

(C) Affidavit at time of hearing. In all cases in which a defendant is served by publication of notice and there has been no delivery of the notice mailed to the defendant by the chancery court clerk, the party who makes the service, or the party's agent or attorney, at the time of the hearing and prior to entry of judgment, shall make and file an affidavit stating

(i) the address of such defendant as then known to the affiant, or if unknown,

(ii) that the affiant has been unable to ascertain the same with the exercise of reasonable diligence, and

(iii) detailing the efforts made to obtain an address.

Such additional notice, if any, shall then be given as may be directed by the chancery court.

(m) Publication of Notice. The publication must be made by the chancery court clerk for four consecutive weeks in a newspaper published:

(1) in the county where the initial pleading is filed; or

(2) if there is no newspaper published in the county, then in a newspaper published in this state, and of general circulation in such county; and

(3) if publication is made in a daily newspaper, one insertion a week shall be sufficient; and

(4) publication must contain

(A) a summary statement of the object and prayer of the initial pleading,

(B) mention the chancery court wherein it is filed,

(C) notify the person or persons to be served when they are required to answer, and

(D) notify the person or persons to be served that judgment by default may be rendered against them if they fail to appear.

(n) When Service by Publication is Complete; Proof.

(1) *Completion.* Service by publication shall be deemed complete at the date of the last publication, when made in the manner and for the time prescribed in the preceding sections; and

(2) *Proof.* Service by publication shall be proved by affidavit.

(3) For purposes of Rule 4(u), when service is made by publication, a defendant shall be deemed served on the date of the first publication.

(o) Service by Publication upon Unknown Persons. When an heir, devisee, or legatee of a deceased person, or a bondholder, lienholder or other person claiming an interest in the subject matter of the action is a necessary party, and it appears by affidavit that the person's name and address are unknown to the party making service, proceedings against the person may be had by designating the person as an unknown heir, devisee or legatee of a named decedent or defendant, or in other cases as an unknown claimant, and service by publication may be had as provided in these rules for cases in which the names of the defendants are known.

(p) Publication in Another County. When it is provided by rule or statute that a notice shall be published in a newspaper, and no such paper is published in the county, or if such paper is published there and the publisher refuses, on tender of the publisher's usual charge for a similar notice, to insert the same in the publisher's newspaper, then a publication in a newspaper of general circulation in the county shall be sufficient.

(q) Costs of Publication. The lawful rates for any legal notice published in any qualified newspaper in this state in connection with or incidental to any cause or proceeding in any court of record in this state shall become a part of the chancery court costs in such action or proceeding, which shall be paid to the clerk of the chancery court in which such action or proceeding is pending by the party causing such notice to be published and finally assessed as the chancery court may direct.

(r) Personal Service Outside the State; Service by Registered or Certified Mail. In all cases where service by publication can be made under these rules, or where a Wyoming statute permits service outside the state, the plaintiff may obtain service without publication by:

(1) *Personal Service Outside the State.* By delivery to the defendant within the United States of copies of the summons and initial pleading.

(2) *Service by Registered or Certified Mail.* The chancery court clerk shall send by registered or certified mail:

(A) Upon the request of any party

(B) a copy of the initial pleading and summons

(C) addressed to the party to be served at the address within the United States given in the affidavit required under subdivision (l) of this rule.

(D) The mail shall be sent marked "Restricted Delivery," requesting a return receipt signed by the addressee or the addressee's agent who has been specifically authorized in writing by a form acceptable to, and deposited with, the postal authorities.

(E) When such return receipt is received signed by the addressee or the addressee's agent the chancery court clerk shall file the same and enter a certificate in the cause showing the making of such service.

(s) Proof of Service.

(1) *In General.* The person serving the process shall make proof of service thereof to the chancery court promptly and within the time during which the person served must respond to the process.

(2) *Proof of Service Within the United States.* Proof of service of process within the United States shall be made as follows:

(A) If served by a Wyoming sheriff, undersheriff or deputy, by a certificate with a statement as to date, place and manner of service, except that a special deputy appointed for the sole purpose of making service shall make proof by the special deputy's affidavit containing such statement;

(B) If by any other person, by the person's affidavit of proof of service with a statement as to date, place and manner of service;

(C) If by registered or certified mail, by the certificate of the chancery court clerk showing the date of the mailing and the date the clerk received the return receipt;

(D) If by publication, by the affidavit of publication together with the certificate of the chancery court clerk as to the mailing of copies where required;

(E) By the written admission or acceptance of service by the person to be served, duly acknowledged.

(3) *Proof of Service Outside the United States.* Proof of service of process outside the United States shall be made as follows:

(A) if made under Rule 4(f)(1), as provided in the applicable treaty or convention; or

(B) if made under Rule 4(f)(2) or (f)(3), by a receipt signed by the addressee, or by other evidence satisfying the chancery court that the summons and initial pleading were delivered to the addressee.

(4) *Failure to Prove Service.* Failure to make proof of service does not affect the validity of the service.

(t) Amendment. At any time in its discretion and upon such terms as it deems just, the chancery court may permit a summons or proof of service to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

(u) Not Applicable.

(v) Acceptance of Service.

[From Rule 4(u)(1) - Waiver] (1) *Requesting Acceptance.* An individual, corporation, partnership or other unincorporated association that is subject to service under subdivision 4(e), (f), or (h) has a duty to avoid unnecessary costs of serving the summons. To avoid costs, the plaintiff may notify such a defendant of the commencement of the action and request that the defendant accept service of a summons. The notice and request must:

(A) be in writing and shall be addressed directly to the defendant, if an individual, or else to an officer, manager, general agent, or agent for process, if a corporation, or else to one or more of the partners or associates, or a managing or general agent, or agent for process, if a partnership or other unincorporated association;

(B) be sent through first-class mail or other reliable means;

(C) be accompanied by a copy of the initial pleading and shall identify the chancery court in which it has been filed;

(D) inform the defendant of the consequences of compliance and of a failure to comply with the request;

(E) set forth the date on which the request is sent;

(F) allow the defendant a reasonable time to return the acceptance, which shall be at least 14 days from the date on which the request is sent, or 21 days from that date if the defendant is addressed outside the United States; and

(G) provide the defendant with an extra copy of the notice and request, as well as a prepaid means of compliance in writing.

[From Rule 4(u)(2) - Waiver] (2) *Failure to Accept Service.* If a defendant located within the United States fails to comply with a request for acceptance of service made by a plaintiff located within the United States, the chancery court shall impose the costs subsequently incurred in effecting service on the defendant unless good cause for the failure is shown.

(3) The acceptance of service shall:

(A) Be in writing;

(B) Be notarized and executed directly by the defendant or defendant's counsel;

(C) Inform the defendant of the duty to file with the chancery court clerk and serve upon the plaintiff's attorney an answer to the initial pleading, or a motion under Rule 12, within 20 days after the time of signing the acceptance; and

(D) Be filed by the party requesting the acceptance of service.

(4) When an acceptance of service is filed with the chancery court, the action shall proceed as if a summons and initial pleading had been served at the time of signing the acceptance, and no proof of service shall be required.

(5) *Jurisdiction and Venue Not Waived.* A defendant who accepts service of a summons does not thereby waive any objection to the venue or to the jurisdiction of the chancery court over the person of the defendant.

[From Rule 4(u)(6) - Waiver] (6) *Costs.* The costs to be imposed on a defendant under paragraph (2) for failure to comply with a request to waive service of a summons shall include the costs subsequently incurred in effecting service, together with the costs, including a reasonable attorney's fee, of any motion required to collect the costs of service.

(w) Time Limit for Service. If a defendant is not served within 90 days after the initial pleading is filed, the chancery court--on motion or on its own after notice to the plaintiff--must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the chancery court must extend the time for service for an appropriate period. This subdivision (w) does not apply to service in a foreign country under Rule 4(f).

(x) Costs. Any cost of publication or mailing under this rule shall be borne by the party seeking it.

Rule 5. Serving and Filing Pleadings and Other Papers

(a) Service: When required.

(1) *In General.* Unless these rules provide otherwise, each of the following papers must be served on every party:

(A) an order stating that service is required;

(B) a pleading filed after the initial pleading, unless the chancery court orders otherwise under Rule 5(c) because there are numerous defendants;

(C) a discovery paper required to be served on a party, unless the chancery court orders otherwise;

(D) a written motion, except one that may be heard ex parte; and

(E) a written notice, appearance, demand, or offer of judgment, or any similar paper.

(2) *If a Party Fails to Appear.* No service is required on a party who is in default for failing to appear. But a pleading that asserts a new claim for relief against such a party must be served on that party under Rule 4.

(3) *Seizing Property.* If an action is begun by seizing property and no person is or need be named as a defendant, any service required before the filing of an appearance, answer, or claim must be made on the person who had custody or possession of the property when it was seized.

(b) Service: How made.

(1) *Serving an Attorney.* If a party is represented by an attorney, service under this rule must be made on the attorney unless the chancery court orders service on the party.

[Wyo. R. App. P. 14.01(c)] (2) *Service in General.* Unless otherwise ordered by the chancery court, which will specify the method of service, the notice of electronic filing that is automatically generated constitutes service of the document on ___*Full Court Enterprise*___ users and the additional service of a hardcopy is unnecessary. Each registered user of the ___*Full Court Enterprise*___ system is responsible for assuring that their email account is current, is monitored regularly, and that email notices are opened in a timely manner. The notice of electronic filing generated by ___*Full Court Enterprise*___ does not replace the certificate of service on the document being filed.

[Wyo. R. App. P. 14.01(d)] (3) The registered user's name and password required to submit documents to the ___*Full Court Enterprise*___ serve as the user's signature on all electronic documents filed with the chancery court. An electronically filed document shall contain a signature line in the following manner: s/ Attorney's Name.

(c) Serving numerous defendants.

(1) *In General.* If an action involves an unusually large number of defendants, the chancery court may, on motion or on its own, order that:

(A) defendants' pleadings and replies to them need not be served on other defendants;

(B) any crossclaim, counterclaim, avoidance, or affirmative defense in those pleadings and replies to them will be treated as denied or avoided by all other parties; and

(C) filing any such pleading and serving it on the plaintiff constitutes notice of the pleading to all parties.

(2) *Notifying Parties.* A copy of every such order must be served on the parties as the chancery court directs.

(d) Filing.

(1) *Required Filings; Certificate of Service.* Any document after the initial pleading that is required to be served--together with a certificate of service--must be filed within a reasonable time after service. But disclosures under Rule 26(a)(1) or (2) and the following discovery requests and responses must not be filed until they are used in the proceeding or the chancery court orders filing: depositions, interrogatories, requests for documents or tangible things or to permit entry onto land, and requests for admission. A notice of discovery

proceedings may be filed concurrently with service of discovery papers to demonstrate substantial and bona fide action of record to avoid dismissal for lack of prosecution.

(2) *How Filing Is Made--In General.* A document is filed by:

[Wyo. R. App. P. 1.01(a)] (A) Electronically submitting it to the chancery court using ___*Full Court Enterprise*___, and the electronic version shall be the officially filed document in the case. The current version of the chancery court e-filing training, policies and log-in can be found at www.courts.state.wy.us/Documents/EFiling/_____.pdf.

(i) Electronic filing must be completed within the time set forth in the Wyoming State Court of Chancery, Electronic Filing Administrative Policies and Procedures Manual, www.courts.state.wy.us/Documents/EFiling/_____.pdf, to be considered timely filed on the date it is due. Electronic filing, together with the Notice of Electronic Filing that is automatically generated by ___*Full Court Enterprise*___, constitutes filing of a document.

(ii) When documents filed do not comply with the rules (such as the Rules Governing Redaction from Chancery Court Records), the document may be removed from the public docket and counsel will immediately be notified by email and instructed to re-file the pleading within a specified amount of time. If the pleading is not correctly re-filed within the required time, it shall not be considered timely filed.

(iii) Documents filed by pro se non-attorney parties shall not be electronically filed unless ordered by the chancery court. Attorneys acting in a pro se capacity shall comply with the electronic filing requirements.

[Wyo. R. App. P. 1.01(b)(1)] (B) Attachments to electronically filed documents may be scanned, however the document to which they are attached shall be uploaded directly from the filer's computer using ___*Full Court Enterprise*___.

[Wyo. R. App. P. 1.01(d)] (C) All pleadings shall be 8 ½ ″ x 11″. Any attachments or appendices, which in their original form are larger or smaller, should be reduced or enlarged to 8 ½ ″ x 11″.

(3) *Acceptance by the Clerk.* The chancery court clerk must not refuse to file a document solely because it is not in the form prescribed by these rules or by a local practice. However, in order to effectuate the expeditious resolution of a majority of the actions filed in chancery court within one hundred fifty (150) days of the filing of the action, the chancery court clerk shall be active in the management of the docketed cases.

(e) Filing with the court defined. Not Applicable.

Rule 5.1. Constitutional Challenge to a Statute

When the constitutionality of a Wyoming statute is drawn in question in any action to which the state or an officer, agency, or employee thereof is not a party, the party raising the constitutional issue shall serve the attorney general with a copy of the pleading or motion raising the issue.

Rule 5.2. Privacy Protection for Filings Made with the Chancery Court

Unless otherwise ordered by the chancery court, all documents filed with the chancery court shall comply with the Rules Governing Redactions from Court Records and Rules Governing Access to Court Records.

Rule 6. Time

All timelines are subject to adjustment and reduction by the chancery court judge.

(a) Computation. In computing any period of time prescribed or allowed by these rules, by order of the chancery court, or by any applicable statutes, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper, a day on which weather or other conditions have made the office of the clerk of the court inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days. As used in this rule, "legal holiday" includes any day officially recognized as a legal holiday in this state by designation of the legislature, appointment as a holiday by the governor or the chief justice of the Wyoming Supreme Court, or any day designated as such by local officials.

(b) Extending Time.

(1) *In General.* When by these rules or by a notice given thereunder or by order of chancery court an act is required or allowed to be done at or within a specified time, the chancery court, or a commissioner thereof, may for good cause and in its discretion:

(A) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order; or

(B) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect;

(2) *Exceptions.* The chancery court may not extend the time for taking any action under Rules 50(b) and (c)(2), 52(b), 59(b), (d) and (e), and 60(b), except to the extent and under the conditions stated in them.

(3) *By Clerk of Chancery Court.* A motion served before the expiration of the time limitations set forth by these rules for an extension of time of not more than 15 days within which to answer or move to dismiss the complaint, or answer, respond or object to discovery under Rules 33, 34, and 36, if accompanied by a statement setting forth:

(A) the specific reasons for the request,

(B) that the motion is timely filed,

(C) that the extension will not conflict with any scheduling or other order of the chancery court, and

(D) that there has been no prior extension of time granted with respect to the matter in question may be granted once by the clerk of chancery court, ex parte and routinely, subject to the right of the opposing party to move to set aside the order so extending time. Motions for further extensions of time with respect to matters extended by the clerk shall be presented to the chancery court, or a commissioner thereof, for determination.

(c) Motions and motion practice.

(1) *In General.* Unless these rules or an order of the chancery court establish time limitations other than those contained herein, all motions shall be served at least 14 days before the hearing on the motion, with the following exceptions:

(A) motions for enlargement of time;

(B) motions made during hearing or trial;

(C) motions which may be heard ex parte; and

(D) motions described in subdivisions (5) and (6) below, together with supporting affidavits, if any.

(2) *Responses.* Except as otherwise provided in Rule 59(c), or unless the chancery court by order permits service at some other time, a party affected by the motion may serve a response, together with affidavits, if any, at least three days prior to the hearing on the motion or within 20 days after service of the motion, whichever is earlier.

(3) *Replies.* Unless the chancery court by order permits service at some other time, the moving party may serve a reply, if any, at least one day prior to the hearing on the motion or within 15 days after service of the response, whichever is earlier. Unless the chancery court otherwise orders, any party may serve supplemental memoranda or rebuttal affidavits at least one day prior to the hearing on the motion.

(4) *Request for Hearing.* A request for hearing may be served by the moving party or any party affected by the motion within 14 days after service of the motion. The chancery court may, in its discretion, determine such motions without a hearing. Any motion, under Rules 50(b) and (c)(2), 52(b), 59 and 60(b), not determined within 60 days after filing shall be deemed denied unless, within that period, the determination is continued by order of the court, which continuation may not exceed 30 days, at which time, if the motion has not been determined, it shall be deemed denied.

(5) *Protective Orders and Motions to Compel.* A party moving for a protective order under Rule 26(c) or to compel discovery under Rule 37(a) may request an immediate hearing thereon. An immediate hearing may be held if the chancery court finds that a delay in determining the motion will cause undue prejudice, expense or inconvenience.

(6) *Motions in Limine.* A motion relating to the exclusion of evidence may be filed at any time. Absent a request for hearing by a moving party or any party affected by the motion, the chancery court may, in its discretion, determine the motion without a hearing.

(d) Additional time after service by mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the party, and the notice or paper is served upon the party by mail or by delivery to the chancery court clerk for service, three days shall be added to the prescribed period, provided however, this rule shall not apply to service of process by registered or certified mail under Rule 4(r). [Wyo. R. App. P. 14.03(a)] No additional time shall be added if the party is served electronically through the chancery court's electronic filing system.

Rule 7. Pleadings Allowed; Form of Motions and other Papers

(a) Pleadings. Only these pleadings are allowed:

(1) a complaint;

(2) an answer to a complaint;

(3) an answer to a counterclaim designated as a counterclaim;

(4) an answer to a crossclaim;

(5) a third-party complaint;

(6) an answer to a third-party complaint; and

(7) if the chancery court orders one, a reply to an answer.

(b) Motions and Other Papers.

(1) *In General.* A request for a chancery court order must be made by motion. The motion must:

(A) be in writing unless made during a hearing or trial;

(B) state with particularity the grounds for seeking the order; and

(C) state the relief sought.

(2) The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion. All motions filed pursuant to Rules 12 and 56 shall, and all other motions may, contain or be accompanied by a memorandum of points and authority.

(3) *Form.* The rules governing captions and other matters of form in pleadings apply to motions and other papers.

(4) All motions shall be signed in accordance with Rule 11.

(c) Demurrers, pleas, etc. abolished. Demurrers, pleas, and exceptions for insufficiency of a pleading shall not be used.

Rule 8. General Rules of Pleading

(a) Claim for Relief. A pleading that states a claim for relief must contain:

(1) a short and plain statement of the grounds for the chancery court's jurisdiction, unless the chancery court already has jurisdiction and the claim needs no new jurisdictional support;

(2) a short and plain statement of the claim showing that the pleader is entitled to relief; and

(3) a demand for the relief sought, which may include relief in the alternative or different types of relief.

(b) Defenses; Admissions and Denials.

(1) *In General.* In responding to a pleading, a party must:

(A) state in short and plain terms its defenses to each claim asserted against it; and

(B) admit or deny the allegations asserted against it by an opposing party.

(2) *Denials--Responding to the Substance.* A denial must fairly respond to the substance of the allegation.

(3) *General and Specific Denials.* A party that intends in good faith to deny all the allegations of a pleading--including the jurisdictional grounds--may do so by a general denial subject to the obligations set forth in Rule 11. A party that does not intend to deny all the allegations must either specifically deny designated allegations or generally deny all except those specifically admitted.

(4) *Denying Part of an Allegation.* A party that intends in good faith to deny only part of an allegation must admit the part that is true and deny the rest.

(5) *Lacking Knowledge or Information.* A party that lacks knowledge or information sufficient to form a belief about the truth of an allegation must so state, and the statement has the effect of a denial.

(6) *Effect of Failing to Deny.* An allegation--other than one relating to the amount of damages--is admitted if a responsive pleading is required and the allegation is not denied. If a responsive pleading is not required, an

allegation is considered denied or avoided.

(c) Affirmative Defenses.

(1) *In General.* In responding to a pleading, a party must affirmatively state any avoidance or affirmative defense, including:

accord and satisfaction;

arbitration and award;

assumption of risk;

contributory negligence;

duress;

discharge in bankruptcy;

estoppel;

failure of consideration;

fraud;

illegality;

injury by fellow servant;

laches;

license;

payment;

release;

res judicata;

statute of frauds;

statute of limitations; and

waiver.

(2) *Mistaken Designation.* If a party mistakenly designates a defense as a counterclaim, or a counterclaim as a defense, the chancery court must, if justice requires, treat the pleading as though it were correctly designated, and may impose terms for doing so.

(d) Pleading to be Concise and Direct; Alternative Statements; Inconsistency.

(1) *In General.* Each allegation must be simple, concise, and direct. No technical form is required.

(2) *Alternative Statements of a Claim or Defense.* A party may set out two or more statements of a claim or

defense alternatively or hypothetically, either in a single count or defense or in separate ones. If a party makes alternative statements, the pleading is sufficient if any one of them is sufficient.

(3) *Inconsistent Claims or Defenses.* A party may state as many separate claims or defenses as it has, regardless of consistency.

(e) Construing Pleadings. Pleadings must be construed so as to do justice.

Rule 9. Pleading Special Matters

(a) Capacity or Authority to Sue; Legal Existence.

(1) *In General.* Except when required to show that the chancery court has jurisdiction, a pleading need not allege:

(A) a party's capacity to sue or be sued;

(B) a party's authority to sue or be sued in a representative capacity; or

(C) the legal existence of an organized association of persons that is made a party.

(2) *Raising Those Issues.* To raise any of those issues, a party must do so by a specific denial, which must state any supporting facts that are peculiarly within the party's knowledge.

(b) Fraud or Mistake; Conditions of Mind. In alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake. Malice, intent, knowledge, and other conditions of a person's mind may be alleged generally.

(c) Conditions Precedent. In pleading conditions precedent, it suffices to allege generally that all conditions precedent have occurred or been performed. But when denying that a condition precedent has occurred or been performed, a party must do so with particularity.

(d) Official Document or Act. In pleading an official document or official act, it suffices to allege that the document was legally issued or the act legally done.

(e) Judgment. In pleading a judgment or decision of a domestic or foreign court, a judicial or quasi-judicial tribunal, or a board or officer, it suffices to plead the judgment or decision without showing jurisdiction to render it.

(f) Time and Place. An allegation of time or place is material when testing the sufficiency of a pleading.

(g) Special Damages. If an item of special damage is claimed, it must be specifically stated.

(h) Municipal ordinance. In pleading a municipal ordinance or a right derived therefrom, it shall be sufficient to refer to such ordinance by its title or other applicable designation and the name of the municipality which adopted the same.

Rule 10. Form of Pleadings

(a) Caption; Names of Parties. Every pleading must have a caption with the court's name, a title, a file number, and a Rule 7(a) designation. The title of the initial pleading must name all the parties; the title of other pleadings, after naming the first party on each side, may refer generally to other parties.

(b) Paragraphs; Separate Statements. A party must state its claims or defenses in numbered paragraphs, each limited as far as practicable to a single set of circumstances. A later pleading may refer by number to a paragraph

in an earlier pleading. If doing so would promote clarity, each claim founded on a separate transaction or occurrence--and each defense other than a denial--must be stated in a separate count or defense.

(c) Adoption by Reference; Exhibits. A statement in a pleading may be adopted by reference elsewhere in the same pleading or in any other pleading or motion. A copy of a written instrument that is an exhibit to a pleading is a part of the pleading for all purposes.

(d) Paper Filing. If any document is required to be filed in paper form, it shall be on 8 ½ by 11 inch white paper, single-sided, unless (1) the original of the document or written instrument is another size paper and/or double-sided and (2) the law requires the original document or written instrument be filed with the chancery court.

Rule 11. Signing Pleadings, Motions, and other Papers; Representations to the Chancery Court; Sanctions

(a) Signature. Every pleading, written motion, and other paper must be signed by at least one attorney of record in the attorney's name--or by a party personally if the party is unrepresented. The paper must state the signer's address, e-mail address, telephone number, and attorney number, if any. Unless a rule or statute specifically states otherwise, a pleading need not be verified or accompanied by an affidavit. The chancery court must strike an unsigned paper unless the omission is promptly corrected after being called to the attorney's or party's attention.

(b) Representations to the Chancery Court. By presenting to the chancery court a pleading, written motion, or other paper--whether by signing, filing, submitting, or later advocating it--an attorney or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;

(2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;

(3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

(c) Sanctions.

(1) *In General.* If, after notice and a reasonable opportunity to respond, the chancery court determines that Rule 11(b) has been violated, the court may impose an appropriate sanction on any attorney, law firm, or party that violated the rule or is responsible for the violation. Absent exceptional circumstances, a law firm must be held jointly responsible for a violation committed by its partner, associate, or employee.

(2) *Motion for Sanctions.* A motion for sanctions must be made separately from any other motion and must describe the specific conduct that allegedly violates Rule 11(b). The motion must be served under Rule 5, but it must not be filed or be presented to the court if the challenged paper, claim, defense, contention, or denial is withdrawn or appropriately corrected within 14 days after service or within another time the chancery court sets. If warranted, the court may award to the prevailing party the reasonable expenses, including attorney's fees, incurred for the motion.

(3) *On the Chancery Court's Initiative.* On its own, the chancery court may order an attorney, law firm, or party to show cause why conduct specifically described in the order has not violated Rule 11(b).

(4) *Nature of a Sanction.* A sanction imposed under this rule must be limited to what suffices to deter repetition of the conduct or comparable conduct by others similarly situated. The sanction may include nonmonetary directives; an order to pay a penalty into court; or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of part or all of the reasonable attorney's fees and other expenses directly resulting from the violation.

(5) *Limitations on Monetary Sanctions.* The chancery court must not impose a monetary sanction:

(A) against a represented party for violating Rule 11(b)(2); or

(B) on its own, unless it issued the show-cause order under Rule 11(c)(3) before voluntary dismissal or settlement of the claims made by or against the party that is, or whose attorneys are, to be sanctioned.

(6) *Requirements for an Order.* An order imposing a sanction must describe the sanctioned conduct and explain the basis for the sanction.

(d) Inapplicability to Discovery. This rule does not apply to disclosures and discovery requests, responses, objections, and motions under Rules 26 through 37.

Rule 12. When and How Presented; Motion for Judgment on the Pleadings; Consolidating Motions; Waiving Defenses; Pretrial Hearing

(a) Time to Serve a Responsive Pleading.

(1) *In General.* Unless another time is specified by this rule or a state statute, the time for serving a responsive pleading is as follows:

(A) A defendant must serve an answer:

(i) within 20 days after being served with the summons and initial pleading;

(ii) within 30 days after being served with the summons and initial pleading if service is made outside the State of Wyoming; or

(iii) within 30 days after the last day of publication.

Not Applicable.

(B) A party must serve an answer to a counterclaim or crossclaim within 20 days after being served with the pleading that states the counterclaim or crossclaim.

(C) A party must serve a reply to an answer within 20 days after being served with an order to reply, unless the order specifies a different time.

(2) *Effect of a Motion.* Unless the chancery court sets a different time, serving a motion under this rule alters these periods as follows:

(A) if the chancery court denies the motion or postpones its disposition until trial, the responsive pleading must be served within 14 days after notice of the chancery court's action; or

(B) if the chancery court grants a motion for a more definite statement, the responsive pleading must be served within 14 days after the more definite statement is served.

(b) How to Present Defenses. Every defense to a claim for relief in any pleading must be asserted in the responsive

pleading if one is required. But a party may assert the following defenses by motion:

(1) lack of subject-matter jurisdiction;

(2) lack of personal jurisdiction;

(3) improper venue;

(4) insufficient process;

(5) insufficient service of process;

(6) failure to state a claim upon which relief can be granted; and

(7) failure to join a party under Rule 19.

A motion asserting any of these defenses must be made before pleading if a responsive pleading is allowed. If a pleading sets out a claim for relief that does not require a responsive pleading, an opposing party may assert at trial any defense to that claim. No defense or objection is waived by joining it with one or more other defenses or objections in a responsive pleading or in a motion.

(c) Motion for Judgment on the Pleadings. After the pleadings are closed--but early enough not to delay trial--a party may move for judgment on the pleadings.

(d) Result of Presenting Matters Outside the Pleadings. If, on a motion under Rule 12(b)(6) or 12(c), matters outside the pleadings are presented to and not excluded by the chancery court, the motion must be treated as one for summary judgment under Rule 56. All parties must be given a reasonable opportunity to present all the material that is pertinent to the motion.

(e) Motion for a More Definite Statement. A party may move for a more definite statement of a pleading to which a responsive pleading is allowed but which is so vague or ambiguous that the party cannot reasonably prepare a response. The motion must be made before filing a responsive pleading and must point out the defects complained of and the details desired. If the chancery court orders a more definite statement and the order is not obeyed within 10 days after notice of the order or within the time the chancery court sets, the chancery court may strike the pleading or issue any other appropriate order.

(f) Motion to Strike. The chancery court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter. The court may act:

(1) on its own; or

(2) on motion made by a party either before responding to the pleading or, if a response is not allowed, within 20 days after being served with the pleading.

(g) Joining Motions.

(1) *Right to Join.* A motion under this rule may be joined with any other motion allowed by this rule.

(2) *Limitation on Further Motions.* Except as provided in Rule 12(h)(2) or (3), a party that makes a motion under this rule must not make another motion under this rule raising a defense or objection that was available to the party but omitted from its earlier motion.

(h) Waiving and Preserving Certain Defenses.

(1) *When Some Are Waived.* A party waives any defense listed in Rule 12(b)(2)-(5) by:

(A) omitting it from a motion in the circumstances described in Rule 12(g)(2); or

(B) failing to either:

(i) make it by motion under this rule; or

(ii) include it in a responsive pleading or in an amendment allowed by Rule 15(a)(1) as a matter of course.

(2) *When to Raise Others.* Failure to state a claim upon which relief can be granted, to join a person required by Rule 19(b), or to state a legal defense to a claim may be raised:

(A) in any pleading allowed or ordered under Rule 7(a);

(B) by a motion under Rule 12(c); or

(C) at trial.

(3) *Lack of Subject-Matter Jurisdiction.* If the court determines at any time that it lacks subject-matter jurisdiction, the chancery court must dismiss the action.

(i) Decision Before Trial. If a party so moves, any defense listed in Rule 12(b)(1)-(7)--whether made in a pleading or by motion--and a motion under Rule 12(c) must be decided before trial unless the chancery court orders a deferral until trial.

Rule 13. Counterclaim and Crossclaim

(a) Compulsory Counterclaim.

(1) *In General.* A pleading must state as a counterclaim any claim that--at the time of its service--the pleader has against an opposing party if the claim:

(A) arises out of the transaction or occurrence that is the subject matter of the opposing party's claim; and

(B) does not require adding another party over whom the court cannot acquire jurisdiction.

(2) *Exceptions.* The pleader need not state the claim if:

(A) when the action was commenced, the claim was the subject of another pending action; or

(B) the opposing party sued on its claim by attachment or other process that did not establish personal jurisdiction over the pleader on that claim, and the pleader does not assert any counterclaim under this rule.

(b) Permissive Counterclaim. A pleading may state as a counterclaim against an opposing party any claim that is not compulsory.

(c) Relief Sought in a Counterclaim. A counterclaim need not diminish or defeat the recovery sought by the opposing party. It may request relief that exceeds in amount or differs in kind from the relief sought by the opposing party.

(d) Counterclaim Against the State. These rules do not expand the right to assert a counterclaim--or to claim a credit--against the state or against a county, municipal corporation or other political subdivision, public corporation, or any officer or agency thereof.

(e) Counterclaim Maturing or Acquired After Pleading. The chancery court may permit a party to file a supplemental pleading asserting a counterclaim that matured or was acquired by the party after serving an earlier pleading.

(f) Omitted Counterclaim. When a pleader fails to set up a counterclaim through oversight, inadvertence, or excusable neglect, or when justice requires, the pleader may by leave of chancery court set up the counterclaim by amendment.

(g) Crossclaim Against a Coparty. A pleading may state as a crossclaim any claim by one party against a coparty if the claim arises out of the transaction or occurrence that is the subject matter of the original action or of a counterclaim, or if the claim relates to any property that is the subject matter of the original action. The crossclaim may include a claim that the coparty is or may be liable to the crossclaimant for all or part of a claim asserted in the action against the crossclaimant.

(h) Joining Additional Parties. Rules 19 and 20 govern the addition of a person as a party to a counterclaim or crossclaim.

(i) Separate Trials; Separate Judgments. If the chancery court orders separate trials under Rule 42(b), it may enter judgment on a counterclaim or crossclaim under Rule 54(b) when it has jurisdiction to do so, even if the opposing party's claims have been dismissed or otherwise resolved.

Rule 14. Third-Party Practice

(a) When a Defending Party may Bring in a Third Party.

(1) *Timing of the Summons and Complaint.* A defending party may, as third-party plaintiff, serve a summons and complaint on a nonparty who is or may be liable to it for all or part of the claim against it. But the third-party plaintiff must, by motion, obtain the chancery court's leave if it files the third-party complaint more than 14 days after serving its original answer.

(2) *Third-Party Defendant's Claims and Defenses.* The person served with the summons and third-party complaint--the "third-party defendant":

(A) must assert any defense against the third-party plaintiff's claim under Rule 12;

(B) must assert any counterclaim against the third-party plaintiff under Rule 13(a), and may assert any counterclaim against the third-party plaintiff under Rule 13(b) or any crossclaim against another third-party defendant under Rule 13(g);

(C) may assert against the plaintiff any defense that the third-party plaintiff has to the plaintiff's claim; and

(D) may also assert against the plaintiff any claim arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff.

(3) *Plaintiff's Claims Against a Third-Party Defendant.* The plaintiff may assert against the third-party defendant any claim arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff. The third-party defendant must then assert any defense under Rule 12 and any counterclaim under Rule 13(a), and may assert any counterclaim under Rule 13(b) or any crossclaim under Rule 13(g).

(4) *Motion to Strike, Sever, or Try Separately.* Any party may move to strike the third-party claim, to sever it, or to try it separately.

(5) *Third-Party Defendant's Claim Against a Nonparty.* A third-party defendant may proceed under this rule against a nonparty who is or may be liable to the third-party defendant for all or part of any claim against it.

(b) When a Plaintiff may Bring in a Third Party. When a claim is asserted against a plaintiff, the plaintiff may bring in a third party if this rule would allow a defendant to do so.

Rule 15. Amended and Supplemental Pleadings

(a) Amendments Before Trial.

(1) *Amending as a Matter of Course.* A party may amend its pleading once as a matter of course within:

(A) 14 days after serving it, or

(B) if the pleading is one to which a responsive pleading is required, 14 days after service of a responsive pleading or 14 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

(2) *Other Amendments.* In all other cases, a party may amend its pleading only with the opposing party's written consent or the chancery court's leave. The chancery court should freely give leave when justice so requires.

(3) *Time to Respond.* Unless the chancery court orders otherwise, any required response to an amended pleading must be made within the time remaining to respond to the original pleading or within 14 days after service of the amended pleading, whichever is later.

(b) Amendments During and After Trial.

(1) *Based on an Objection at Trial.* If, at trial, a party objects that evidence is not within the issues raised in the pleadings, the chancery court may permit the pleadings to be amended. The chancery court should freely permit an amendment when doing so will aid in presenting the merits and the objecting party fails to satisfy the chancery court that the evidence would prejudice that party's action or defense on the merits. The chancery court may grant a continuance to enable the objecting party to meet the evidence.

(2) *For Issues Tried by Consent.* When an issue not raised by the pleadings is tried by the parties' express or implied consent, it must be treated in all respects as if raised in the pleadings. A party may move--at any time, even after judgment-- to amend the pleadings to conform them to the evidence and to raise an unpleaded issue. But failure to amend does not affect the result of the trial of that issue.

(c) Relation Back of Amendments.

(1) *When an Amendment Relates Back.* An amendment to a pleading relates back to the date of the original pleading when:

(A) the law that provides the applicable statute of limitations allows relation back;

(B) the amendment asserts a claim or defense that arose out of the conduct, transaction, or occurrence set out--or attempted to be set out--in the original pleading; or

(C) the amendment changes the party or the naming of the party against whom a claim is asserted, if Rule 15(c)(1)(B) is satisfied and if, within the period provided by Rule 4(w) for serving the summons and initial pleading, the party to be brought in by amendment:

(i) received such notice of the action that it will not be prejudiced in defending on the merits; and

(ii) knew or should have known that the action would have been brought against it, but for a mistake concerning the proper party's identity.

(2) *Notice to the State.* When the State or a State officer or agency is added as a defendant by amendment, the notice requirements of Rule 15(c)(1)(C)(i) and (ii) are satisfied if, during the stated period, process was delivered or mailed to the Attorney General of the State or to the officer or agency.

(d) Supplemental Pleadings. On motion and reasonable notice, the chancery court may, on just terms, permit a party to serve a supplemental pleading setting out any transaction, occurrence, or event that happened after the date of the pleading to be supplemented. The chancery court may permit supplementation even though the original pleading is defective in stating a claim or defense. The chancery court may order that the opposing party plead to the supplemental pleading within a specified time.

Rule 16. Pretrial Conferences; Scheduling; Management

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

(1) expediting disposition of the action within one hundred fifty (150) days from the date of filing, as defined by Rule 3;

(2) establishing early and continuing control so that the case will not be protracted because of lack of management;

(3) discouraging wasteful pretrial activities;

(4) improving the quality of the trial through more thorough preparation; and

(5) facilitating settlement.

(b) Scheduling.

(1) *Scheduling Order.* The judge, or a chancery court magistrate, shall, after consulting with the parties' attorneys and any unrepresented parties at a scheduling conference, telephone, mail or other suitable means, enter a scheduling order.

[Fed. R. Civ. P. 16] (2) *Time to Issue.* The judge must issue the scheduling order as soon as practicable, but unless the judge finds good cause for delay, the judge must issue it within the earlier of 14 days after any defendant has been served with the initial pleading or 10 days after any defendant has appeared.

(3) *Contents of the Order.*

(A) Required Contents. The scheduling order must limit the time to join other parties, amend the pleadings, complete discovery, and file motions.

(B) Permitted Contents. The scheduling order may:

(i) modify the timing of disclosures under Rules 26(a) and 26(e)(1);

(ii) modify the extent of discovery;

(iii) provide for disclosure, discovery, or preservation of electronically stored information;

(iv) include any agreements the parties reach for asserting claims of privilege or of protection as

trial-preparation material after information is produced;

(v) direct that before moving for an order relating to discovery, the movant must request a conference with the court;

(vi) set dates for pretrial conferences and for trial; and

(vii) include other appropriate matters.

(4) *Modifying a Schedule.* A schedule may be modified only for good cause and with the judge's consent.

(c) Attendance and Matters for Consideration at a Pretrial Conference.

(1) *Attendance.* A represented party must authorize at least one of its attorneys to make stipulations and admissions about all matters that can reasonably be anticipated for discussion at a pretrial conference. If appropriate, the chancery court may require that a party or its representative be present or reasonably available by other means to consider possible settlement.

(2) *Matters for Consideration.* At any pretrial conference, the chancery court may consider and take appropriate action on the following matters:

(A) formulating and simplifying the issues, and eliminating frivolous claims or defenses;

(B) amending the pleadings if necessary or desirable;

(C) obtaining admissions and stipulations about facts and documents to avoid unnecessary proof, and ruling in advance on the admissibility of evidence;

(D) avoiding unnecessary proof and cumulative evidence, and limiting the use of testimony under Wyoming Rule of Evidence 702;

(E) determining the appropriateness and timing of summary adjudication under Rule 56;

(F) controlling and scheduling discovery, including orders affecting disclosures and discovery under Rule 26 and Rules 29 through 37;

(G) identifying witnesses and documents, scheduling the filing and exchange of any pretrial briefs, and setting dates for further conferences and for trial;

(H) referring matters to a chancery court magistrate master;

(I) settling the case and using special procedures to assist in resolving the dispute under Rule 40(b) or other alternative dispute resolution procedures;

(J) determining the form and content of the pretrial order;

(K) disposing of pending motions;

(L) adopting special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems;

(M) ordering a separate trial under Rule 42(b) of a claim, counterclaim, crossclaim, third-party claim, or particular issue;

(N) ordering the presentation of evidence early in the trial on a manageable issue that might, on the evidence, be the basis for a judgment as a matter of law under Rule 50(a) or a judgment on partial findings under Rule 52(c);

(O) establishing a reasonable limit on the time allowed to present evidence; and

(P) facilitating in other ways the just, speedy, and inexpensive disposition of the action.

(3) *Accelerated Adjudication Actions.* The parties by written consent may authorize the chancery court to apply the accelerated adjudication procedures set forth in this Rule.

(A) In any matter proceeding through the accelerated process, the court may deem the parties to have irrevocably waived:

i. any objections based on lack of personal jurisdiction or the doctrine of forum non conveniens;

ii. the right to recover punitive or exemplary damages;

iii. the right to any interlocutory appeal; and

(B) the right to discovery, except to such discovery as the parties might otherwise agree or as follows:

i. There shall be no more than seven (7) interrogatories and five (5) requests to admit;

ii. Absent a showing of good cause, there shall be no more than seven (7) discovery depositions per side with no deposition to exceed seven (7) hours in length. Such depositions can be done either in person at the location of the deponent, a party or their counsel or in real time by any electronic video device; and

iii. Documents requested by the parties shall be limited to those relevant to a claim or defense in the action and shall be restricted in terms of time from, subject matter and persons or entities to which the requests pertain.

(C) In any accelerated action, electronic discovery shall proceed as follows unless the parties agree otherwise:

i. the production of electronic documents shall normally be made in a searchable format that is usable by the party receiving the e-documents;

ii. the description of custodians from whom electronic documents may be collected shall be narrowly tailored to include only those individuals whose electronic documents may reasonably be expected to contain evidence that is material to the disputes; and

iii. where the costs and burdens of e-discovery are disproportionate to the nature of the dispute or to the amount in controversy, or to the relevance of the materials requested, the court will either deny such requests or order disclosure on condition that the requesting party advance the reasonable cost of production to the other side, subject to the allocation of costs in the final judgment.

(d) Pretrial Orders. After any conference under this rule, the chancery court shall issue an order reciting the action taken. This order controls the course of the action unless the chancery court modifies it.

(e) Final Pretrial Conference and Orders. The chancery court may hold a final pretrial conference to formulate a trial plan, including a plan to facilitate the admission of evidence. The conference must be held as close to the

start of trial as is reasonable, and must be attended by at least one attorney who will conduct the trial for each party and by any unrepresented party. The chancery court may modify the order issued after a final pretrial conference only to prevent manifest injustice.

(f) Sanctions.

(1) *In General.* On motion or on its own, the chancery court may issue any just orders, including those authorized by Rule 37(b)(2)(A)(ii)-(vii), if a party or its attorney:

(A) fails to appear at a scheduling or other pretrial conference;

(B) is substantially unprepared to participate--or does not participate in good faith--in the conference; or

(C) fails to obey a scheduling or other pretrial order.

(2) *Imposing Fees and Costs.* Instead of or in addition to any other sanction, the chancery court must order the party, its attorney, or both to pay the reasonable expenses--including attorney's fees--incurred because of any noncompliance with this rule, unless the noncompliance was substantially justified or other circumstances make an award of expenses unjust.

Rule 17. Plaintiff and Defendant; Capacity; Public Officers

(a) Real Party in Interest.

(1) *Designation in General.* An action must be prosecuted in the name of the real party in interest. The following may sue in their own names without joining the person for whose benefit the action is brought:

(A) an executor;

(B) an administrator;

(C) a guardian;

(D) a bailee;

(E) a trustee of an express trust;

(F) a party with whom or in whose name a contract has been made for another's benefit; and

(G) a party authorized by statute.

(2) *Action in the Name of the United States for Another's Use or Benefit.* When a federal statute so provides, an action for another's use or benefit must be brought in the name of the United States.

(3) *Joinder of the Real Party in Interest.* The chancery court may not dismiss an action for failure to prosecute in the name of the real party in interest until, after an objection, a reasonable time has been allowed for the real party in interest to ratify, join, or be substituted into the action. After ratification, joinder, or substitution, the action proceeds as if it had been originally commenced by the real party in interest.

(b) Capacity to sue or be sued.

(1) The capacity of an individual, including one acting in a representative capacity, to sue or be sued, shall be determined by the law of this State.

(2) A married person may sue or be sued in all respects as if he or she were single.

(3) The capacity of a corporation to sue or be sued shall be determined by the law under which it was organized, unless a statute of this State provides to the contrary.

(4) A partnership or other unincorporated association may sue or be sued in its common name.

(c) Minor or Incompetent Person.

(1) *With a Representative.* The following representatives may sue or defend on behalf of a minor or an incompetent person:

(A) a general guardian;

(B) a committee;

(C) a conservator; or

(D) a like fiduciary.

(2) *Without a Representative.* A minor or an incompetent person who does not have a duly appointed representative, or if such representative fails to act the minor or incompetent person may sue by a next friend or by a guardian ad litem. The chancery court must appoint a guardian ad litem--or issue another appropriate order--to protect a minor or incompetent person who is unrepresented in an action.

(d) Suing person by fictitious name. When the identity of a defendant is unknown, such defendant may be designated in any pleading or proceeding by any name and description, and when the true name is discovered the pleading or proceeding may be amended accordingly; and the plaintiff in such case must state in the complaint that the plaintiff could not discover the true name, and the summons must contain the words, "real name unknown", and a copy thereof must be served personally upon the defendant.

(e) Public Officer's Title and Name. A public officer who sues or is sued in an official capacity may be designated by official title rather than by name, but the chancery court may order that the officer's name be added.

Rule 18. Joinder of Claims

(a) In General. A party asserting a claim, counterclaim, crossclaim, or third-party claim may join, as independent or alternative claims, as many claims as it has against an opposing party.

(b) Joinder of Contingent Claims. A party may join two claims even though one of them is contingent on the disposition of the other; but the chancery court may grant relief only in accordance with the parties' relative substantive rights. In particular, a plaintiff may state a claim for money and a claim to set aside a conveyance that is fraudulent as to that plaintiff, without first obtaining a judgment for the money.

Rule 19. Required Joinder of Parties

(a) Persons Required to Be Joined if Feasible.

(1) *Required Party.* A person who is subject to service of process and whose joinder will not deprive the chancery court of subject-matter jurisdiction must be joined as a party if:

(A) in that person's absence, the court cannot accord complete relief among existing parties; or

(B) that person claims an interest relating to the subject of the action and is so situated that disposing of the action in the person's absence may:

(i) as a practical matter impair or impede the person's ability to protect the interest; or

(ii) leave an existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations because of the interest.

(2) *Joinder by Chancery Court Order.* If a person has not been joined as required, the chancery court must order that the person be made a party. A person who refuses to join as a plaintiff may be made either a defendant or, in a proper case, an involuntary plaintiff.

(3) *Venue.* If a joined party objects to venue and the joinder would make venue improper, the chancery court must dismiss that party.

(b) When Joinder Is Not Feasible. If a person who is required to be joined if feasible cannot be joined, the chancery court must determine whether, in equity and good conscience, the action should proceed among the existing parties or should be dismissed. The factors for the chancery court to consider include:

(1) the extent to which a judgment rendered in the person's absence might prejudice that person or the existing parties;

(2) the extent to which any prejudice could be lessened or avoided by:

(A) protective provisions in the judgment;

(B) shaping the relief; or

(C) other measures;

(3) whether a judgment rendered in the person's absence would be adequate; and

(4) whether the plaintiff would have an adequate remedy if the action were dismissed for nonjoinder.

(c) Pleading the Reasons for Nonjoinder. When asserting a claim for relief, a party must state:

(1) the name, if known, of any person who is required to be joined if feasible but is not joined; and

(2) the reasons for not joining that person.

(d) Exception for Class Actions. This rule is subject to Rule 23.

Rule 20. Permissive Joinder of Parties

(a) Persons Who May Join or Be Joined.

(1) *Plaintiffs.* Persons may join in one action as plaintiffs if:

(A) they assert any right to relief jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and

(B) any question of law or fact common to all plaintiffs will arise in the action.

(2) *Defendants.* Persons may be joined in one action as defendants if:

(A) any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and

(B) any question of law or fact common to all defendants will arise in the action.

(3) *Extent of Relief.* Neither a plaintiff nor a defendant need be interested in obtaining or defending against all the relief demanded. The chancery court may grant judgment to one or more plaintiffs according to their rights, and against one or more defendants according to their liabilities.

(b) Protective Measures. The chancery court may issue orders--including an order for separate trials--to protect a party against embarrassment, delay, expense, or other prejudice that arises from including a person against whom the party asserts no claim and who asserts no claim against the party.

Rule 21. Misjoinder and Nonjoinder of Parties

Misjoinder of parties is not a ground for dismissing an action. On motion or on its own, the chancery court may at any time, on just terms, add or drop a party. The chancery court may also sever any claim against a party.

Rule 22. Interpleader

(a) Grounds.

(1) *By a Plaintiff.* Persons with claims that may expose a plaintiff to double or multiple liability may be joined as defendants and required to interplead. Joinder for interpleader is proper even though:

(A) the claims of the several claimants, or the titles on which their claims depend, lack a common origin or are adverse and independent rather than identical; or

(B) the plaintiff denies liability in whole or in part to any or all of the claimants.

(2) *By a Defendant.* A defendant exposed to similar liability may seek interpleader through a crossclaim or counterclaim.

(b) Relation to Other Rules. This rule supplements--and does not limit--the joinder of parties allowed by Rule 20.

Rule 23. Class Actions

(a) Prerequisites. One or more members of a class may sue or be sued as representative parties on behalf of all members only if:

(1) the class is so numerous that joinder of all members is impracticable;

(2) there are questions of law or fact common to the class;

(3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and

(4) the representative parties will fairly and adequately protect the interests of the class.

(b) Types of Class Actions. A class action may be maintained if Rule 23(a) is satisfied and if:

(1) prosecuting separate actions by or against individual class members would create a risk of:

(A) inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for the party opposing the class; or

(B) adjudications with respect to individual class members that, as a practical matter, would be dispositive of the interests of the other members not parties to the individual adjudications or would substantially impair or impede their ability to protect their interests;

(2) the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole; or

(3) the chancery court finds that the questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy. The matters pertinent to these findings include:

(A) the class members' interests in individually controlling the prosecution or defense of separate actions;

(B) the extent and nature of any litigation concerning the controversy already begun by or against class members;

(C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and

(D) the likely difficulties in managing a class action.

(c) Certification Order; Notice to Class Members; Judgment; Issues Classes; Subclasses.

(1) *Certification Order.*

(A) Time to Issue. At an early practicable time after a person sues or is sued as a class representative, the chancery court must determine by order whether to certify the action as a class action.

(B) Defining the Class; Appointing Class Counsel. An order that certifies a class action must define the class and the class claims, issues, or defenses, and must appoint class counsel under Rule 23(f).

(C) Altering or Amending the Order. An order that grants or denies class certification may be altered or amended before final judgment.

(2) *Notice.*

(A) For (b)(1) or (b)(2) Classes. For any class certified under Rule 23(b)(1) or (b)(2), the chancery court may direct appropriate notice to the class.

(B) For (b)(3) Classes. For any class certified under Rule 23(b)(3), the chancery court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice must clearly and concisely state in plain, easily understood language:

(i) the nature of the action;

(ii) the definition of the class certified;

(iii) the class claims, issues, or defenses;

(iv) that a class member may enter an appearance through an attorney if the member so desires;

(v) that the chancery court will exclude from the class any member who requests exclusion;

(vi) the time and manner for requesting exclusion; and

(vii) the binding effect of a class judgment on members under Rule 23(c)(3).

(3) *Judgment.* Whether or not favorable to the class, the judgment in a class action must:

(A) for any class certified under Rule 23(b)(1) or (b)(2), include and describe those whom the chancery court finds to be class members; and

(B) for any class certified under Rule 23(b)(3), include and specify or describe those to whom the Rule 23(c)(2) notice was directed, who have not requested exclusion, and whom the chancery court finds to be class members.

(4) *Particular Issues.* When appropriate, an action may be brought or maintained as a class action with respect to particular issues.

(5) *Subclasses.* When appropriate, a class may be divided into subclasses that are each treated as a class under this rule.

(d) Conducting the Action.

(1) *In General.* In conducting an action under this rule, the chancery court may issue orders that:

(A) determine the course of proceedings or prescribe measures to prevent undue repetition or complication in presenting evidence or argument;

(B) require--to protect class members and fairly conduct the action--giving appropriate notice to some or all class members of:

(i) any step in the action;

(ii) the proposed extent of the judgment; or

(iii) the members' opportunity to signify whether they consider the representation fair and adequate, to intervene and present claims or defenses, or to otherwise come into the action;

(C) impose conditions on the representative parties or on intervenors;

(D) require that the pleadings be amended to eliminate allegations about representation of absent persons and that the action proceed accordingly; or

(E) deal with similar procedural matters.

(2) *Combining and Amending Orders.* An order under Rule 23(d)(1) may be altered or amended from time to time and may be combined with an order under Rule 16.

(e) Settlement, Voluntary Dismissal, or Compromise. The claims, issues, or defenses of a certified class may be settled, voluntarily dismissed, or compromised only with the chancery court's approval. The following procedures apply to a proposed settlement, voluntary dismissal, or compromise:

(1) The chancery court must direct notice in a reasonable manner to all class members who would be bound by the proposal.

(2) If the proposal would bind class members, the chancery court may approve it only after a hearing and on finding that it is fair, reasonable, and adequate.

(3) The parties seeking approval must file a statement identifying any agreement made in connection with the proposal.

(4) If the class action was previously certified under Rule 23(b)(3), the court may refuse to approve a settlement unless it affords a new opportunity to request exclusion to individual class members who had an earlier opportunity to request exclusion but did not do so.

(5) Any class member may object to the proposal if it requires court approval under this subdivision (e); the objection may be withdrawn only with the court's approval.

(f) Class Counsel.

(1) *Appointing Class Counsel.* Unless a statute provides otherwise, a chancery court that certifies a class must appoint class counsel. In appointing class counsel, the chancery court:

(A) must consider:

(i) the work counsel has done in identifying or investigating potential claims in the action;

(ii) counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action;

(iii) counsel's knowledge of the applicable law; and

(iv) the resources that counsel will commit to representing the class;

(B) may consider any other matter pertinent to counsel's ability to fairly and adequately represent the interests of the class;

(C) may order potential class counsel to provide information on any subject pertinent to the appointment and to propose terms for attorney's fees and nontaxable costs;

(D) may include in the appointing order provisions about the award of attorney's fees or nontaxable costs under Rule 23(g); and

(E) may make further orders in connection with the appointment.

(2) *Standard for Appointing Class Counsel.* When one applicant seeks appointment as class counsel, the chancery court may appoint that applicant only if the applicant is adequate under Rule 23(f)(1) and (4). If more than one adequate applicant seeks appointment, the chancery court must appoint the applicant best able to represent the interests of the class.

(3) *Interim Counsel.* The chancery court may designate interim counsel to act on behalf of a putative class before determining whether to certify the action as a class action.

(4) *Duty of Class Counsel.* Class counsel must fairly and adequately represent the interests of the class.

(g) Attorney's Fees and Nontaxable Costs. In a certified class action, the chancery court may award reasonable attorney's fees and nontaxable costs that are authorized by law or by the parties' agreement. The following procedures apply:

(1) A claim for an award must be made by motion under Rule 54(d)(2), subject to the provisions of this subdivision (h), at a time the chancery court sets. Notice of the motion must be served on all parties and, for motions by class counsel, directed to class members in a reasonable manner.

(2) A class member, or a party from whom payment is sought, may object to the motion.

(3) The chancery court may hold a hearing and must find the facts and state its legal conclusions under Rule 52(a).

(4) The chancery court may refer issues related to the amount of the award to a master, as provided in Rule 54(d)(2)(D).

Rule 23.1. Derivative Actions

(a) Prerequisites. This rule applies when one or more shareholders or members of a corporation or an unincorporated association bring a derivative action to enforce a right that the corporation or association may properly assert but has failed to enforce. The derivative action may not be maintained if it appears that the plaintiff does not fairly and adequately represent the interests of shareholders or members who are similarly situated in enforcing the right of the corporation or association.

(b) Pleading Requirements. The complaint must be verified and must:

(1) allege that the plaintiff was a shareholder or member at the time of the transaction complained of, or that the plaintiff's share or membership later devolved on it by operation of law;

(2) allege that the action is not a collusive one to confer jurisdiction that the chancery court would otherwise lack; and

(3) state with particularity:

(A) any effort by the plaintiff to obtain the desired action from the directors or comparable authority and, if necessary, from the shareholders or members; and

(B) the reasons for not obtaining the action or not making the effort.

(c) Settlement, Dismissal, and Compromise. A derivative action may be settled, voluntarily dismissed, or compromised only with the chancery court's approval. Notice of a proposed settlement, voluntary dismissal, or compromise must be given to shareholders or members in the manner that the chancery court orders.

Rule 23.2. Actions Relating to Unincorporated Associations

This rule applies to an action brought by or against the members of an unincorporated association as a class by naming certain members as representative parties. The action may be maintained only if it appears that those parties will fairly and adequately protect the interests of the association and its members. In conducting the action, the chancery court may issue any appropriate orders corresponding with those in Rule 23(d), and the procedure for settlement, voluntary dismissal, or compromise must correspond with the procedure in Rule 23(e).

Rule 24. Intervention

(a) Intervention of Right. On timely motion, the chancery court must permit anyone to intervene who:

(1) is given an unconditional right to intervene by statute; or

(2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

(b) Permissive Intervention.

(1) *In General.* On timely motion, the chancery court may permit anyone to intervene who:

(A) is given a conditional right to intervene by statute; or

(B) has a claim or defense that shares with the main action a common question of law or fact.

(2) *By a Government Officer or Agency.* On timely motion, the chancery court may permit a federal or state governmental officer or agency to intervene if a party's claim or defense is based on:

(A) a statute or executive order administered by the officer or agency; or

(B) any regulation, order, requirement, or agreement issued or made under the statute or executive order.

(3) *Delay or Prejudice.* In exercising its discretion, the chancery court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights.

(c) Notice and Pleading Required. A motion to intervene must be served on the parties as provided in Rule 5. The motion must state the grounds for intervention and be accompanied by a pleading that sets out the claim or defense for which intervention is sought.

Rule 25. Substitution of Parties

(a) Death.

(1) *Substitution if the Claim Is Not Extinguished.* If a party dies and the claim is not extinguished, the chancery court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

(2) *Continuation Among the Remaining Parties.* After a party's death, if the right sought to be enforced survives only to or against the remaining parties, the action does not abate, but proceeds in favor of or against the remaining parties. The death should be noted on the record.

(3) *Service.* A motion to substitute, together with a notice of hearing, must be served on the parties as provided in Rule 5 and on nonparties as provided in Rule 4. A statement noting death must be served in the same manner.

(b) Incompetency. If a party becomes incompetent, the chancery court may, on motion, permit the action to be continued by or against the party's representative. The motion must be served as provided in Rule 25(a)(3).

(c) Transfer of Interest. If an interest is transferred, the action may be continued by or against the original party unless the chancery court, on motion, orders the transferee to be substituted in the action or joined with the original party. The motion must be served as provided in Rule 25(a)(3).

(d) Public Officers; Death or Separation from Office.

(1) An action does not abate when a public officer who is a party in an official capacity dies, resigns, or otherwise ceases to hold office while the action is pending. The officer's successor is automatically substituted as a party. Later proceedings should be in the substituted party's name, but any misnomer not affecting the parties' substantial rights must be disregarded.

(2) A public officer who sues or is sued in an official capacity may be described as a party by the officer's official title rather than by name; but the chancery court may require the officer's name to be added.

(e) Substitution at any stage. Substitution of parties under the provisions of this rule may be made, either before or after judgment, by the chancery court then having jurisdiction.

Rule 26. Duty to Disclose; General Provisions Governing Discovery

(a) Required Disclosures.

(1) *Initial Disclosure.*

(A) In General. Except as exempted by Rule 26(a)(1)(B) or as otherwise stipulated or ordered by the chancery court, a party must, without awaiting a discovery request, provide to the other parties, but not file with the chancery court, unless otherwise ordered by the chancery court or required by other rule:

(i) the name and, if known, the address and telephone number of each individual likely to have discoverable information--along with the subjects of that information--that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment;

(ii) a copy--or a description by category and location-- of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment;

(iii) a computation of each category of damages claimed by the disclosing party--who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered; and

(iv) for inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

(B) Proceedings Exempt from Initial Disclosure. The following proceedings are exempt from initial disclosure:

(i) a forfeiture action in rem arising from a Wyoming statute;

(ii) an action brought without an attorney by a person in the custody of the State, county, or other political subdivision of the State;

(iii) a proceeding ancillary to a proceeding in another court; and

(iv) an action to enforce an arbitration award.

(1.1) *Initial disclosures in divorce actions.* Not Applicable.

(1.2) *Initial disclosures in custody and support actions where the parties are not married.* Not Applicable.

(1.3) *Timing of disclosures; requirement to disclose.* Unless a different time is set by stipulation in writing or by chancery court order, these disclosures pursuant to 26(a)(1) shall be made within 30 days after a party's answer is required to be served under Rule 12(a) or as that period may be altered as described in Rule 12(a) by the party's service of a dispositive motion as described in Rule 12(b). Any party later served or otherwise joined must make these disclosures within 30 days after being served or joined unless a different time is set by stipulation in writing or by chancery court order. A party must make its initial disclosures based on the information then reasonably available to it. A party is not excused from making its disclosures because it has not fully investigated the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures.

(2) *Disclosure of Expert Testimony.*

(A) In addition to the disclosures required by paragraph (1), a party must disclose to the other parties the identity of any witness it may use at trial to present evidence under Wyoming Rule of Evidence 702, 703, or 705.

(B) Witnesses Who Must Provide a Written Report. Unless otherwise stipulated or ordered by the chancery court, if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony, this disclosure must be accompanied by a written report prepared and signed by the witness or a disclosure signed by counsel for the party. The report must contain:

(i) a complete statement of all opinions the witness will express and the basis and reasons for them;

(ii) the facts or data considered by the witness in forming them;

(iii) any exhibits that will be used to summarize or support them;

(iv) the witness's qualifications, including a list of all publications authored in the previous 10 years;

(v) a list of all other cases in which, during the previous four years, the witness testified as an expert at trial or by deposition; and

(vi) a statement of the compensation to be paid for the study and testimony in the case.

(C) Witnesses Who Do Not Provide a Written Report. Unless otherwise stipulated or ordered by the chancery court, if the witness is not required to provide a written report, this disclosure must state:

(i) the subject matter on which the witness is expected to present evidence under Wyoming Rule of Evidence 702, 703, or 705; and

(ii) a summary of the facts and opinions to which the witness is expected to testify.

(D) Time to Disclose Expert Testimony. A party must make these disclosures at the times and in the sequence that the chancery court orders. Absent a stipulation or a chancery court order, the disclosures must be made:

(i) at least 90 days before the date set for trial or for the case to be ready for trial; or

(ii) if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under Rule 26(a)(2)(B) or (C), within 30 days after the other party's disclosure.

(E) Supplementing the Disclosure. The parties must supplement these disclosures when required under Rule 26(e).

(3) *Pretrial Disclosures.*

(A) In General. In addition to the disclosures required by Rule 26(a)(1) and (2), a party must provide to the other parties and promptly file the following information about the evidence that it may present at trial other than solely for impeachment:

(i) the name and, if not previously provided, the address and telephone number of each witness--separately identifying those the party expects to present and those it may call if the need arises;

(ii) the designation of those witnesses whose testimony the party expects to present by deposition and, if not taken stenographically, a transcript of the pertinent parts of the deposition; and

(iii) an identification of each document or other exhibit, including summaries of other evidence--separately identifying those items the party expects to offer and those it may offer if the need arises.

(B) Time for Pretrial Disclosures; Objections. Unless the chancery court orders otherwise, these disclosures must be made at least 30 days before trial. Within 14 days after they are made, unless the chancery court sets a different time, a party may serve and promptly file a list of the following objections: any objections to the use under Rule 32(a) of a deposition designated by another party under Rule 26(a)(3)(A)(ii); and any objection, together with the grounds for it, that may be made to the admissibility of materials identified under Rule 26(a)(3)(A)(iii). An objection not so made--except for one under Wyoming Rule of Evidence 402 or 403--is waived unless excused by the chancery court for good cause.

(4) *Form of Disclosures.* Unless the chancery court orders otherwise, all disclosures under Rule 26(a)(1), (2), or (3) must be in writing, signed, and served.

(b) Discovery Scope and Limits.

(1) *Scope in General.* Unless otherwise limited by chancery court order, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.

(2) *Limitations on Frequency and Extent.*

(A) When Permitted. By order, the court may alter the limits in these rules on the number of depositions and interrogatories or on the length of depositions under Rule 30. By order, the chancery court may also limit the number of requests under Rule 36.

(B) Specific Limitations on Electronically Stored Information. A party need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the party from whom discovery is sought must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the chancery court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(C) When Required. On motion or on its own, the court must limit the frequency or extent of discovery

otherwise allowed by these rules or by the chancery court if it determines that:

(i) the discovery sought is unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive;

(ii) the party seeking discovery has had ample opportunity to obtain the information by discovery in the action; or

(iii) the proposed discovery is outside the scope permitted by Rule 26(b)(1).

(3) *Trial Preparation: Materials.*

(A) Documents and Tangible Things. Ordinarily, a party may not discover documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative (including the other party's attorney, consultant, surety, indemnitor, insurer, or agent). But, subject to Rule 26(b)(4), those materials may be discovered if:

(i) they are otherwise discoverable under Rule 26(b)(1); and

(ii) the party shows that it has substantial need for the materials to prepare its case and cannot, without undue hardship, obtain their substantial equivalent by other means.

(B) Protection Against Disclosure. If the chancery court orders discovery of those materials, it must protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of a party's attorney or other representative concerning the litigation.

(C) Previous Statement. Any party or other person may, on request and without the required showing, obtain the person's own previous statement about the action or its subject matter. If the request is refused, the person may move for a chancery court order, and Rule 37(a)(5) applies to the award of expenses. A previous statement is either:

(i) a written statement that the person has signed or otherwise adopted or approved; or

(ii) a contemporaneous stenographic, mechanical, electrical, or other recording--or a transcription of it--that recites substantially verbatim the person's oral statement.

(4) *Trial Preparation: Experts.*

(A) Deposition of an Expert Who May Testify. A party may depose any person who has been identified as an expert whose opinions may be presented at trial. If Rule 26(a)(2)(B) requires a report from the expert, the deposition may be conducted only after the report is provided.

(B) Trial-Preparation Protection for Draft Reports or Disclosures. Rules 26(b)(3)(A) and (B) protect drafts of any report or disclosure required under Rule 26(a)(2), regardless of the form in which the draft is recorded.

(C) Trial-Preparation Protection for Communications Between a Party's Attorney and Expert Witnesses. Rules 26(b)(3)(A) and (B) protect communications between the party's attorney and any witness required to provide a report under Rule 26(a)(2)(B), regardless of the form of the communications, except to the extent that the communications:

(i) relate to compensation for the expert's study or testimony;

(ii) identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed; or

(iii) identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions to be expressed.

(D) Expert Employed Only for Trial Preparation. Ordinarily, a party may not, by interrogatories or deposition, discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or to prepare for trial and who is not expected to be called as a witness at trial. But a party may do so only:

(i) as provided in Rule 35(b); or

(ii) on showing exceptional circumstances under which it is impracticable for the party to obtain facts or opinions on the same subject by other means.

(E) Payment. Unless manifest injustice would result, the chancery court must require that the party seeking discovery:

(i) pay the expert a reasonable fee for time spent in responding to discovery under Rule 26(b)(4)(A) or (D); and

(ii) for discovery under (D), also pay the other party a fair portion of the fees and expenses it reasonably incurred in obtaining the expert's facts and opinions.

(5) *Claiming Privilege or Protecting Trial-Preparation Materials.*

(A) Information Withheld. When a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, the party must:

(i) expressly make the claim; and

(ii) describe the nature of the documents, communications, or tangible things not produced or disclosed-- and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.

(B) Information Produced. If information produced in discovery is subject to a claim of privilege or of protection as trial-preparation material, the party making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The producing party must preserve the information until the claim is resolved.

(c) Protective Orders.

(1) *In General.* A party or any person from whom discovery is sought may move for a protective order in the chancery court where the action is pending. The motion must include a certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without chancery court action. The chancery court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(A) forbidding the disclosure or discovery;

(B) specifying terms, including time and place or the allocation of expenses, for the disclosure or discovery;

(C) prescribing a discovery method other than the one selected by the party seeking discovery;

(D) forbidding inquiry into certain matters, or limiting the scope of disclosure or discovery to certain matters;

(E) designating the persons who may be present while the discovery is conducted;

(F) requiring that a deposition be sealed and opened only on chancery court order;

(G) requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way; and

(H) requiring that the parties simultaneously file specified documents or information in sealed envelopes, to be opened as the chancery court directs.

(2) *Ordering Discovery.* If a motion for a protective order is wholly or partly denied, the chancery court may, on just terms, order that any party or person provide or permit discovery.

(3) *Awarding Expenses.* Rule 37(a)(5) applies to the award of expenses.

(d) Timing and Sequence of Discovery.

(1) *Timing.* Except in a proceeding exempted from initial disclosure under Rule 26(a)(1)(B), or when authorized by these rules, by stipulation, or by chancery court order, a party may not seek discovery from any source before the period for initial disclosures has expired and that party has provided the disclosures required under Rule 26(a)(1).

(2) *Sequence.* Unless the parties stipulate or the chancery court orders otherwise for the parties' and witnesses' convenience and in the interests of justice:

(A) methods of discovery may be used in any sequence; and

(B) discovery by one party does not require any other party to delay its discovery.

(e) Supplementing Disclosures and Responses.

(1) *In General.* A party who has made a disclosure under Rule 26(a)--or who has responded to an interrogatory, request for production, or request for admission--must supplement or correct its disclosure or response:

(A) in a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing; or

(B) as ordered by the chancery court.

(2) *Expert Witness.* For an expert whose report must be disclosed under Rule 26(a)(2)(B), the party's duty to supplement extends both to information included in the report and to information given during the expert's deposition. Any additions or changes to this information must be disclosed by the time the party's pretrial disclosures under Rule 26(a)(3) are due.

(f) Discovery Conference. At any time after commencement of an action the chancery court may direct the attorneys for the parties to appear before it for a conference on the subject of discovery. The chancery court shall do so upon motion by the attorney for any party if the motion includes:

(1) a statement of the issues as they then appear;

(2) a proposed plan and schedule of discovery;

(3) any expansion or further limitation proposed to be placed on discovery;

(4) any other proposed orders with respect to discovery; and

(5) a statement showing that the attorney making the motion has made a reasonable effort to reach agreement with opposing attorneys on the matters set forth in the motion. Each party and each party's attorney are under a duty to participate in good faith in the framing of a discovery plan if a plan is proposed by the attorney for any party. Notice of the motion shall be served on all parties. Objections or additions to matters set forth in the motion shall be served not later than 14 days after service of the motion.

Following the discovery conference, the chancery court shall enter an order tentatively identifying the issues for discovery purposes, establishing a plan and schedule for discovery, setting limitations on discovery, if any; and determining such other matters, including the allocation of expenses, as are necessary for the proper management of discovery in the action. An order may be altered or amended whenever justice so requires.

Subject to the right of a party who properly moves for a discovery conference to prompt convening of the conference, the chancery court may combine the discovery conference with a pretrial conference authorized by Rule 16.

(g) Signing Disclosures and Discovery Requests, Responses, and Objections.

(1) *Signature Required; Effect of Signature.* Every disclosure under Rule 26(a)(1) or (3) and every discovery request, response, or objection must be signed by at least one attorney of record in the attorney's own name--or by the party personally, if unrepresented-and must state the signer's address, email address, and telephone number. By signing, an attorney or party certifies that to the best of the person's knowledge, information, and belief formed after a reasonable inquiry:

(A) with respect to a disclosure, it is complete and correct as of the time it is made; and

(B) with respect to a discovery request, response, or objection, it is:

(i) consistent with these rules and warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law, or for establishing new law;

(ii) not interposed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and

(iii) neither unreasonable nor unduly burdensome or expensive, considering the needs of the case, prior discovery in the case, the amount in controversy, and the importance of the issues at stake in the action.

(2) *Failure to Sign.* Other parties have no duty to act on an unsigned disclosure, request, response, or objection until it is signed, and the chancery court must strike it unless a signature is promptly supplied after the omission is called to the attorney's or party's attention.

(3) *Sanction for Improper Certification.* If a certification violates this rule without substantial justification, the chancery court, on motion or on its own, must impose an appropriate sanction on the signer, the party on whose behalf the signer was acting, or both. The sanction may include an order to pay the reasonable expenses, including attorney's fees, caused by the violation.

Rule 27. Depositions to Perpetuate Testimony

(a) Before an Action is Filed.

(1) *Petition.* A person who wants to perpetuate testimony about any matter cognizable in the chancery court may file a verified petition in the chancery court. The petition must ask for an order authorizing the petitioner to depose the named persons in order to perpetuate their testimony. The petition must be titled in the petitioner's name and must show:

(A) that the petitioner expects to be a party to an action cognizable in the chancery court of the state but cannot presently bring it or cause it to be brought;

(B) the subject matter of the expected action and the petitioner's interest;

(C) the facts that the petitioner wants to establish by the proposed testimony and the reasons to perpetuate it;

(D) the names or a description of the persons whom the petitioner expects to be adverse parties and their addresses, so far as known; and

(E) the name, address, and expected substance of the testimony of each deponent.

(2) *Notice and Service.* At least 20 days before the hearing date, the petitioner must serve each expected adverse party with a copy of the petition and a notice stating the time and place of the hearing. The notice may be served either inside or outside the state in the manner provided in Rule 4. If that service cannot be made with reasonable diligence on an expected adverse party, the chancery court may order service by publication or otherwise. The chancery court must appoint an attorney to represent persons not served in the manner provided in Rule 4 and to cross-examine the deponent if an unserved person is not otherwise represented. If any expected adverse party is a minor or is incompetent, Rule 17(c) applies.

(3) *Order and Examination.* If satisfied that perpetuating the testimony may prevent a failure or delay of justice, the chancery court must issue an order that designates or describes the persons whose depositions may be taken, specifies the subject matter of the examinations, and states whether the depositions will be taken orally or by written interrogatories. The depositions may then be taken under these rules, and the chancery court may issue orders like those authorized by Rules 34 and 35.

(4) *Using the Deposition.* A deposition to perpetuate testimony may be used under Rule 32(a) in any later-filed chancery court action involving the same subject matter if the deposition either was taken under these rules or, although not so taken, would be admissible in evidence in the courts of the state where it was taken.

(b) Pending Appeal.

(1) *In General.* The chancery court where a judgment has been rendered may, if an appeal has been taken or may still be taken, permit a party to depose witnesses to perpetuate their testimony for use in the event of further proceedings in that chancery court.

(2) *Motion.* The party who wants to perpetuate testimony may move for leave to take the depositions, on the same notice and service as if the action were pending in the chancery court. The motion must show:

(A) the name, address, and expected substance of the testimony of each deponent; and

(B) the reasons for perpetuating the testimony.

(3) *Chancery Court Order.* If the chancery court finds that perpetuating the testimony may prevent a failure or delay of justice, the chancery court may permit the depositions to be taken and may issue orders like those authorized by Rules 34 and 35. The depositions may be taken and used as any other deposition taken in a pending chancery court action.

(c) Perpetuation by an Action. This rule does not limit a chancery court's power to entertain an action to perpetuate testimony.

Rule 28. Persons Before whom Depositions may be Taken

(a) Within the United States.

(1) *In General.* Within the United States or a territory or insular possession subject to United States jurisdiction, a deposition must be taken before:

(A) an officer authorized to administer oaths either by the laws of this state or of the United States or of the place of examination; or

(B) a person appointed by the chancery court where the action is pending to administer oaths and take testimony.

(2) *Definition of "Officer.*" The term "officer" in Rules 30, 31, and 32 includes a person appointed by the chancery court under this rule or designated by the parties under Rule 29(a).

(b) In a Foreign Country.

(1) *In General.* A deposition may be taken in a foreign country:

(A) under an applicable treaty or convention;

(B) under a letter of request, whether or not captioned a "letter rogatory";

(C) on notice, before a person authorized to administer oaths either by federal law or by the law in the place of examination; or

(D) before a person commissioned by the chancery court to administer any necessary oath and take testimony.

(2) *Issuing a Letter of Request or a Commission.* A letter of request, a commission, or both may be issued:

(A) on appropriate terms after an application and notice of it; and

(B) without a showing that taking the deposition in another manner is impracticable or inconvenient.

(3) *Form of a Request, Notice, or Commission.* When a letter of request or any other device is used according to a treaty or convention, it must be captioned in the form prescribed by that treaty or convention. A letter of request may be addressed "To the Appropriate Authority in [name of country]." A deposition notice or a commission must designate by name or descriptive title the person before whom the deposition is to be taken.

(4) *Letter of Request--Admitting Evidence.* Evidence obtained in response to a letter of request need not be excluded merely because it is not a verbatim transcript, because the testimony was not taken under oath, or because of any similar departure from the requirements for depositions taken within the United States.

(c) Disqualification. A deposition must not be taken before a person who is any party's relative, employee, or attorney; who is related to or employed by any party's attorney; or who is financially interested in the action.

Rule 29. Stipulations about Discovery Procedure

Unless the chancery court orders otherwise, the parties may stipulate that:

(a) a deposition may be taken before any person, at any time or place, on any notice, and in the manner specified-- in which event it may be used in the same way as any other deposition; and

(b) other procedures governing or limiting discovery be modified-- but a stipulation extending the time for any form of discovery must have chancery court approval if it would interfere with the time set for completing discovery, for hearing a motion, or for trial.

Rule 30. Depositions by Oral Examination

(a) When a Deposition May Be Taken.

(1) *Without Leave.* A party may, by oral questions, depose any person, including a party, without leave of chancery court except as provided in Rule 30(a)(2). The deponent's attendance may be compelled by subpoena under Rule 45.

(2) *With Leave.* A party must obtain leave of chancery court, and the chancery court must grant leave to the extent consistent with Rule 26(b)(1) and (2):

(A) if the parties have not stipulated to the deposition and:

(i) the deposition would result in more than 10 depositions being taken under this rule or Rule 31 by the plaintiffs, or by the defendants, or by the third-party defendants;

(ii) the deponent has already been deposed in the case; or

(iii) the party seeks to take the deposition before the time specified in Rule 26(d), unless the party certifies in the notice, with supporting facts, that the deponent is expected to leave the State of Wyoming and be unavailable for examination in this State after that time; or

(B) if the deponent is confined in prison.

(b) Notice of the Deposition; Other Formal Requirements.

(1) *Notice in General.* A party who wants to depose a person by oral questions must give reasonable written notice to every other party. The notice must state the time and place of the deposition and, if known, the deponent's name and address. If the name is unknown, the notice must provide a general description sufficient to identify the person or the particular class or group to which the person belongs.

(2) *Producing Documents.* If a subpoena duces tecum is to be served on the deponent, the materials designated for production, as set out in the subpoena, must be listed in the notice or in an attachment. The notice to a party deponent may be accompanied by a request under Rule 34 to produce documents and tangible things at the deposition.

(3) *Method of Recording.*

(A) Method Stated in the Notice. The party who notices the deposition must state in the notice the method for recording the testimony. Unless the chancery court orders otherwise, testimony may be recorded by audio, audiovisual, or stenographic means. The noticing party bears the recording costs. Any party may arrange to transcribe a deposition.

(B) Additional Method. With prior notice to the deponent and other parties, any party may designate another method for recording the testimony in addition to that specified in the original notice. That party bears the expense of the additional record or transcript unless the chancery court orders otherwise.

(4) *By Remote Means.* The parties may stipulate--or the chancery court may on motion order--that a deposition be taken by telephone or other remote means. For the purpose of this rule and Rules 28(a), 37(a)(2), and 37(b)(1), the deposition takes place where the deponent answers the questions.

(5) *Officer's Duties.*

(A) Before the Deposition. Unless the parties stipulate otherwise, a deposition must be conducted before an officer appointed or designated under Rule 28. The officer must begin the deposition with an on-the-record statement that includes:

(i) the officer's name and business address;

(ii) the date, time, and place of the deposition;

(iii) the deponent's name;

(iv) the officer's administration of the oath or affirmation to the deponent; and

(v) the identity of all persons present.

(B) Conducting the Deposition; Avoiding Distortion. If the deposition is recorded nonstenographically, the officer must repeat the items in Rule 30(b)(5)(A)(i)-(iii) at the beginning of each unit of the recording medium. The deponent's and attorneys' appearance or demeanor must not be distorted through recording techniques.

(C) After the Deposition. At the end of a deposition, the officer must state on the record that the deposition is complete and must set out any stipulations made by the attorneys about custody of the transcript or recording and of the exhibits, or about any other pertinent matters.

(6) *Notice or Subpoena Directed to an Organization.* In its notice or subpoena, a party may name as the deponent a public or private corporation, a partnership, an association, a governmental agency, or other entity and must describe with reasonable particularity the matters for examination. The named organization must then designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on its behalf; and it may set out the matters on which each person designated will testify. A subpoena must advise a nonparty organization of its duty to make this designation. The persons designated must testify about information known or reasonably available to the organization. This paragraph (6) does not preclude a deposition by any other procedure allowed by these rules.

(c) Examination and Cross-Examination; Record of the Examination; Objections; Written Questions.

(1) *Examination and Cross-Examination.* The examination and cross-examination of a deponent proceed as they would at trial under the Wyoming Rules of Evidence, except Rules 103 and 615. After putting the deponent under oath or affirmation, the officer must record the testimony by the method designated under Rule 30(b)(3)(A). The testimony must be recorded by the officer personally or by a person acting in the presence and under the direction of the officer.

(2) *Objections.* An objection at the time of the examination-- whether to evidence, to a party's conduct, to the officer's qualifications, to the manner of taking the deposition, or to any other aspect of the deposition--must be noted on the record, but the examination still proceeds; the testimony is taken subject to any objection. An objection must be stated concisely in a nonargumentative and nonsuggestive manner. A person may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation ordered by the court, or to present a motion under Rule 30(d)(3).

(3) *Participating Through Written Questions.* Instead of participating in the oral examination, a party may serve written questions in a sealed envelope on the party noticing the deposition, who must deliver them to the

officer. The officer must ask the deponent those questions and record the answers verbatim.

(d) Duration; Sanction; Motion to Terminate or Limit.

(1) *Duration.* Unless otherwise stipulated or ordered by the chancery court, a deposition is limited to one day of seven hours. The chancery court must allow additional time consistent with Rule 26(b)(1) and (2) if needed to fairly examine the deponent or if the deponent, another person, or any other circumstance impedes or delays the examination.

(2) *Sanction.* The chancery court may impose an appropriate sanction-- including the reasonable expenses and attorney's fees incurred by any party--on a person who impedes, delays, or frustrates the fair examination of the deponent.

(3) *Motion to Terminate or Limit.*

(A) Grounds. At any time during a deposition, the deponent or a party may move to terminate or limit it on the ground that it is being conducted in bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses the deponent or party. The motion may be filed in the court where the action is pending or the deposition is being taken. If the objecting deponent or party so demands, the deposition must be suspended for the time necessary to obtain an order.

(B) Order. The chancery court may order that the deposition be terminated or may limit its scope and manner as provided in Rule 26(c). If terminated, the deposition may be resumed only by order of the chancery court where the action is pending.

(C) Award of Expenses. Rule 37(a)(5) applies to the award of expenses.

(e) Review by the Witness; Changes.

(1) *Review; Statement of Changes.* On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) *Changes Indicated in the Officer's Certificate.* The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

(f) Certification and Delivery; Exhibits; Copies of the Transcript or Recording; Filing.

(1) *Certification and Delivery.* The officer must certify in writing that the witness was duly sworn and that the deposition accurately records the witness's testimony. The certificate must accompany the record of the deposition. Unless the chancery court orders otherwise, the officer must seal the deposition in an envelope or package bearing the title of the action and marked "Deposition of [witness's name]" and must promptly send it to the attorney who arranged for the transcript or recording. The attorney must store it under conditions that will protect it against loss, destruction, tampering, or deterioration.

(2) *Documents and Tangible Things.*

(A) Originals and Copies. Documents and tangible things produced for inspection during a deposition must, on a party's request, be marked for identification and attached to the deposition. Any party may inspect and copy them. But if the person who produced them wants to keep the originals, the person

may:

(i) offer copies to be marked, attached to the deposition, and then used as originals--after giving all parties a fair opportunity to verify the copies by comparing them with the originals; or

(ii) give all parties a fair opportunity to inspect and copy the originals after they are marked--in which event the originals may be used as if attached to the deposition.

(B) Order Regarding the Originals. Any party may move for an order that the originals be attached to the deposition pending final disposition of the case.

(3) *Copies of the Transcript or Recording.* Unless otherwise stipulated or ordered by the chancery court, the officer must retain the stenographic notes of a deposition taken stenographically or a copy of the recording of a deposition taken by another method. When paid reasonable charges, the officer must furnish a copy of the transcript or recording to any party or the deponent.

(4) *Notice of Filing.* A party who files the deposition must promptly notify all other parties of the filing.

(g) Failure to Attend a Deposition or Serve a Subpoena; Expenses. A party who, expecting a deposition to be taken, attends in person or by an attorney may recover reasonable expenses for attending, including attorney's fees, if the noticing party failed to:

(1) attend and proceed with the deposition; or

(2) serve a subpoena on a nonparty deponent, who consequently did not attend.

Rule 31. Depositions by Written Questions

(a) When a Deposition May Be Taken.

(1) *Without Leave.* A party may, by written questions, depose any person, including a party, without leave of chancery court except as provided in Rule 31(a)(2). The deponent's attendance may be compelled by subpoena under Rule 45.

(2) *With Leave.* A party must obtain leave of chancery court, and the chancery court must grant leave to the extent consistent with Rule 26(b)(1) and (2):

(A) if the parties have not stipulated to the deposition and:

(i) the deposition would result in more than 10 depositions being taken under this rule or Rule 30 by the plaintiffs, or by the defendants, or by the third-party defendants;

(ii) the deponent has already been deposed in the case; or

(iii) the party seeks to take a deposition before the time specified in Rule 26(d); or

(B) if the deponent is confined in prison.

(3) *Service; Required Notice.* A party who wants to depose a person by written questions must serve them on every other party, with a notice stating, if known, the deponent's name and address. If the name is unknown, the notice must provide a general description sufficient to identify the person or the particular class or group to which the person belongs. The notice must also state the name or descriptive title and the address of the officer before whom the deposition will be taken.

(4) *Questions Directed to an Organization.* A public or private corporation, a partnership, an association, or a governmental agency may be deposed by written questions in accordance with Rule 30(b)(6).

(5) *Questions from Other Parties.* Any questions to the deponent from other parties must be served on all parties as follows: cross-questions, within 14 days after being served with the notice and direct questions; redirect questions, within seven days after being served with cross-questions; and recross-questions, within seven days after being served with redirect questions. The court may, for good cause, extend or shorten these times.

(b) Delivery to the Officer; Officer's Duties. The party who noticed the deposition must deliver to the officer a copy of all the questions served and of the notice. The officer must promptly proceed in the manner provided in Rule 30(c), (e), and (f) to:

(1) take the deponent's testimony in response to the questions;

(2) prepare and certify the deposition; and

(3) send it to the party, attaching a copy of the questions and of the notice.

(c) Notice of Completion or Filing.

(1) *Completion.* The party who noticed the deposition must notify all other parties when it is completed.

(2) *Filing.* A party who files the deposition must promptly notify all other parties of the filing.

Rule 32. Using Depositions in Court Proceedings

(a) Using Depositions.

(1) *In General.* At a hearing or trial, all or part of a deposition may be used against a party on these conditions:

(A) the party was present or represented at the taking of the deposition or had reasonable notice of it;

(B) it is used to the extent it would be admissible under the Wyoming Rules of Evidence if the deponent were present and testifying; and

(C) the use is allowed by Rule 32(a)(2) through (8).

(2) *Impeachment and Other Uses.* Any party may use a deposition to contradict or impeach the testimony given by the deponent as a witness, or for any other purpose allowed by the Wyoming Rules of Evidence.

(3) *Deposition of Party, Agent, or Designee.* An adverse party may use for any purpose the deposition of a party or anyone who, when deposed, was the party's officer, director, managing agent, or designee under Rule 30(b)(6) or 31(a)(4).

(4) *Unavailable Witness.* A party may use for any purpose the deposition of a witness, whether or not a party, if the court finds:

(A) that the witness is dead;

(B) that the witness is absent from the state, unless it appears that the witness's absence was procured by the party offering the deposition;

(C) that the witness cannot attend or testify because of age, illness, infirmity, or imprisonment;

(D) that the party offering the deposition could not procure the witness's attendance by subpoena; or

(E) on motion and notice, that exceptional circumstances make it desirable--in the interest of justice and with due regard to the importance of live testimony in open court--to permit the deposition to be used.

(5) *Limitations on Use.*

(A) Deposition Taken on Short Notice. A deposition must not be used against a party who, having received less than 14 days' notice of the deposition, promptly moved for a protective order under Rule 26(c)(1)(B) requesting that it not be taken or be taken at a different time or place--and this motion was still pending when the deposition was taken.

(B) Unavailable Deponent; Party Could Not Obtain an Attorney. A deposition taken without leave of chancery court under the unavailability provision of Rule 30(a)(2)(A)(iii) must not be used against a party who shows that, when served with the notice, it could not, despite diligent efforts, obtain an attorney to represent it at the deposition.

(6) *Using Part of a Deposition.* If a party offers in evidence only part of a deposition, an adverse party may require the offeror to introduce other parts that in fairness should be considered with the part introduced, and any party may itself introduce any other parts.

(7) *Substituting a Party.* Substituting a party under Rule 25 does not affect the right to use a deposition previously taken.

(8) *Deposition Taken in an Earlier Action.* A deposition lawfully taken and, if required, filed in any federal or state court action may be used in a later action involving the same subject matter between the same parties, or their representatives or successors in interest, to the same extent as if taken in the later action. A deposition previously taken may also be used as allowed by the Wyoming Rules of Evidence.

(b) Objections to Admissibility. Subject to Rules 28(b) and 32(d)(3), an objection may be made at a hearing or trial to the admission of any deposition testimony that would be inadmissible if the witness were present and testifying.

(c) Form of Presentation. Unless the chancery court orders otherwise, a party must provide a transcript of any deposition testimony the party offers, but may provide the chancery court with the testimony in nontranscript form as well.

(d) Waiver of Objections.

(1) *To the Notice.* An objection to an error or irregularity in a deposition notice is waived unless promptly served in writing on the party giving the notice.

(2) *To the Officer's Qualification.* An objection based on disqualification of the officer before whom a deposition is to be taken is waived if not made:

(A) before the deposition begins; or

(B) promptly after the basis for disqualification becomes known or, with reasonable diligence, could have been known.

(3) *To the Taking of the Deposition.*

(A) Objection to Competence, Relevance, or Materiality. An objection to a deponent's competence--or to the competence, relevance, or materiality of testimony--is not waived by a failure to make the objection before or during the deposition, unless the ground for it might have been corrected at that

time.

(B) Objection to an Error or Irregularity. An objection to an error or irregularity at an oral examination is waived if:

(i) it relates to the manner of taking the deposition, the form of a question or answer, the oath or affirmation, a party's conduct, or other matters that might have been corrected at that time; and

(ii) it is not timely made during the deposition.

(C) Objection to a Written Question. An objection to the form of a written question under Rule 31 is waived if not served in writing on the party submitting the question within the time for serving responsive questions or, if the question is a recross-question, within seven days after being served with it.

(4) *To Completing and Returning the Deposition.* An objection to how the officer transcribed the testimony--or prepared, signed, certified, sealed, endorsed, sent, or otherwise dealt with the deposition--is waived unless a motion to suppress is made promptly after the error or irregularity becomes known or, with reasonable diligence, could have been known.

Rule 33. Interrogatories to Parties

(a) In General.

(1) *Number.* Unless otherwise stipulated or ordered by the chancery court, a party may serve on any other party no more than 25 written interrogatories, including all discrete subparts. Leave to serve additional interrogatories may be granted to the extent consistent with Rule 26(b)(1) and (2).

(2) *Scope.* An interrogatory may relate to any matter that may be inquired into under Rule 26(b). An interrogatory is not objectionable merely because it asks for an opinion or contention that relates to fact or the application of law to fact, but the chancery court may order that the interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time.

(b) Answers and Objections.

(1) *Responding Party.* The interrogatories must be answered:

(A) by the party to whom they are directed; or

(B) if that party is a public or private corporation, a partnership, an association, or a governmental agency, by any officer or agent, who must furnish the information available to the party.

(2) *Time to Respond.* The responding party must serve its answers and any objections within 30 days after being served with the interrogatories. A shorter or longer time may be stipulated to under Rule 29 or be ordered by the chancery court.

(3) *Answering Each Interrogatory.* Each interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath.

(4) *Objections.* The grounds for objecting to an interrogatory must be stated with specificity. Any ground not stated in a timely objection is waived unless the chancery court, for good cause, excuses the failure.

(5) *Signature.* The person who makes the answers must sign them, and the attorney who objects must sign any objections.

(c) Use. An answer to an interrogatory may be used to the extent allowed by the Wyoming Rules of Evidence.

(d) Option to Produce Business Records. If the answer to an interrogatory may be determined by examining, auditing, compiling, abstracting, or summarizing a party's business records (including electronically stored information), and if the burden of deriving or ascertaining the answer will be substantially the same for either party, the responding party may answer by:

(1) specifying the records that must be reviewed, in sufficient detail to enable the interrogating party to locate and identify them as readily as the responding party could; and

(2) giving the interrogating party a reasonable opportunity to examine and audit the records and to make copies, compilations, abstracts, or summaries.

Rule 34. Producing Documents, Electronically Stored Information, and Tangible Things, or Entering onto Land for Inspection and other Purposes

(a) In General. A party may serve on any other party a request within the scope of Rule 26(b):

(1) to produce and permit the requesting party or its representative to inspect, copy, test, or sample the following items in the responding party's possession, custody, or control:

(A) any designated documents or electronically stored information--including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations--stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form; or

(B) any designated tangible things; or

(2) to permit entry onto designated land or other property possessed or controlled by the responding party, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

(b) Procedure.

(1) *Contents of the Request.* The request:

(A) must describe with reasonable particularity each item or category of items to be inspected;

(B) must specify a reasonable time, place, and manner for the inspection and for performing the related acts; and

(C) may specify the form or forms in which electronically stored information is to be produced.

(2) *Responses and Objections.*

(A) Time to Respond. The party to whom the request is directed must respond in writing within 30 days after being served. A shorter or longer time may be stipulated to under Rule 29 or be ordered by the chancery court.

(B) Responding to Each Item. For each item or category, the response must either state that inspection and related activities will be permitted as requested or state with specificity the grounds for objecting to the request, including the reasons. The responding party may state that it will produce copies of documents or of electronically stored information instead of permitting inspection. The production must then be completed no later than the time for inspection specified in the request or another reasonable

time specified in the response.

(C) Objections. An objection must state whether any responsive materials are being withheld on the basis of that objection. An objection to part of a request must specify the part and permit inspection of the rest.

(D) Responding to a Request for Production of Electronically Stored Information. The response may state an objection to a requested form for producing electronically stored information. If the responding party objects to a requested form--or if no form was specified in the request--the party must state the form or forms it intends to use.

(E) Producing the Documents or Electronically Stored Information. Unless otherwise stipulated or ordered by the chancery court, these procedures apply to producing documents or electronically stored information:

(i) A party must produce documents as they are kept in the usual course of business or must organize and label them to correspond to the categories in the request;

(ii) If a request does not specify a form for producing electronically stored information, a party must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms; and

(iii) A party need not produce the same electronically stored information in more than one form.

(c) Nonparties. As provided in Rule 45, a nonparty may be compelled to produce documents and tangible things or to permit an inspection.

Rule 35. Physical and Mental Examinations

(a) Order for an Examination.

(1) *In General.* The chancery court where the action is pending may order a party whose mental or physical condition--including blood group--is in controversy to submit to a physical or mental examination by a suitably licensed or certified examiner. The chancery court has the same authority to order a party to produce for examination a person who is in its custody or under its legal control.

(2) *Motion and Notice*; Contents of the Order. The order:

(A) may be made only on motion for good cause and on notice to all parties and the person to be examined; and

(B) must specify the time, place, manner, conditions, and scope of the examination, as well as the person or persons who will perform it.

(b) Examiner's Report.

(1) *Request by the Party or Person Examined.* The party who moved for the examination must, on request, deliver to the requester a copy of the examiner's report, together with like reports of all earlier examinations of the same condition. The request may be made by the party against whom the examination order was issued or by the person examined.

(2) *Contents.* The examiner's report must be in writing and must set out in detail the examiner's findings, including diagnoses, conclusions, and the results of any tests.

(3) *Request by the Moving Party.* After delivering the reports, the party who moved for the examination may request--and is entitled to receive--from the party against whom the examination order was issued like reports of all earlier or later examinations of the same condition. But those reports need not be delivered by the party with custody or control of the person examined if the party shows that it could not obtain them.

(4) *Waiver of Privilege.* By requesting and obtaining the examiner's report, or by deposing the examiner, the party examined waives any privilege it may have--in that action or any other action involving the same controversy--concerning testimony about all examinations of the same condition.

(5) *Failure to Deliver a Report.* The chancery court on motion may order--on just terms--that a party deliver the report of an examination. If the report is not provided, the court may exclude the examiner's testimony at trial.

(6) *Scope.* This subdivision (b) applies also to an examination made by the parties' agreement, unless the agreement states otherwise. This subdivision does not preclude obtaining an examiner's report or deposing an examiner under other rules.

Rule 36. Requests for Admission

(a) Scope and Procedure.

(1) *Scope.* A party may serve on any other party a written request to admit, for purposes of the pending action only, the truth of any matters within the scope of Rule 26(b)(1) relating to:

(A) facts, the application of law to fact, or opinions about either; and

(B) the genuineness of any described documents.

(2) *Form; Copy of a Document.* Each matter must be separately stated. A request to admit the genuineness of a document must be accompanied by a copy of the document unless it is, or has been, otherwise furnished or made available for inspection and copying.

(3) *Time to Respond; Effect of Not Responding.* A matter is admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party or its attorney. A shorter or longer time for responding may be stipulated to under Rule 29 or be ordered by the chancery court.

(4) *Answer.* If a matter is not admitted, the answer must specifically deny it or state in detail why the answering party cannot truthfully admit or deny it. A denial must fairly respond to the substance of the matter; and when good faith requires that a party qualify an answer or deny only a part of a matter, the answer must specify the part admitted and qualify or deny the rest. The answering party may assert lack of knowledge or information as a reason for failing to admit or deny only if the party states that it has made reasonable inquiry and that the information it knows or can readily obtain is insufficient to enable it to admit or deny.

(5) *Objections.* The grounds for objecting to a request must be stated. A party must not object solely on the ground that the request presents a genuine issue for trial.

(6) *Motion Regarding the Sufficiency of an Answer or Objection.* The requesting party may move to determine the sufficiency of an answer or objection. Unless the chancery court finds an objection justified, it must order that an answer be served. On finding that an answer does not comply with this rule, the chancery court may order either that the matter is admitted or that an amended answer be served. The chancery court may defer its final decision until a pretrial conference or a specified time before trial. Rule 37(a)(5) applies to an award of expenses.

(b) Effect of an Admission; Withdrawing or Amending It. A matter admitted under this rule is conclusively established unless the chancery court, on motion, permits the admission to be withdrawn or amended. Subject to Rule 16(e), the chancery court may permit withdrawal or amendment if it would promote the presentation of the merits of the action and if the chancery court is not persuaded that it would prejudice the requesting party in maintaining or defending the action on the merits. An admission under this rule is not an admission for any other purpose and cannot be used against the party in any other proceeding.

Rule 37. Failure to Make Disclosures or to Cooperate in Discovery; Sanctions

(a) Motion for an Order Compelling Disclosure or Discovery.

(1) *In General.* **[Fed. R. Civ. P. 37.1(b)]** Except as otherwise ordered, the Court will not entertain any motions relating to discovery disputes unless counsel for the moving party has first conferred orally, in person or by telephone, and has made reasonable good faith efforts to resolve the dispute with opposing counsel. In the event that the parties cannot settle the discovery dispute on their own, then counsel shall jointly contact the chancery court judge's chambers for approval prior to filing any written discovery motion. The Court will attempt to resolve as many disputes as possible in this informal manner. If the Court determines that the issue requires the formal filing of a motion and briefing, the Court will permit the parties to file a written motion. If the chancery court is satisfied with the party's compliance with this provision, permission may be granted to the parties to proceed as set forth below.

(2) *Appropriate Court.* A motion for an order to a party or a nonparty must be made in the chancery court where the action is pending.

(3) *Specific Motions.*

(A) To Compel Disclosure. If a party fails to make a disclosure required by Rule 26(a), any other party may move to compel disclosure and for appropriate sanctions.

(B) To Compel a Discovery Response. A party seeking discovery may move for an order compelling an answer, designation, production, or inspection. This motion may be made if:

(i) a deponent fails to answer a question asked under Rule 30 or 31;

(ii) a corporation or other entity fails to make a designation under Rule 30(b)(6) or 31(a)(4);

(iii) a party fails to answer an interrogatory submitted under Rule 33; or

(iv) a party fails to produce documents or fails to respond that inspection will be permitted--or fails to permit inspection--as requested under Rule 34.

(C) Related to a Deposition. When taking an oral deposition, the party asking a question may complete or adjourn the examination before moving for an order.

(4) *Evasive or Incomplete Disclosure, Answer, or Response.* For purposes of this subdivision (a), an evasive or incomplete disclosure, answer, or response must be treated as a failure to disclose, answer, or respond.

(5) *Payment of Expenses; Protective Orders.*

(A) If the Motion Is Granted (or Disclosure or Discovery Is Provided After Filing). If the motion is granted--or if the disclosure or requested discovery is provided after the motion was filed--the chancery court must, after giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees. But the chancery court

must not order this payment if:

(i) the movant filed the motion before attempting in good faith to obtain the disclosure or discovery without chancery court action;

(ii) the opposing party's nondisclosure, response, or objection was substantially justified; or

(iii) other circumstances make an award of expenses unjust.

(B) If the Motion Is Denied. If the motion is denied, the chancery court may issue any protective order authorized under Rule 26(c) and must, after giving an opportunity to be heard, require the movant, the attorney filing the motion, or both to pay the party or deponent who opposed the motion its reasonable expenses incurred in opposing the motion, including attorney's fees. But the chancery court must not order this payment if the motion was substantially justified or other circumstances make an award of expenses unjust.

(C) If the Motion Is Granted in Part and Denied in Part. If the motion is granted in part and denied in part, the chancery court may issue any protective order authorized under Rule 26(c) and may, after giving an opportunity to be heard, apportion the reasonable expenses for the motion.

(b) Failure to Comply with Chancery Court Order.

(1) *Sanctions Sought in the District Where the Deposition Is Taken.* If the chancery court where the discovery is taken orders a deponent to be sworn or to answer a question and the deponent fails to obey, the failure may be treated as contempt of court. If a deposition-related motion is transferred to the court where the action is pending, and that court orders a deponent to be sworn or to answer a question and the deponent fails to obey, the failure may be treated as contempt of either the court where the discovery is taken or the court where the action is pending.

(2) *Sanctions Sought in Pending Action.*

(A) For Not Obeying a Discovery Order. If a party or a party's officer, director, or managing agent--or a witness designated under Rule 30(b)(6) or 31(a)(4)--fails to obey an order to provide or permit discovery, including an order under Rule 26(f), 35, or 37(a), the chancery court may issue further just orders. They may include the following:

(i) directing that the matters embraced in the order or other designated facts be taken as established for purposes of the action, as the prevailing party claims;

(ii) prohibiting the disobedient party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence;

(iii) striking pleadings in whole or in part;

(iv) staying further proceedings until the order is obeyed;

(v) dismissing the action or proceeding in whole or in part;

(vi) rendering a default judgment against the disobedient party; or

(vii) treating as contempt of chancery court the failure to obey any order except an order to submit to a physical or mental examination.

(B) For Not Producing a Person for Examination. If a party fails to comply with an order under Rule 35(a) requiring it to produce another person for examination, the chancery court may issue any of the orders listed in Rule 37(b)(2)(A)(i)-(vi), unless the disobedient party shows that it cannot produce the

other person.

(C) Payment of Expenses. Instead of or in addition to the orders above, the chancery court must order the disobedient party, the attorney advising that party, or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the failure was substantially justified or other circumstances make an award of expenses unjust.

(c) Failure to Disclose, to Supplement an Earlier Response, or to Admit.

(1) *Failure to Disclose or Supplement.* If a party fails to provide information or identify a witness as required by Rule 26(a) or (e), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless. In addition to or instead of this sanction, the chancery court, on motion and after giving an opportunity to be heard:

(A) may order payment of the reasonable expenses, including attorney's fees, caused by the failure; and(B) may impose other appropriate sanctions, including any of the orders listed in Rule 37(b)(2)(A)(i)-(vi).

(2) *Failure to Admit.* If a party fails to admit what is requested under Rule 36 and if the requesting party later proves a document to be genuine or the matter true, the requesting party may move that the party who failed to admit pay the reasonable expenses, including attorney's fees, incurred in making that proof. The chancery court must so order unless:

(A) the request was held objectionable under Rule 36(a);

(B) the admission sought was of no substantial importance;

(C) the party failing to admit had a reasonable ground to believe that it might prevail on the matter; or

(D) there was other good reason for the failure to admit.

(d) Party's Failure to Attend Its Own Deposition, Serve Answers to Interrogatories, or Respond to a Request for Inspection.

(1) *In General.*

(A) Motion; Grounds for Sanctions. The court where the action is pending may, on motion, order sanctions if:

(i) a party or a party's officer, director, or managing agent--or a person designated under Rule 30(b)(6) or 31(a)(4)--fails, after being served with proper notice, to appear for that person's deposition; or

(ii) a party, after being properly served with interrogatories under Rule 33 or a request for inspection under Rule 34, fails to serve its answers, objections, or written response.

(B) Certification. A motion for sanctions for failing to answer or respond must include a certification that the movant has in good faith conferred or attempted to confer with the party failing to act in an effort to obtain the answer or response without chancery court action.

(2) *Unacceptable Excuse for Failing to Act.* A failure described in Rule 37(d)(1)(A) is not excused on the ground that the discovery sought was objectionable, unless the party failing to act has a pending motion for a protective order under Rule 26(c).

(3) *Types of Sanctions.* Sanctions may include any of the orders listed in Rule 37(b)(2)(A)(i)-(vi). Instead of or in addition to these sanctions, the chancery court shall require the party failing to act, the attorney advising

that party, or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the failure was substantially justified or other circumstances make an award of expenses unjust.

(e) Failure to Preserve Electronically Stored Information. If electronically stored information that should have been preserved in the anticipation or conduct of litigation is lost because a party failed to take reasonable steps to preserve it, and it cannot be restored or replaced through additional discovery, the chancery court:

(1) upon finding prejudice to another party from loss of the information, may order measures no greater than necessary to cure the prejudice; or

(2) only upon finding that the party acted with the intent to deprive another party of the information's use in the litigation may:

(A) presume that the lost information was unfavorable to the party; or

(B) dismiss the action or enter a default judgment.

(f) Failure to Participate in Framing a Discovery Plan. If a party or its attorney fails to participate in good faith in developing and submitting a proposed discovery plan as required by Rule 26(f), the chancery court may, after giving an opportunity to be heard, require that party or attorney to pay to any other party the reasonable expenses, including attorney's fees, caused by the failure.

Rule 38. Right to a Jury Trial; Demand

Not Applicable.

Rule 39. Trial by the Chancery Court

(a) Not Applicable.

By the Chancery Court. All matters in chancery court are to be tried by the chancery court.

(c) Not Applicable

Rule 39.1. Jury Trial; Jury Note Taking; Juror Notebooks

Not Applicable.

Rule 39.2. Juror Questionnaires

Not Applicable.

Rule 39.3. Copies of Instructions for Jurors

Not Applicable.

Rule 39.4. Juror Questions for Witnesses

Not Applicable.

Rule 40. Assignment for Trial or Alternative Dispute Resolution

(a) Scheduling Actions for Trial. The chancery court shall place actions upon the trial calendar:

(1) without request of the parties; or

(2) upon request of a party and notice to the other parties; or

(3) in such other manner as the chancery court deems expedient.

(b) Limited Assignment for Alternative Dispute Resolution.

(1) *Assignment.* For the purpose of invoking nonbinding alternative dispute resolution methods:

(A) Chancery Court Assignment. The chancery court may, or at the request of any party, shall, assign the case to:

(i) another active judge,

(ii) a retired judge,

(iii) retired justice, or

(iv) other qualified person on limited assignment.

(B) By Agreement. By agreement, the parties may select the person to conduct the settlement conference or to serve as the mediator.

(i) If the parties are unable to agree, they may advise the chancery court of their recommendations, and

(ii) the chancery court shall then appoint a person to conduct the settlement conference or to serve as the mediator.

(2) *Alternative Dispute Resolution Procedure.* A settlement conference or mediation may be conducted in accordance with procedures prescribed by the person conducting the settlement conference or mediation. A mediation also may be conducted in accordance with the following recommended rules of procedure:

(A) Written Submissions. Prior to the session, the mediator may require confidential ex parte written submissions from each party. Those submissions should include:

(i) each party's honest assessment of the strengths and weaknesses of the case with regard to liability, damages, and other relief,

(ii) a history of all settlement offers and counteroffers in the case,

(iii) an honest statement from plaintiff's counsel of the minimum settlement authority that plaintiff's counsel has or is able to obtain, and

(iv) an honest statement from defense counsel of the maximum settlement authority that defense counsel has or is able to obtain.

(B) Authority to Settle. Prior to the session, a commitment must be obtained from the parties that their representatives at the session have full and complete authority to represent them and to settle the case. If any party's representative lacks settlement authority, the session should not proceed. The mediator

may also require the presence at the session of the parties themselves.

(C) Conduct of Alternative Dispute Resolution.

(i) Commencement. The mediator may begin the session by stating the objective, which is to seek a workable resolution that is in the best interests of all involved and that is fair and acceptable to the parties. The parties should be informed of statutory provisions governing mediation, including provisions relating to confidentiality, privilege, and immunity.

(ii) Opening Statements. Each party or attorney may then make an opening statement stating the party's case in its best light, the issues involved, supporting law, prospects for success, and the party's evaluation of the case.

(iii) Responses. Each party or attorney may then respond to the other's presentation.

(iv) Conferences. From time to time, the parties and their attorneys may confer privately.

(v) Mediator's Role. The mediator may adjourn the session for short periods of time. After a full, open discussion, the mediator may summarize, identify the strong and weak points in each case, point out the risks of trial to each party, suggest a probable judgment range, and suggest a fair settlement of the case. This may be done in the presence of all parties or separately.

(vi) Settlement. If settlement results, it should promptly be reduced to a writing executed by the settling parties or recorded by other reliable means. The mediator may suggest to the parties such reasonable additions or requirements as may be appropriate or beneficial in a particular case.

(D) Fees and Costs. For those cases filed in chancery court and assigned for settlement conference or mediation:

(i) compensation for services shall be arranged by agreement between the parties and the person conducting the settlement conference or serving as the mediator, and

(ii) that person's statement shall be paid within 30 days of receipt by the parties.

(E) Other forms of Alternative Dispute Resolution. Nothing in this rule is intended to preclude the parties from agreeing to submit their dispute to other forms of alternative dispute resolution, including arbitration.

(F) Retained Jurisdiction. Assignment of a case to alternative dispute resolution shall not suspend any deadlines or cancel any hearings or trial. The chancery court retains jurisdiction for any and all purposes while the case is assigned to any alternative dispute resolution.

Rule 40.1. Transfer of Trial and Change of Judge

(a) Transfer of Trial.

(1) *Time.* Any party may move to transfer trial within 15 days after the last pleading is filed.

(2) *Transfer.* The chancery court shall transfer the action to another county for trial if the chancery court is satisfied that the convenience of witnesses would be promoted thereby.

(3) *Hearing.* All parties shall have an opportunity to be heard at the hearing on the motion and any party may urge objections to any county.

(4) *Transfer.* If the motion is granted the chancery court shall order that the action be transferred to the most convenient county to which the objections of the parties do not apply or are the least applicable, whether or not such county is specified in the motion.

(5) *Additional Motions to Transfer.* After the first motion has been ruled upon, no party may move for transfer without permission of the chancery court.

(6) *Upon Transfer.* When a transfer is orderedthe action shall continue in the county to which it is transferred as though it had been originally filed therein.

(7) The presiding judge may at any time upon the judge's own motion order a transfer of trial when it appears that the ends of justice would be promoted thereby.

(b) Change of Judge.

(1) *Peremptory Disqualification*. Not Applicable.

(2) *Disqualification for Cause.*

(A) Grounds. Whenever the grounds for such motion become known, any party may move for a change of chancery judge on the ground that the presiding judge

(i) has been engaged as counsel in the action prior to being appointed as judge,

(ii) is interested in the action,

(iii) is related by consanguinity to a party,

(iv) is a material witness in the action, or

(v) is biased or prejudiced against the party or the party's counsel.

(B) Motion, Affidavits and Counter-Affidavits. The motion shall be supported by an affidavit or affidavits of any person or persons, stating sufficient facts to show the existence of such grounds. Prior to a hearing on the motion any party may file counter-affidavits.

(C) Hearing. The motion shall be heard by the presiding judge, or at the discretion of the presiding judge by another judge. If the motion is granted, the presiding judge shall immediately call in another judge to try the action.

(3) *Effect of Ruling.* A ruling on a motion for a change of chancery judge shall not be an appealable order, but the ruling shall be entered on the docket and made a part of the record and may be assigned as error in an appeal of the case.

(4) *Motion by Judge.* The presiding judge may at any time on the judge's own motion order a change of judge when it appears that the ends of justice would be promoted thereby.

Rule 41. Dismissal of Actions

(a) Voluntary Dismissal.

(1) *By the Plaintiff.*

(A) Without a Chancery Court Order. Subject to Rules 23(e), 23.1(c), 23.2, and 66 and any applicable statute, the plaintiff may dismiss an action without a court order by filing:

(i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or

(ii) a stipulation of dismissal signed by all parties who have appeared.

(B) Effect. Unless the notice or stipulation states otherwise, the dismissal is without prejudice. But if the plaintiff previously dismissed any federal or state court action based on or including the same claim, a notice of dismissal operates as an adjudication on the merits.

(2) *By Chancery Court Order; Effect.* Except as provided in Rule 41(a)(1), an action may be dismissed at the plaintiff's request only by chancery court order, on terms that the court considers proper. If a counterclaim was plead by a defendant prior to the service upon the defendant of the plaintiff's motion to dismiss, the counterclaim shall remain pending for independent adjudication by the chancery court to the extent permitted by the chancery court's subject matter jurisdiction. Unless otherwise specified in the order, a dismissal under this paragraph is without prejudice.

(b) Involuntary Dismissal; Effect.

(1) *By Defendant.* If the plaintiff fails to prosecute or to comply with these rules or a chancery court order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order states otherwise, a dismissal under this subdivision (b) and any dismissal not under this rule--except one for lack of jurisdiction, improper venue, or failure to join a party under Rule 19--operates as an adjudication on the merits.

(2) *By the Chancery Court.* Upon its own motion, after reasonable notice to the parties, the chancery court may dismiss, without prejudice, any action not prosecuted or brought to trial with due diligence. See U.R.D.C. 203.

(c) Dismissing a Counterclaim, Crossclaim, or Third-Party Claim. This rule applies to a dismissal of any counterclaim, crossclaim, or third-party claim. A claimant's voluntary dismissal under Rule 41(a)(1)(A)(i) must be made:

(1) before a responsive pleading is served; or

(2) if there is no responsive pleading, before evidence is introduced at a hearing or trial.

(d) Costs of a Previously Dismissed Action. If a plaintiff who previously dismissed an action in any court files an action based on or including the same claim against the same defendant, the chancery court:

(1) may order the plaintiff to pay all or part of the costs of that previous action; and

(2) may stay the proceedings until the plaintiff has complied.

Rule 42. Consolidation; Separate Trials

(a) Consolidation. If actions before the court involve a common question of law or fact, the chancery court may:

(1) join for hearing or trial any or all matters at issue in the actions;

(2) consolidate the actions; or

(3) issue any other orders to avoid unnecessary cost or delay.

(b) Separate Trials. For convenience, to avoid prejudice, or to expedite and economize, the chancery court may order a separate trial of one or more separate issues, claims, crossclaims, counterclaims, or third-party claims. When ordering a separate trial, the court must preserve any right to a jury trial.

Rule 43. Taking Testimony

(a) In Open Court. At trial, the witnesses' testimony must be taken in open court unless these rules, a statute, the Wyoming Rules of Evidence, or other rules adopted by the Supreme Court of Wyoming provide otherwise. For good cause in compelling circumstances and with appropriate safeguards, the chancery court may permit testimony in open court by contemporaneous transmission from a different location.

(b) Affirmation Instead of an Oath. When these rules require an oath, a solemn affirmation suffices.

(c) Evidence on a Motion. When a motion relies on facts outside the record, the chancery court may hear the matter on affidavits or may hear it wholly or partly on oral testimony or on depositions.

(d) Interpreter. The chancery court may appoint an interpreter of its choosing; fix reasonable compensation to be paid from funds provided by law or by one or more parties; and tax the compensation as costs.

Rule 44. Determining Foreign Law

A party who intends to raise an issue about a foreign country's law must give notice by a pleading or other writing. In determining foreign law, the chancery court may consider any relevant material or source, including testimony, whether or not submitted by a party or admissible under the Wyoming Rules of Evidence. The chancery court's determination must be treated as a ruling on a question of law.

Rule 45. Subpoena

(a) In General.

(1) *Form and Contents.*

(A) Requirements--In General. Every subpoena must:

(i) state the court from which it issued;

(ii) state the title of the action and its civil action number;

(iii) command each person to whom it is directed to do the following at a specified time and place: attend and testify; produce and permit inspection, copying, testing, or sampling of designated documents, electronically stored information, or tangible things in that person's possession, custody, or control; or permit the inspection of premises; and

(iv) set out the text of Rule 45 (c), (d) and (e).

(v) A command to produce evidence or to permit inspection, copying, testing, or sampling may be joined with a command to appear at trial or hearing or at deposition, or may be issued separately. A subpoena may specify the form or forms in which electronically stored information is to be produced.

(2) A subpoena must issue as follows:

(A) Command to Attend Trial. For attendance at a trial or hearing, from the chancery court in which the action is pending;

(B) Command to Attend a Deposition. For attendance at a deposition, from the chancery court in which the action is pending, stating the method for recording the testimony; and

(C) Command to Produce. For production, inspection, copying, testing, or sampling, if separate from a subpoena commanding a person's attendance, from the chancery court in which the action is pending.

(3) *Issued by Whom.* The chancery court clerk shall issue a subpoena, signed but otherwise in blank, to a party requesting it, who shall complete it before service. An attorney as officer of the chancery court may also issue and sign a subpoena on behalf of

(A) a court in which the attorney is authorized to practice; or

(B) a court for a district in which a deposition or production is compelled by the subpoena, if the deposition or production pertains to an action pending in a court in which the attorney is authorized to practice.

(4) *Notice to Other Parties Before Service.* If the subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, then before it is served, a notice must be served on each party.

(b) Service; place of attendance; notice before service.

(1) *By Whom and How; Fees.* A subpoena may be served by the sheriff, by a deputy sheriff, or by any other person who is not a party and is not a minor, at any place within the State of Wyoming. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and, if the person's attendance is commanded, by tendering to that person the fees for one day's attendance and the mileage allowed by law. The party subpoenaing any witness residing in a county other than that in which the action is pending shall pay to such witness, after the hearing or trial, the statutory per diem allowance for state employees for each day or part thereof necessarily spent by such witness in traveling to and from the court and in attendance at the hearing or trial.

(2) *Proof of Service.* Proving service, when necessary, requires filing with the clerk of the chancery court by which the subpoena is issued, a statement of the date and manner of service and of the names of the persons served. The statement must be certified by the person who made the service.

(3) *Place of Compliance for Trial.* A subpoena for trial or hearing may require the person subpoenaed to appear at the trial or hearing irrespective of the person's place of residence, place of employment, or where such person regularly transacts business in person.

(4) *Place of Compliance for Deposition.* A person commended by subpoena to appear at a deposition may be required to attend only in the county wherein that person resides or is employed or regularly transacts business in person, or at such other convenient place as is fixed by an order of chancery court. A nonresident of the state may be required to attend only in the county wherein that nonresident is served with a subpoena or at such other convenient place as is fixed by an order of chancery court.

(c) Protecting a Person Subject to Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The chancery court shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) *Command to Produce Materials or Permit Inspection.*

(A) Appearance not Required. A person commanded to produce and permit inspection, copying, testing, or sampling of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection

unless also commanded to appear for deposition, hearing or trial.

(B) Objections. Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection, copying, testing, or sampling may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to producing any or all of the designated materials or inspection of the premises--or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect, copy, test, or sample the materials or inspect the premises except pursuant to an order of the chancery court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production, inspection, copying, testing, or sampling. Such an order to compel shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection, copying, testing, or sampling commanded.

(3) *Quashing or Modifying a Subpoena.*

(A) When Required. On timely motion, the chancery court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel outside that person's county of residence or employment or a county where that person regularly transacts business in person except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel to attend trial.

The chancery court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the chancery court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) *Producing Documents or Electronically Stored Information.*

(A) Documents. A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) Form of Electronically Stored Information if Not Specified. If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(C) Electronically Stored Information Produced in Only One Form. A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the chancery court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The chancery court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) Making a Claim. When information or material subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) Information Produced. If information is produced in response to a subpoena that is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the chancery court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt. Failure of any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the chancery court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a nonparty to attend or produce at a place not within the limits provided by subparagraph (c)(3)(A)(ii).

Rule 46. Objecting to a Ruling or Order

A formal exception to a ruling or order is unnecessary. When the ruling or order is requested or made, a party need only state the action that it wants the chancery court to take or objects to, along with the grounds for the request or objection. Failing to object does not prejudice a party who had no opportunity to do so when the ruling or order was made.

Rule 47. Selecting Jurors for Trial

Not Applicable.

Rule 48. Number of Jurors; Verdict; Polling

Not Applicable.

Rule 49. Special Verdict; General Verdict and Questions

Not Applicable.

Rule 50. Judgment as a Matter of Law in Jury Trials; Alternative Motion for New Trial; Conditional Rulings

(a) Judgment as a matter of law. Not Applicable.

(b) Renewing the motion after trial; alternative motion for a new trial. Not Applicable.

(c) Granting Renewed Motion for Judgment as a Matter of Law; Conditional Rulings; Motion for a New Trial.

(1) *In General.* If the court grants a renewed motion for judgment as a matter of law, the court shall also conditionally rule on the motion for a new trial, if any, by determining whether a new trial should be granted if the judgment is thereafter vacated or reversed. The court shall specify the grounds for conditionally granting or denying the motion for the new trial.

(2) *Effect of Conditional Ruling.* If the motion for a new trial is thus conditionally granted, the order thereon does not affect the finality of the judgment. In case the motion for a new trial has been conditionally granted and the judgment is reversed on appeal, the new trial shall proceed unless the appellate court has otherwise ordered. In case the motion for a new trial has been conditionally denied, the appellee on appeal may assert error in that denial; and if the judgment is reversed on appeal, subsequent proceedings shall be in accordance with the order of the appellate court.

(d) Time for a Losing Party's New Trial Motion. Any motion for a new trial under Rule 59 by a party against whom judgment as a matter of law is rendered shall be filed no later than 28 days after entry of the judgment.

(e) Denial of Motion for Judgment as a Matter of Law. If the motion for judgment as a matter of law is denied, the party who prevailed on that motion may, as appellee, assert grounds entitling the party to a new trial in the event the appellate court concludes that the trial court erred in denying the motion for judgment. If the appellate court reverses the judgment, nothing in this rule precludes it from determining that the appellee is entitled to a new trial, or from directing the trial court to determine whether a new trial shall be granted.

Rule 51. Instructions to the Jury; Objections; Preserving a Claim of Error

Not Applicable.

Rule 52. Findings by the Chancery Court; Judgment on Partial Findings; Reserved Questions

(a) General and Special Findings by Chancery Court.

(1) *Trials by the Chancery Court.* Upon the trial of questions of fact by the chancery court, it shall not be necessary for the chancery court to state its findings, except generally for the plaintiff or defendant. Findings of fact and conclusions of law are unnecessary on decisions of motions under Rule 12 or 56 or any other motion except as provided in Rule 52(c).

(A) Requests for Written Findings. If one of the parties requests it before the introduction of any evidence, with the view of excepting to the decision of the chancery court upon the questions of law involved in the trial, the chancery court shall state in writing its special findings of fact separately from its conclusions of law;

(B) Written Findings Absent Request. Without a request from the parties, the chancery court may make such special findings of fact and conclusions of law as it deems proper and if the same are preserved in the record either by stenographic report or by the court's written memorandum, the same may be considered on appeal. Requests for findings are not necessary for purposes of review.

(2) *Findings of a Master.* The findings of a master, to the extent that the court adopts them, shall be considered as the findings of the chancery court.

(b) Amendment or Additional Findings. On a party's motion filed no later than 28 days after entry of judgment; the chancery court may amend its findings--or make additional findings--and may amend the judgment accordingly. The motion may accompany a motion for a new trial under Rule 59. When special findings of fact are made, the sufficiency of the evidence supporting the findings may be later questioned whether or not in the court the party raising the question objected to the findings, moved to amend them, or moved for partial findings.

(c) Judgment on Partial Findings. If a party has been fully heard on an issue in a trial and the chancery court finds against the party on that issue, the chancery court may enter judgment as a matter of law against that party with respect to a claim or defense that cannot under the controlling law be maintained or defeated without a favorable finding on that issue, or the chancery court may decline to render any judgment until the close of all the evidence. The party against whom entry of such a judgment is considered shall be entitled to no special inference as a consequence of such consideration, and the chancery court may weigh the evidence and resolve conflicts. Such a judgment shall be supported by findings as provided in Rule 52(a).

(d) Reserved Questions.

(1) *In General.* In all cases in which a chancery court reserves an important and difficult constitutional question arising in an action or proceeding pending before it, the chancery court, before sending the question to the supreme court for decision, shall

(A) dispose of all necessary and controlling questions of fact and make special findings of fact thereon, and

(B) state its conclusions of law on all points of common law and of construction, interpretation and meaning of statutes and of all instruments necessary for a complete decision of the case.

(2) *Constitutional Questions.* No constitutional question shall be deemed to arise in an action unless, after all necessary special findings of fact and conclusions of law have been made by the chancery court, a decision on the constitutional question is necessary to the rendition of final judgment. The constitutional question reserved shall be specific and shall identify the constitutional provision to be interpreted. The special findings of fact and conclusions of law required by this subdivision of this rule shall be deemed to be a final order from which either party may appeal, and such appeal may be considered by the supreme court simultaneously with the

reserved question.

Rule 53. Masters

(a) Appointment and compensation.

(1) *Appointment.* The chancery court in which any action is pending may appoint a master therein. As used in these rules the word "master" includes, but is not limited to, a referee, an auditor, or an examiner.

(2) *Compensation.* The compensation to be allowed to a master shall be fixed by the chancery court, and may be charged against one or more of the parties, paid out of any fund or subject matter of the action which is in the custody and control of the court, or as the chancery court may direct. The master shall not retain the master's report as security for the master's compensation; but when the party ordered to pay the compensation allowed by the chancery court does not pay it after notice and within the time prescribed by the chancery court, the master is entitled to a writ of execution against the delinquent party.

(b) Reference. A reference to a master shall be the exception and not the rule.

Not Applicable.

(c) Powers. The order of reference to the master may specify or limit the master's powers and may direct the master to report only upon particular issues or to do or perform particular acts or to receive and report evidence only and may fix the time and place for beginning and closing the hearings and for the filing of the master's report. Subject to the specifications and limitations stated in the order, the master has and shall exercise the power to regulate all proceedings in every hearing before the master and to do all acts and take all measures necessary or proper for the efficient performance of the master's duties under the order. The master may require the production before the master of evidence upon all matters embraced in the reference, including the production of all books, papers, vouchers, documents, and writings applicable thereto. The master may rule upon the admissibility of evidence unless otherwise directed by the order of reference and has the authority to put witnesses on oath and may examine them and may call the parties to the action and examine them upon oath. When a party so requests, the master shall make a record of the evidence received, offered and excluded in the same manner and subject to the same limitations as provided in the Wyoming Rules of Evidence for a court sitting without a jury.

(d) Proceedings.

(1) *Meetings.* When a reference is made, the chancery court clerk shall forthwith furnish the master with a copy of the order of reference.

(A) Time. Upon receipt thereof unless the order of reference otherwise provides, the master shall forthwith set a time and place for the first meeting of the parties or their attorneys to be held within 14 days after the date of the order of reference and shall notify the parties or their attorneys.

(B) Delay. It is the duty of the master to proceed with all reasonable diligence. Either party, on notice to the parties and master, may apply to the chancery court for an order requiring the master to speed the proceedings and to make the master's report.

(C) Appearance of Parties Required. If a party fails to appear at the time and place appointed, the master may proceed ex parte, or in the master's discretion, adjourn the proceedings to a future day, giving notice to the absent party of the adjournment.

(2) *Witnesses.* The parties may procure the attendance of witnesses before the master by the issuance and service of subpoenas as provided in Rule 45. If without adequate excuse a witness fails to appear or give evidence, the witness may be punished as for a contempt and be subjected to the consequences, penalties, and

remedies provided in Rules 37 and 45.

(3) *Statement of Accounts.* When matters of accounting are in issue before the master, the master may prescribe the form in which the accounts shall be submitted and in any proper case may require or receive in evidence a statement by a certified public accountant who is called as a witness. Upon objection of a party to any of the items thus submitted or upon a showing that the form of statement is insufficient, the master may require a different form of statement to be furnished, or the accounts or specific items thereof to be proved by oral examination of the accounting parties or upon written interrogatories or in such other manner as the master directs.

(e) Report.

(1) *Contents and Filing.* The master shall prepare a report upon the matters submitted to the master by the order of reference and, if required to make findings of fact and conclusions of law, the master shall set them forth in the report. The master shall file the report with the clerk of the chancery court and serve on all parties notice of the filing, pursuant to Rule 5. Unless otherwise directed by the order of reference, the master shall also serve a copy of the report on each party, pursuant to Rule 5.

(2) *Filing Master's Report.* Unless otherwise directed by the order of reference, the master shall file with the report a transcript of the proceedings and of the evidence and the original exhibits.

(A) Findings Accepted. The chancery court shall accept the master's findings of fact unless clearly erroneous.

(B) Objections. Within 14 days after being served with notice of the filing of the report any party may serve written objections thereto upon the other parties. Application to the chancery court for action upon the report and upon objections thereto shall be by motion and upon notice. The chancery court, after hearing, may adopt the report or may modify it or may reject it in whole or in part or may receive further evidence or may recommit it with instructions.

(3) *In Jury Actions.* Not applicable.

(4) *Stipulation as to Findings.* The effect of a master's report is the same whether or not the parties have consented to the reference; but, when the parties stipulate that a master's findings of fact shall be final, only questions of law arising upon the report shall thereafter be considered.

(5) *Draft of Report.* Before filing the master's report, a master may submit a draft thereof to counsel for all parties for the purpose of receiving their suggestions.

Rule 54. Judgment; Costs

(a) Definition; Form. "Judgment" as used in these rules includes a decree and any order from which an appeal lies. A judgment should not include recitals of pleadings, a master's report, or a record of prior proceedings. A court's decision letter or opinion letter, made or entered in writing, is not a judgment.

(b) Judgment on Multiple Claims or Involving Multiple Parties. When an action presents more than one claim for relief-- whether as a claim, counterclaim, crossclaim, or third-party claim--or when multiple parties are involved, the chancery court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the chancery court expressly determines that there is no just reason for delay. Otherwise, any order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities.

(c) Demand for Judgment; Relief to be Granted. A default judgment must not differ in kind from, or exceed in amount, what is demanded in the pleadings. Every other final judgment should grant the relief to which each party is entitled, even if the party has not demanded that relief in its pleadings.

(d) Costs; Attorney's Fees.

(1) *Costs Other Than Attorney's Fees.* Unless a statute, these rules, or a chancery court order provides otherwise, costs--other than attorney's fees--should be allowed to the prevailing party, when a motion for such costs is filed no later than 21 days after the entry of judgment. But costs against the State of Wyoming, its officers, and its agencies may be imposed only to the extent allowed by law.

(2) *Attorney's Fees.*

(A) Claim to Be by Motion. A claim for attorney's fees and allowable costs shall be made by motion unless the substantive law requires those fees to be proved at trial as an element of damages.

(B) Timing and Contents of the Motion. Unless a statute or a chancery court order provides otherwise, the motion must:

(i) be filed no later than 21 days after the entry of judgment;

(ii) specify the judgment and the statute, rule, or other grounds entitling the movant to the award;

(iii) state the amount sought or provide a fair estimate of it; and

(iv) disclose, if the chancery court so orders, the terms of any agreement about fees for the services for which the claim is made.

(C) Proceedings. Subject to Rule 23(g), the chancery court must, on a party's request, give an opportunity for adversary submissions on the motion in accordance with Rule 43(c) or 78. The chancery court may decide issues of liability for fees before receiving submissions on the value of services. The chancery court must find the facts and state its conclusions of law as provided in Rule 52(a).

(D) Special Procedures; Reference to a Master. The chancery court may establish special procedures to resolve fee-related issues without extensive evidentiary hearings. Also, the chancery court may refer issues concerning the value of services to a special master under Rule 53 without regard to the limitations of Rule 53(a)(1).

(E) Exceptions. Subparagraphs (A)-(D) do not apply to claims for fees and expenses as sanctions for violating these rules.

(3) *Contents of the Motion.* Unless a statute or a chancery court order provides otherwise, any motion must:

(A) specify the judgment and the statute, rule, or other grounds entitling the movant to the award;

(B) state the amount sought or provide a fair estimate of it; and

(C) disclose, if the chancery court so orders, the terms of any agreement about fees for the services for which the claim is made.

Rule 55. Default; Default Judgment

(a) Entering a Default. When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the chancery court clerk must enter the party's default.

(b) Entering a Default Judgment.

(1) *By the Clerk.* If the plaintiff's claim is for a sum certain or a sum that can be made certain by computation, the chancery court clerk-- on the plaintiff's request, with an affidavit showing the amount due--must enter judgment for that amount and costs against a defendant who has been defaulted for not appearing and who is neither a minor nor an incompetent person.

(2) *By the Chancery Court.* In all other cases, the party must apply to the chancery court for a default judgment. A default judgment may be entered against a minor or incompetent person only if represented by a guardian, guardian ad litem, trustee, conservator, or other like fiduciary who has appeared. If the party against whom a default judgment is sought has appeared personally or by a representative, that party or its representative must be served with written notice of the application at least 7 days before the hearing. The chancery court may conduct hearings or make referrals when, to enter or effectuate judgment, it needs to:

(A) conduct an accounting;

(B) determine the amount of damages;

(C) establish the truth of any allegation by evidence; or

(D) investigate any other matter.

(c) Setting Aside a Default or a Default Judgment. The chancery court may set aside an entry of default for good cause, and it may set aside a final default judgment under Rule 60(b).

(d) Judgment Against State. A default judgment may be entered against the state, its officers, or its agencies only if the claimant establishes a claim or right to relief by evidence that satisfies the chancery court.

Rule 56. Summary Judgment

(a) Motion for Summary Judgment or Partial Summary Judgment. A party may move for summary judgment, identifying each claim or defense--or the part of each claim or defense--on which summary judgment is sought. The chancery court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The chancery court should state on the record the reasons for granting or denying the motion.

(b) Time to File a Motion. Unless a different time is set by chancery court order otherwise, a party may file a motion for summary judgment at any time.

(c) Procedures.

(1) *Supporting Factual Positions.* A party asserting that a fact cannot be or is genuinely disputed must support the assertion by:

(A) citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials; or

(B) showing that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.

(2) *Objection That a Fact Is Not Supported by Admissible Evidence.* A party may object that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence.

(3) *Materials Not Cited.* The chancery court need consider only the cited materials, but it may consider other materials in the record.

(4) *Affidavits or Declarations.* An affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated.

(d) When Facts are Unavailable to the Nonmovant. If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the chancery court may:

(1) defer considering the motion or deny it;

(2) allow time to obtain affidavits or declarations or to take discovery; or

(3) issue any other appropriate order.

(e) Failing to Properly Support or Address a Fact. If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c), the chancery court may:

(1) give an opportunity to properly support or address the fact;

(2) consider the fact undisputed for purposes of the motion;

(3) grant summary judgment if the motion and supporting materials--including the facts considered undisputed--show that the movant is entitled to it; or

(4) issue any other appropriate order.

(f) Judgment Independent of the Motion. After giving notice and a reasonable time to respond, the chancery court may:

(1) grant summary judgment for a nonmovant;

(2) grant the motion on grounds not raised by a party; or

(3) consider summary judgment on its own after identifying for the parties material facts that may not be genuinely in dispute.

(g) Failing to Grant All the Requested Relief. If the chancery court does not grant all the relief requested by the motion, it may enter an order stating any material fact--including an item of damages or other relief--that is not genuinely in dispute and treating the fact as established in the case.

(h) Affidavit or Declaration Submitted in Bad Faith. If satisfied that an affidavit or declaration under this rule is submitted in bad faith or solely for delay, the chancery court--after notice and a reasonable time to respond--may order the submitting party to pay the other party the reasonable expenses, including attorney's fees, it incurred as a result. An offending party or attorney may also be held in contempt or subjected to other appropriate sanctions.

Rule 56.1. Summary Judgment--Required Statement of Material Facts

(a) Upon any motion for summary judgment pursuant to Rule 56 of the Rules of Civil Procedure for the Chancery Court, in addition to the materials supporting the motion, there shall be annexed to the motion a separate, short and concise statement of the material facts as to which the moving party contends there is no genuine issue to be tried.

(b) In addition to the materials opposing a motion for summary judgment, there shall be annexed a separate, short and concise statement of material facts as to which it is contended that there exists a genuine issue to be tried.

(c) Such statements shall include pinpoint citations to the specific portions of the record and materials relied upon in support of the parties' position.

Rule 57. Declaratory Judgment

These rules govern the procedure for obtaining a declaratory judgment pursuant to statute. The existence of another adequate remedy does not preclude a declaratory judgment that is otherwise appropriate. The chancery court may order a speedy hearing of a declaratory judgment action.

Rule 58. Entering Judgment

(a) Presentation. Subject to the provisions of Rule 55(b) and unless otherwise ordered by the chancery court, if the parties are unable to agree on the form and content of a proposed judgment or order, it shall be presented to the chancery court and served upon the other parties within 14 days after the chancery court's decision is made known. Any objection to the form or content of a proposed judgment or order, together with an alternate form of judgment or order which cures the objection(s), shall be filed with the court and served upon the other parties within 5 days after service of the proposed judgment or order. If no written objection is timely filed, the chancery court may sign the judgment or order. If objection is timely filed, the chancery court will resolve the matter with or without a hearing.

(b) Form and Entry. Subject to the provisions of Rule 54(b), in all cases, the judge shall promptly settle or approve the form of the judgment or order and direct that it be entered by the chancery court clerk. Every judgment shall be set forth on a separate document, shall be identified as such, and may include findings of fact and conclusions of law. The names of all parties shall be set out in the caption of all final orders, judgments and decrees. All judgments must specify clearly the relief granted or order made in the action.

(c) Time of Entry. A judgment or final order shall be deemed to be entered whenever a form of such judgment or final order pursuant to these rules is filed in the office of the clerk of chancery court in which the case is pending.

(d) Cost or Fee Awards. Ordinarily, the entry of judgment may not be delayed, nor the time for appeal extended, in order to tax costs or award fees. But if a timely motion for attorney's fees is made under Rule 54(d)(2), the chancery court may act before a notice of appeal has been filed and become effective to order that the motion have the same effect under Wyoming Rule of Appellate Procedure 2.02(a) as a timely motion under Rule 59.

Rule 59. New Trial; Altering or Amending a Judgment

(a) In General.

(1) *Grounds for New Trial.* The chancery court may, on motion, grant a new trial on all or some of the issues, for any of the following causes:

(A) Irregularity in the proceedings of the chancery court, referee, master or prevailing party, or any order of the chancery court or referee, or abuse of discretion, by which the party was prevented from

having a fair trial;

(B) Misconduct of the prevailing party;

(C) Accident or surprise, which ordinary prudence could not have guarded against;

(D) Excessive damages appearing to have been given under the influence of passion or prejudice;

(E) Error in the assessment of the amount of recovery, whether too large or too small;

(F) That the report or decision is not sustained by sufficient evidence or is contrary to law;

(G) Newly discovered evidence, material for the party applying, which the party could not, with reasonable diligence, have discovered and produced at the trial;

(H) Error of law occurring at the trial.

(2) *Further Action After a Trial.* After a trial, the chancery court may, on motion for a new trial, open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new ones, and direct the entry of a new judgment.

(b) Time to File a Motion for a New Trial. A motion for a new trial must be filed no later than 28 days after the entry of judgment.

(c) Time to Serve Affidavits. When a motion for a new trial is based on affidavits, they must be filed with the motion. The opposing party has 14 days after being served to file opposing affidavits, but that period may be extended for up to 21 days, either by the chancery court for good cause or by the parties' written stipulation. The chancery court may permit reply affidavits.

(d) New Trial on the Chancery Court's Initiative or for Reasons Not in the Motion. No later than 28 days after the entry of judgment, the chancery court, on its own, may order a new trial for any reason that would justify granting one on a party's motion. After giving the parties notice and an opportunity to be heard, the chancery court may grant a timely motion for a new trial for a reason not stated in the motion. In either event, the chancery court must specify the reasons in its order.

(e) Motion to Alter or Amend a Judgment. A motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment.

Rule 60. Relief from a Judgment or Order

(a) Corrections Based on Clerical Mistakes; Oversights and Omissions. The chancery court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. The chancery court may do so on motion or on its own, with or without notice. But after an appeal has been docketed in the Supreme Court, and while it is pending, such a mistake may be corrected only with leave of the Supreme Court.

(b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just terms, the chancery court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect;

(2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);

(3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;

(4) the judgment is void;

(5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or

(6) any other reason that justifies relief.

(c) Timing and Effect of the Motion.

(1) *Timing.* A motion under Rule 60(b) must be made within a reasonable time--and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order or the date of the proceeding.

(2) *Effect on Finality.* The motion does not affect the judgment's finality or suspend its operation.

(d) Other Powers to Grant Relief. This rule does not limit a chancery court's power to:

(1) entertain an independent action to relieve a party from a judgment, order, or proceeding;

(2) grant relief as provided by statute; or

(3) set aside a judgment for fraud on the chancery court.

(e) Bills and Writs Abolished. The following are abolished: bills of review, bills in the nature of bills of review, and writs of coram nobis, coram vobis, and audita querela.

Rule 61. Harmless Error

Unless justice requires otherwise, no error in admitting or excluding evidence--or any other error by the chancery court or a party--is ground for granting a new trial or for vacating, modifying, or otherwise disturbing a judgment or order. At every stage of the proceeding, the chancery court must disregard all errors and defects that do not affect any party's substantial rights.

Rule 62. Stay of Proceedings to Enforce a Judgment

(a) Automatic Stay; Exceptions for Injunctions, and Receiverships. Except as stated in this rule or otherwise provided by statute or chancery court order, no execution may issue on a judgment, nor may proceedings be taken to enforce it, until 14 days have passed after its entry. But unless the chancery court orders otherwise, an interlocutory or final judgment in an action for an injunction or a receivership is not stayed after being entered, even if an appeal is taken.

(b) Stay Pending Disposition of a Motion. On appropriate terms for the opposing party's security, the chancery court may stay the execution of a judgment--or any proceedings to enforce it--pending disposition of any of the following motions:

(1) under Rule 50, for judgment as a matter of law;

(2) under Rule 52(b), to amend the findings or for additional findings;

(3) under Rule 59, for a new trial or to alter or amend a judgment; or

(4) under Rule 60, for relief from a judgment or order.

(c) Injunction Pending an Appeal. While an appeal is pending from an interlocutory order or final judgment that grants, dissolves, or denies an injunction, the chancery court may suspend, modify, restore, or grant an injunction on terms for bond or other terms that secure the opposing party's rights.

(d) Stay with Bond on Appeal. If an appeal is taken, the appellant may obtain a stay by supersedeas bond, except in the limitations contained in the Wyoming Rules of Appellate Procedure and an action described in the last sentence of Rule 62(a). The bond may be given upon or after filing the notice of appeal or after obtaining the order allowing the appeal. The stay takes effect when the chancery court approves the bond.

(e) Stay Without Bond on Appeal by the State, Its Officers, or Its Agencies. The chancery court must not require a bond, obligation, or other security from the appellant when granting a stay on an appeal by the State, its officers, or its agencies.

(f) Supreme Court's Power Not Limited. This rule does not limit the power of the Supreme Court or one of its justices:

(1) to stay proceedings--or suspend, modify, restore, or grant an injunction--while an appeal is pending; or

(2) to issue an order to preserve the status quo or the effectiveness of the judgment to be entered.

(g) Stay with Multiple Claims or Parties. A chancery court may stay the enforcement of a final judgment entered under Rule 54(b) until it enters a later judgment or judgments, and may prescribe terms necessary to secure the benefit of the stayed judgment for the party in whose favor it was entered.

Rule 62.1. Indicative Ruling on a Motion for Relief that is Barred by a Pending Appeal

(a) Relief Pending Appeal. If a timely motion is made for relief that the chancery court lacks authority to grant because of an appeal that has been docketed and is pending, the chancery court may:

(1) defer considering the motion;

(2) deny the motion; or

(3) state either that it would grant the motion if the appellate court remands for that purpose or that the motion raises a substantial issue.

(b) Notice to the appellate court. The movant must promptly notify the Clerk of the appellate court if the trial court states that it would grant the motion or that the motion raises a substantial issue.

(c) Remand. The chancery court may decide the motion if the appellate court remands for that purpose.

Rule 63. Judge's Inability to Proceed

(a) If a judge conducting a hearing or trial is unable to proceed, any other judge may proceed upon certifying familiarity with the record and determining that the case may be completed without prejudice to the parties. The successor judge must, at a party's request, recall any witness whose testimony is material and disputed and who is available to testify again without undue burden. The successor judge may also recall any other witness.

(b) *After filing of findings of fact and conclusions of law*. If by reason of death, sickness, or other disability, a judge before whom an action has been tried is unable to perform the duties to be performed by the chancery court under

these rules after findings of fact and conclusions of law are filed, then any other judge sitting in or assigned, or any active or retired district judge, or supreme court justice designated by the supreme court may perform those duties; but if the successor judge cannot perform those duties because the successor judge did not preside at the trial or for any other reason, the successor judge may grant a new trial.

Rule 64. Seizing a Person or Property

At the commencement of and during the course of an action, all remedies provided by statute for seizure of person or property for the purpose of securing satisfaction of the judgment ultimately to be entered in the action are available under these rules.

Rule 65. Injunctions and Restraining Orders

(a) Preliminary Injunction.

(1) *Notice.* The chancery court may issue a preliminary injunction only on notice to the adverse party.

(2) *Consolidating the Hearing with the Trial on the Merits.* Before or after beginning the hearing on a motion for a preliminary injunction, the chancery court may advance the trial on the merits and consolidate it with the hearing. Even when consolidation is not ordered, evidence that is received on the motion and that would be admissible at trial becomes part of the trial record and need not be repeated at trial.

(b) Temporary Restraining Order.

(1) *Issuing Without Notice.* The chancery court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if:

(A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and

(B) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

(2) *Contents; Expiration.* Every temporary restraining order issued without notice must state the date and hour it was issued; describe the injury and state why it is irreparable; state why the order was issued without notice; and be promptly filed in the chancery court clerk's office and entered in the record. The order expires at the time after entry--not to exceed 14 days--that the chancery court sets, unless before that time the chancery court, for good cause, extends it for a like period or the adverse party consents to a longer extension. The reasons for an extension must be entered in the record.

(3) *Expediting the Preliminary-Injunction Hearing.* If the order is issued without notice, the motion for a preliminary injunction must be set for hearing at the earliest possible time, taking precedence over all other matters except hearings on older matters of the same character. At the hearing, the party who obtained the order must proceed with the motion; if the party does not, the chancery court must dissolve the order.

(4) *Motion to Dissolve.* On 2 days' notice to the party who obtained the order without notice--or on shorter notice set by the chancery court--the adverse party may appear and move to dissolve or modify the order. The chancery court must then hear and decide the motion as promptly as justice requires.

(c) Security. The chancery court may issue a preliminary injunction or a temporary restraining order only if the movant gives security in an amount that the chancery court considers proper to pay the costs and damages sustained

by any party found to have been wrongfully enjoined or restrained.

(d) Contents and Scope of Every Injunction and Restraining Order.

(1) *Contents.* Every order granting an injunction and every restraining order must:

(A) state the reasons why it issued;

(B) state its terms specifically; and

(C) describe in reasonable detail--and not by referring to the complaint or other document--the act or acts restrained or required.

(2) *Persons Bound.* The order binds only the following who receive actual notice of it by personal service or otherwise:

(A) the parties;

(B) the parties' officers, agents, servants, employees, and attorneys; and

(C) other persons who are in active concert or participation with anyone described in Rule 65(d)(2)(A) or (B).

Rule 65.1. Proceedings against a Surety

Whenever these rules require or allow a party to give security, and security is given through a bond or other undertaking with one or more sureties, each surety submits to the chancery court's jurisdiction and irrevocably appoints the chancery court clerk as its agent for receiving service of any papers that affect its liability on the bond or undertaking. The surety's liability may be enforced on motion without an independent action. The motion and any notice that the chancery court orders may be served on the chancery court clerk, who must promptly mail a copy of each to every surety whose address is known.

Rule 66. Receivers

An action wherein a receiver has been appointed shall not be dismissed except by order of the chancery court. The practice in the administration of estates by receivers shall be in accordance with the practice heretofore followed in the chancery court of Wyoming. In all other respects the action in which the appointment of a receiver is sought or which is brought by or against a receiver is governed by these rules.

Rule 67. Deposit into Chancery Court

(a) Depositing Property. If any part of the relief sought is a money judgment or the disposition of a sum of money or some other deliverable thing, a party--on notice to every other party and by leave of chancery court--may deposit with the chancery court all or part of the money or thing, whether or not that party claims any of it. The depositing party must deliver to the chancery court clerk a copy of the order permitting deposit.

(b) Investing and Withdrawing Funds. Money paid into chancery court under this rule shall be held by the clerk of the chancery court subject to withdrawal in whole or in part at any time upon order of the chancery court or written stipulation of the parties. The money shall be deposited in an interest-bearing account or invested in a chancery court-approved, interest-bearing instrument.

(c) Prior to the disbursement of the funds, all information necessary for the chancery court clerk to make a proper

disbursement shall be provided by the party seeking disbursement, in a form that complies with the Rules Governing Redaction From Court Records.

Rule 68. Offer of Settlement or Judgment

(a) Making an Offer; Acceptance of Offer. At any time more than 60 days after service of the complaint and at least 28 days before the date set for trial, any party may serve on an opposing party an offer to allow settlement or judgment on specified terms, with the costs then accrued. If, within 14 days after being served, the opposing party serves written notice accepting the offer, either party may then file the offer and notice of acceptance, plus proof of service.

(b) Unaccepted Offer. An unaccepted offer is considered withdrawn, but it does not preclude a later offer. Evidence of an unaccepted offer is not admissible except in a proceeding to determine costs. As used herein, "costs" do not include attorney's fees.

(c) Offer After Liability is Determined. When one party's liability to another has been determined but the extent of liability remains to be determined by further proceedings, the party held liable may make an offer of judgment. It must be served within a reasonable time not less than 14 days before the date set for a hearing to determine the extent of liability.

(d) Paying Costs After an Unaccepted Offer. If the judgment that the offeree finally obtains is not more favorable than the unaccepted offer, the offeree must pay the costs incurred after the offer was made.

Rule 69. Execution

(a) Money Judgment; Applicable Procedure. A money judgment is enforced by a writ of execution, unless the chancery court directs otherwise.

(b) Obtaining Discovery. In aid of the judgment or execution, the judgment creditor or a successor in interest whose interest appears of record may obtain discovery from any person--including the judgment debtor--as provided in these rules.

Rule 70. Enforcing a Judgment for a Specific Act

(a) Party's Failure to Act; Ordering Another to Act. If a judgment requires a party to convey land, to deliver a deed or other document, or to perform any other specific act and the party fails to comply within the time specified, the chancery court may order the act to be done--at the disobedient party's expense--by another person appointed by the chancery court. When done, the act has the same effect as if done by the party.

(b) Vesting Title. The chancery court--instead of ordering a conveyance--may enter a judgment divesting any party's title and vesting it in others. That judgment has the effect of a legally executed conveyance.

(c) Obtaining a Writ of Attachment or Sequestration. On application by a party entitled to performance of an act, the chancery court clerk must issue a writ of attachment or sequestration against the disobedient party's property to compel obedience.

(d) Obtaining a Writ of Execution or Assistance. On application by a party who obtains a judgment or order for possession, the chancery court clerk must issue a writ of execution or assistance.

(e) Holding in Contempt. The chancery court may also hold the disobedient party in contempt.

Rule 71. Enforcing Relief for or against a Nonparty

When an order grants relief for a nonparty or may be enforced against a nonparty, the procedure for enforcing the order is the same as for a party.

Rule 71.1. Condemnation of Property

Not Applicable.

Rules 72 to 76. [Reserved]

Rules 72 to 76. [Reserved]

Rules 72 to 76. [Reserved]

Rules 72 to 76. [Reserved]

Rules 72 to 76. [Reserved]

Rule 77. Chancery Courts and Clerks; Notice of an Order or Judgment

(a) Chancery Court Always Open. The chancery courts shall be deemed always open for the purpose of filing an initial pleading or other paper, of issuing and returning any mesne or final process, and of making and directing all interlocutory motions, orders and rules.

(b) Trials and Hearings; Orders in Chambers. All trials upon the merits shall be conducted in open court and, so far as convenient, in a regular courtroom. Any other act or proceeding may be done or conducted electronically, in chambers without the attendance of the chancery court clerk or other chancery court officials and at any place within the state.

(c) The Chancery Court Clerk's Office Hours; Clerk's Orders.

(1) *Hours.* The chancery court clerk's office, with the clerk or a deputy in attendance, must be open during all business hours every day except Saturdays, Sundays, and legal holidays (by designation of the legislature, appointment as a holiday by the governor or the chief justice of the Wyoming Supreme Court, or any day designated as such by local officials).

(2) *Orders.* All motions and applications in the chancery court clerk's office for issuing mesne process, for issuing final process to enforce and execute judgments, for entering defaults or judgments by default, and for other proceedings which do not require allowance or order of the chancery court are grantable of course by the chancery court clerk; but the chancery court clerk's action may be suspended, altered or rescinded by the chancery court upon cause shown.

(d) Service of Orders or Judgments.

(1) *Service.* Immediately upon the entry of an order or judgment the chancery court clerk shall provide and serve a copy thereof to every party who is not in default for failure to appear. The chancery court clerk shall record the date of service and the parties served in the docket. Service by the chancery court clerk may be accomplished by mail or electronic means. The chancery court clerk shall provide envelopes and postage for the mailings. Any party may in addition serve a notice of such entry in the manner provided in Rule 5(b) for the service of papers.

(2) *Time to Appeal Not Affected by Lack of Notice.* Lack of notice of the entry by the chancery court clerk does not affect the time to appeal or relieve, or authorize the chancery court to relieve, a party for failure to appeal within the time allowed, except as permitted by the Wyoming Rules of Appellate Procedure.

Rule 78. Hearing Motions; Decision on Briefs

(a) Providing a Regular Schedule for Oral Hearings. A chancery court may establish regular times and places for oral hearings on motions.

(b) Providing for Decision on Briefs. The chancery court may provide for submitting or deciding motions on briefs, without oral hearings.

Rule 79. Books and Records Kept by the Chancery Court Clerk

(a) Books and Records. Except as herein otherwise specifically provided, the clerk of chancery court shall keep books and records as provided by statute.

(b) Other Books and Records. The clerk of chancery court shall also keep such other books, records, data and statistics as may be required from time to time by the Supreme Court or the chancery court judge.

[WY R USDCT Civ. Rule 79.1] Rule 79.1 Records of the Court

(a) Access to Public Court Records. Cases filed are available for review electronically via the chancery court's website at http://www._____. To access an electronic case file, users must first register for _____E-FILING SYSTEM_____ at http://_____. Lengthy exhibits and other supporting materials that cannot be converted to electronic format are accessible in the chancery court clerk's office.

(b) Sealed Records. Submissions or documents ordered sealed by the chancery court are not public records.

Rule 80. Stenographic Transcript as Evidence

If stenographically reported testimony at a hearing or trial is admissible in evidence at a later trial, the testimony may be proved by a transcript certified by the person who reported it.

Rule 81. Applicability in General

Statutory provisions shall not apply whenever inconsistent with these rules, provided:

(a) that in special statutory proceedings any rule shall not apply insofar as it is clearly inapplicable; and

(b) where the statute creating a special proceeding provides the form, content, time of service or filing of any pleading, writ, notice or process, either the statutory provisions relating thereto or these rules may be followed.

Rule 82. Jurisdiction and Venue Unaffected

These rules do not extend the jurisdiction of the chancery courts or the venue of actions in the chancery court.

Rule 83. Rules by Courts of Record; Judge's Directives

(a) Uniform Rules.

(1) *In General.* A chancery court conference, acting by a majority of the judges of the conference and approval by the Supreme Court, may adopt and amend uniform rules governing its practice. A uniform rule must be consistent with--but not duplicate--Wyoming statutes and rules. A uniform rule takes effect on the date specified by the Supreme Court and remains in effect unless amended. Approved uniform rules shall be published in the Wyoming Chancery Court Rules volume.

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(2) *Requirement of Form.* A uniform rule imposing a requirement of form must not be enforced in a way that causes a party to lose any right because of a nonwillful failure to comply.

(b) Procedure When There is No Controlling Law. A judge may regulate practice in any manner consistent with state law, rules, and the uniform rules. No sanction or other disadvantage may be imposed for noncompliance with any requirement not in state law, state rules, or the uniform rules unless the alleged violator has been furnished in the particular case with actual notice of the requirement.

Rule 84. Forms

No forms are provided with these rules.

Rule 85. Title

These rules shall be known as the Wyoming Rules of Civil Procedure for the Court of Chancery and may be cited as W.R.C.P.C.C.

Rule 86. Effective Dates

(a) In General. These rules take effect on _____. They govern:

(1) proceedings in an action commenced after their effective date; and

(2) proceedings after that date in an action then pending unless:

(A) the Supreme Court specifies otherwise; or

(B) the chancery court determines that applying them in a particular action would be infeasible or work an injustice.

(b) Amendments and additions. Amendments or additions to these rules shall take effect on dates to be fixed by the supreme court subject to the exception above set out as to pending actions. If no date is fixed by the supreme court, the amendments or additions take effect 60 days after their publication in the Pacific Reporter Advance Sheets.

PROPOSED CHANGES

RULES OF CRIMINAL PROCEDURE, WYOMING COURT RULES (Page 435)

RULE 4. WARRANT OR SUMMONS UPON INFORMATION

(a) Issuance – If it appears from a verified information, or from an affidavit or affidavits filed with the information, that there is probable cause to believe that an offense has been committed and that the defendant has committed it, a summons shall issue requiring the defendant to appear and answer to the information. Upon request of the attorney for the state the court ~~shall~~ MAY issue a warrant, rather than a summons.

(NOTE: This change would leave discretionary the issuance of a felony or misdemeanor warrant with the judge.)

However, the concern of the Circuit Court Judges is particularly with misdemeanor charges.

The following would address only that concern:

RULE 4. WARRANT OR SUMMONS UPON INFORMATION

(a) Issuance – If it appears from a verified information, or from an affidavit or affidavits filed with the information, that there is probable cause to believe that an offense has been committed and that the defendant has committed it, a summons shall issue requiring the defendant to appear and answer to the information. Upon request of the attorney for the state the court shall issue a warrant, rather than a summons, for any information containing at least one felony offense, and may for good cause shown by the state, issue a warrant for a misdemeanor offense.

(NOTE: Good cause may partially be found in §7-2-102(b)(iii) that specifies when an officer may arrest. i.e. When a suspect will not be apprehended, may cause injury to self or others or cause damage to property, or may destroy or conceal evidence of the commission of a misdemeanor. The county attorney is free to express other reasons, such as, warrants already exist for the defendant or there is no known address for the defendant.)