

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING**

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**JUDGE ALAN B. JOHNSON  
COURT PROCEDURES**

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July 10, 2013

The accompanying procedures are to be used in conjunction with the Local Rules for the United States District Court for the District of Wyoming and are not a substitute for them, except where noted. The Local Rules, both Civil and Criminal, for this District may be obtained on the Court's website at <http://www.wyd.uscourts.gov>. Strict compliance with the Local Rules is required.

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## COURT PROCEDURES

### 1. Contact with Court Personnel

- A. The Court expects that the parties will file documents through the District Court's Case Management/Electronic Case Filing ("CM/ECF") System. Information about the status of documents, entry of orders, or docket entries should be obtained from the CM/ECF or Pacer Systems or, if absolutely necessary, Judge Johnson's Judicial Assistant, Sarah Williamson, at (307) 433-2170 or [Sarah.Williamson@wyd.uscourts.gov](mailto:Sarah.Williamson@wyd.uscourts.gov), or Judge Johnson's Courtroom Deputy, at (307) 433-2120, may be contacted. Inquiries as to the status of the case or pending motions should **not** be made to the Court's Judicial Assistant or Law Clerks. At the Court's discretion, Law Clerks may contact counsel; however, they will not discuss matters other than the subject of the call.
- B. Casual telephone inquiries should not be made about motions and case status. Inquiries regarding motions, status of the case, and like matters should be by letter or writing delivered to Chambers, unless time does not permit. Do not address substantive issues in letter form as they will not be docketed or included in any appellate record. Copies of urgent documents (including letters) or documents that require prompt attention by the Court may be sent or hand-delivered to Chambers (See **Emergencies**, § 2 below) or may be emailed to Chambers and counsel prior to and in the same manner as the document is transmitted to Chambers. Documents may not be faxed without the express prior permission of the Court.
- C. Case related correspondence to the Court should be addressed to:
- Chambers of the Honorable Alan B. Johnson  
United States District Court for the District of Wyoming  
2120 Capitol Avenue, Room 2018  
Cheyenne, Wyoming 82001  
Or by email:  
[wyojudgeabj@wyd.uscourts.gov](mailto:wyojudgeabj@wyd.uscourts.gov)

## 2. Emergencies

- A. Applications for restraining orders or for immediate relief shall be filed electronically through the CM/ECF system and all related communications with the Court must be submitted to Chambers contemporaneously. Such applications shall be presented to the Court following counsel's affirmation that the opposing party has been contacted and that both parties can be available for an in-chambers conference with the Court or accompanied by an explanation why such contact is not legally required. *Ex parte* applications for restraining orders will **not** be entertained unless the requirements of Fed. R. Civ. P. Rule 65(b) have been satisfied.
- B. Motions for extension of deadlines or cut-off dates are **not** emergencies.

## 3. Continuances

- A. Agreements or joint motions among counsel for continuances are not binding on the Court. Motions for continuances will be granted only at the Court's discretion.
- B. To the extent possible, bona fide vacation requests will be respected if they are made well in advance of a trial setting.
- C. As a general rule, a trial will **not** be continued because of the unavailability of a witness. Counsel are expected to anticipate such possibilities and should be prepared to present testimony by written deposition, videotaped deposition or by stipulation.

## 4. Appearances

- A. An attorney or *pro se party* who appears at a hearing or conference shall:
  - (1) be familiar with the case;
  - (2) have authority to bind the client, and
  - (3) be in charge for that appearance.
- B. Counsel wishing to appear at a conference or hearing by telephone must contact Chambers to obtain permission and make arrangements for telephone participation as far in advance of the conference or hearing as reasonably possible. If the Court agrees to participation by telephone conference call, the requesting party is

responsible for making all arrangements providing for all parties' participation. Conference calls shall be made to Judge Johnson's main chambers number, (307) 433-2170, at the scheduled time. Parties must call in on a single line. It is preferred that parties use a land line and do not use cellular or speaker telephones. Additionally, telephonic appearances are disfavored in evidentiary hearings.

- C. Counsel must notify Chambers **immediately** of the resolution of any matter that is set for trial or hearing.
- D. Failure to appear when notified of a setting may subject the attorney and/or his or her client to sanctions, including dismissal for lack of prosecution and/or other appropriate order or judgment.
- E. Counsel seeking to appear *pro hac vice* must satisfy promptly and fully all provisions of Local Rule 83.12.2. Counsel admitted to appear *pro hac vice* must fully familiarize him/herself with the provisions of the Local Rules of this District as well as these Court Procedures.

## 5. Time

Unless otherwise specified by the Court, time shall be computed in accordance with Rule 6 of the Federal Rules of Civil Procedure and Rule 6.1 of the Local Rules of this Court. Whenever a period is stated in days or a longer unit of time, the day of the event that triggers the event is excluded; every day, including intermediate Saturdays, Sundays, and legal holidays is counted; and includes the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday. Where the Court has determined that business days shall be used to calculate time, it will be specifically stated in the pertinent order or other document from the Court. The parties should also refer to Fed. R. Civ. P. 6 for further provisions regarding calculations of time.

## 6. Motion Practice -- CIVIL AND CRIMINAL

- A. The Court follows the written motion practice described in the Local Rules and as further outlined in this Court's "Memorandum and Order Regarding Discovery Motions and Dispositive Motions, including Motions for Summary Judgment and Analogous Motions to Dismiss in Civil Cases" (see Appendix B, included in these Court Procedures). Because most motions will be ruled upon the parties' written

submissions, without oral argument or hearing, brief, clear and concise moving papers are important. Motions and responses will be considered by the Court after the submission date.

- B. Counsel may request oral hearing or argument if he or she believes an oral hearing would assist the Court. Chambers will notify counsel if the Court determines that an oral hearing would be beneficial.
- C. Counsel must make serious and timely efforts to confer with opposing counsel on all non-dispositive motions in an effort to reach agreement on the relief sought by the movant. Pursuant to Local Rule 7.1(b)(A), counsel for the moving party shall set forth in writing all good faith efforts undertaken to resolve the dispute. The Court will not consider the motion where this information has not been provided. Counsel who repeatedly fail to return phone calls or other efforts relating to the conference requirement will be required to explain this behavior to the Court. In extreme cases, sanctions may be imposed.
- D. All motions, pleadings and other communications to the Court (other than *ex parte* communications permitted by law) must be served on all other parties to the case.
- E. All written submissions filed in a case must also comply with the provisions of Rule 5.2 of the Federal Rules of Civil Procedure and Local Rule 8.2, entitled “Exclusion of Certain Personal Data from Pleadings.” Unless otherwise identified by the Court, to protect personal privacy and other legitimate interests, parties shall refrain from including or shall redact from their pleadings and exhibits thereto:
  - Social Security Numbers and Taxpayer Identification Numbers. (If an individual’s social security number or a taxpayer identification number must be included, only the last 4 digits of the number should be used.)
  - Names of Minor Children. (If the involvement of a minor child must be mentioned, only the initials of that child should be used.)
  - Dates of Birth. (If an individual’s date of birth must be included, only the year of birth should be used.)
  - Financial Account Numbers. (If a financial account number is relevant, only the last 4 digits of such numbers should be used.)



- Home addresses. (If a home address must be included, only the city and state should be used.)
- F. All motions except motions pursuant to Fed. R. Civ. P. Rule 12(b)(6) and Rule 56 must include a separate proposed order granting or denying the relief requested. All motions filed pursuant to Fed. R. Civ. P. Rule 12(b)(6) or Rule 56 must specifically include separate proposed findings of fact and conclusions of law.
- G. Most discovery disputes, especially those dealing with: (1) scheduling; (2) the number, length, or form of oral or written questions; (3) the responsiveness of answers to oral or written questions; and (4) the mechanics of document production, including protective orders and the proper method of raising claims of privilege, should be resolved by counsel without the intervention of the Court. Any party wishing to make a discovery motion should arrange for an informal conference with the Court before submission of any motion papers.

No written discovery motions shall be filed without the prior approval of the Court. A party with a discovery dispute must first confer with the opposing party in a good faith effort to resolve by agreement the issues in dispute. If that good faith effort is unsuccessful, the moving party shall then contact Chambers by telephone to request an informal telephone conference with the Court. This request carries with it a professional representation by the lawyer that the duty to meet and confer has been satisfied and that a good faith effort to resolve the dispute without Court intervention has been made. If the Court requests, the parties shall supply the Court with the particular discovery materials (such as objectionable answers to interrogatories) that are needed to understand the dispute. To the extent possible, the Court will dispose of discovery disputes at the informal conference. If the Court's informal attempts to resolve discovery disputes are unsuccessful, the Court may determine that a written motion and further briefing are necessary. The issues to be addressed and a briefing schedule will be set during the informal conference, if possible.

If the relief sought is against a non-party to the litigation, that relief may be sought by motion, including by way of example motions to quash third party subpoenas.

- H. Motions for extensions of discovery must be filed far enough in advance of the deadline to enable opposing counsel to respond before the deadline.

- I. Excessive filing of a large number of motions or filing voluminous paperwork may be considered by the Court as having been done for the purposes of delay or harassment and may result in sanctions.
- J. **IN CRIMINAL CASES**, the Court generally adheres to Rule 47.1 of the Local Criminal Rules for the District of Wyoming. Motion filing deadlines are, in most cases, set out in the Order entered following a defendant's arraignment. This deadline will not be extended without further order of the Court. Where a motion has been filed in a criminal case, responses in opposition must be filed within 10 days after the motion has been filed and served. Failure to file a timely response in opposition to the motion may be deemed by the Court in its discretion to be a confession of the motion. In criminal cases, reply briefs shall be filed within 5 days after service of the response brief and should be filed at least 5 days prior to the date set for hearing on the motion. The Court's objective in establishing these deadlines is to avoid eleventh hour submissions prior to a scheduled hearing which cannot be properly considered or thoroughly reviewed by the Court and opposing counsel prior to the hearing.

## **7. Briefs/Memoranda of Law**

- A. The Court requires concise, pertinent, and well-organized briefs and memoranda of law.
- B. Each non-dispositive motion, and memorandum or brief, as well as briefs in opposition to non-dispositive motions filed in this Court shall be limited to 10 pages. Motions seeking permission to file briefs containing more than 10 pages will be granted only when complex or numerous legal issues justify such relief and counsel shall state how many pages the brief will contain.
- C. Absent leave of court, dispositive motions and briefs or memoranda of law, and briefs in opposition, shall be limited to a maximum of 25 pages. Motions seeking permission to file briefs containing more than 25 pages will be granted only when complex or numerous legal issues justify such relief and must also state how many pages the over-length brief will contain. It is always preferable that requests to file over-length briefs be made before the due date rather than on the date that the submission is due.

- D. The parties shall not file reply briefs for any matter that has been set for hearing, unless otherwise allowed by the Court. If counsel anticipates the need for a hearing, a request for hearing should be filed as soon as possible. Where reply briefs are permitted, they must be filed within 7 days after service of the response brief in a **civil** case and within 5 days after service of the response brief in a **criminal** case. Reply briefs in all cases should be limited to no more than 10 pages.
- E. All briefs and memoranda must contain:
- (1) A short statement of the nature and stage of the proceeding;
  - (2) A statement of the issues to be ruled upon by the court, and a short statement, supported by authority of the standard of review for each issue;
  - (3) A short summary of the arguments under appropriate headings succinctly setting forth separate points;
  - (4) A short conclusion stating the precise relief sought;
  - (5) Proposed orders or findings of fact and conclusions of law, as appropriate.
- F. All briefs containing more than 15 pages of argument must contain, in addition to the foregoing, the following items:
- (6) A table of contents setting forth the page number of each section, including all headings designated in the body of the brief or memorandum;
  - (7) A table of citations of cases, statutes, rules, textbooks and other authorities, alphabetically arranged.
- G. All exhibits (contracts, leases, affidavits, etc.) referred to in briefs must be attached to the brief.
- H. Any brief, memorandum, or motion that cites authorities not found in the United States Code, United States Supreme Court Reporter, Federal Reporter, Federal Supplement, Pacific Reporter, or Wyoming Statutes should append copies of the relevant authorities and complete copies of cases. Unpublished opinions should also be included.

- I. Copies of any affidavits, deposition testimony excerpts, or other discovery documentation referred to in the briefs should also be appended. Citations to deposition or affidavit testimony must include the appropriate page or paragraph numbers. Citations to other materials with three or more pages must include some sort of pinpoint identification (section number, page number, Bates stamp number, etc.). Each appendix should contain a paginated table of contents and may be tabbed to locate easily the materials contained in the appendix.
- J. All documents filed containing more than 20 pages are required to be sent to Chambers the day of filing. Any document over 50 pages should be hole punched and bound and tabbed in a binder type notebook. Double sided printing for courtesy copies is recommended.
- K. If a motion hearing is scheduled and a pleading is filed within 5 days of the scheduled hearing, counsel shall deliver a courtesy copy to chambers.

## **8. Initial Pretrial Conferences and Scheduling Orders**

- A. Refer to Fed. R. Civ. P. 16, 26 and 26(f); Local Rules 16.1 and 26.1. Prior to the date set by the Court for an Initial Pretrial Conference before the Court, the parties must file a “Joint Report of Meeting and Proposed Joint Discovery/Case Management Plan” in the form provided (Appendix A to these Court Procedures) at least 7 days before the date scheduled for the Initial Pretrial Conference. At the Initial Pretrial Conference, the parties shall be prepared to discuss deadlines and shall be able to commit to settings for trial. Following the Initial Pretrial Conference, the Court will enter its separate Initial Pretrial Conference Order, which will govern all deadlines and settings and will control the subsequent course of the case. This Order shall not be modified except by Order of the Court for good cause. If new parties are joined subsequent to entry of the Order, the party causing such joinder shall provide copies of all orders previously entered in the case, along with the Initial Pretrial Conference Order and the Court’s Procedures manual to all new parties.

## **9. Required Pretrial Materials**

- A. Joint Final Pretrial Memorandum

The parties shall file a Joint Final Pretrial Memorandum, which shall address each of the items identified in the form provided in Appendix C, included in this Court's Procedures. During their preparation of this Joint Final Pretrial Memorandum, the parties should have considered all applicable items identified in Appendix A of the Local Rules for the United States District Court for the District of Wyoming, entitled "Pretrial Notice and Check List." The Joint Final Pretrial Memorandum shall be filed no later than 30 days before the Final Pretrial Conference.

B. Exchange of Exhibits

The parties shall exchange exhibits prior to the date of the Final Pretrial Conference. See Appendix C and D included with this Court's Procedures for further information regarding exhibits.

Counsel for the plaintiff is responsible for ensuring that the Joint Final Pretrial Memorandum is filed on time. The defendant is responsible for supplying the plaintiff with a final version of the Joint Final Pretrial Memorandum at least 3 business days before the Joint Final Pretrial Memorandum is due. The Joint Final Pretrial Memorandum must be signed by all counsel.

If the plaintiff fails to file the Joint Final Pretrial Memorandum, then the defendant is responsible for filing the defendant's portions of the Joint Final Pretrial Memorandum. Failure to timely file a Joint Final Pretrial Memorandum may subject counsel and his or her client to sanctions, including dismissal for want of prosecution and/or other appropriate consequence, as determined by the Court.

C. Motions in Limine shall be filed contemporaneously with the Joint Final Pretrial Memorandum.

## **10. Final Pretrial Conference**

- A. The Court will enter an Order on Final Pretrial Conference following conclusion of the Final Pretrial Conference, generally in the form set out in Appendix D of these Court Procedures. After that Order has been signed by the Court, it will control the course of the trial and may not be amended except by consent of the parties and the Court, or by Order of the Court to prevent manifest injustice. Pleadings will be deemed merged therein. In the event of any ambiguity in any provision of the Order

on Final Pretrial Conference, reference may be made to the record of the conference to the extent reported by stenographic notes, and to the pleadings.

B. Required Documents for Trial and Evidentiary Hearings

- Exhibit Lists. Copies of any exhibits not previously produced shall be made available no later than the date that the Joint Final Pretrial Memorandum is filed.
- Witness Lists for all witnesses.
- Designations of deposition excerpts for witnesses being called by deposition. A copy of each deposition excerpt must be provided to the Court.
- Objections, if any, to an opponent's exhibits must be filed at least 7 business days before trial with copies of the disputed exhibit and authority. Any party requiring authentication of an exhibit must notify the offering party in writing within 7 business days after the exhibit is made available to opposing counsel. Failure to object is an admission of authenticity.

C. For all trials, the parties shall file motions in limine contemporaneously with the Joint Final Pretrial Memorandum.

D. Proposed Jury Instructions, verdict forms, and suggested voir dire questions shall be filed 7 business days before the commencement of trial. Parties need not file stock instructions. However, if the parties desire instructions that differ from the stock instructions, they should offer them with their proposed substantive instructions. Requests for instructions are to include one set with authority and one additional set ready for submission to the jury; no signature block on the bottom of each instruction is necessary. Proposed Jury Instructions, Special Verdict forms and proposed voir dire shall be submitted in writing and filed, as usual, and also sent as an attachment via email directly to Judge Johnson's Chambers, [wyojudgebj@wyd.uscourts.gov](mailto:wyojudgebj@wyd.uscourts.gov), formatted for Wordperfect or Word.

E. For non-jury trials, the parties may submit proposed Findings of Fact and Conclusions of Law 30 calendar days after the trial transcript has been made available. Counsel are strongly encouraged to include specific references to testimony and exhibits which support each proposed Finding of Fact. Conclusions of Law should contain citations of legal authority supporting the conclusions. Proposed Findings of Fact and Conclusions of Law should, at a minimum, address the following: (1) the *prima facie* elements of each cause of action and defense

asserted, (2) legal definitions, (3) components of damages, and (4) methods of calculation of damages.

## **11. Trial Settings; Plea Agreements**

- A. Trial dates are set in this Court's Order on Initial Pretrial Conference and pretrial scheduling order. Some settings may be stacked settings. Chambers personnel, the Courtroom Deputy, and personnel in the Clerk of Court's office cannot definitively ascertain when a case will be reached. Any predictions that counsel may be given are at best "educated guesses" and are not binding on the Court. Occasionally, the Court may reschedule a trial date within the first few days after it has been set initially, if counsel become aware of scheduling difficulties among themselves, their clients, or witnesses. If no such communication is promptly received by the Court, continuances of trial dates are disfavored.
- B. Final Pretrial Conferences will usually be held approximately 4 weeks prior to the scheduled trial date and a separate Order on Final Pretrial Conference will be entered thereafter.
- C. **IN CRIMINAL CASES**, counsel must notify the Court of any plea agreement that will obviate the need for trial **at least 5 days prior to trial**. Lack of diligence in securing a timely plea agreement may result in the imposition of costs.

## **12. Exhibits**

- A. All exhibits must be marked and exchanged among counsel before trial, and preferably before the Final Pretrial Conference. The offering party must mark his or her own exhibits with the party's name, case number, and exhibit number or letter. Plaintiffs should mark exhibits with numerals; defendants shall mark exhibits with letters.
- B. The parties are also requested to confer after exchanging exhibits to determine whether they have included duplicate exhibits. The Court has a preference that duplicate exhibits not be admitted for the plaintiff and the defendant. At the Final Pretrial Conference, parties may also want to discuss the possibility of using joint exhibits or other proposals for avoiding duplication of exhibits.

- C. Counsel for each party shall provide the Court with two copies of that party's exhibits in a properly tabbed and indexed notebook. One copy will be placed on or near the witness stand to be readily available for witnesses testifying during trial. At the Final Pretrial Conference, as an alternative, the parties may wish to discuss use of electronic exhibits during trial. If electronic exhibits are used during trial, two identical DVDs or thumb drives (for example) containing a party's exhibits should be provided, one for the Court and another for the Court Reporter.
- D. Counsel may not pass exhibits to the jury during trial without obtaining permission in advance from the Court and first showing the exhibit to opposing counsel.
- E. All admitted exhibits will go to the jury during its deliberations.
- F. Counsel should also become familiar with Local Rule 79.2 and Local Criminal Rule 61.4 regarding disposition of exhibits during and following trial.
- G. Counsel should also feel free to raise any questions or issues regarding exhibits at the Final Pretrial Conference.

### **13. Equipment**

- A. There is some equipment available in the courtroom, including projection, ELMO, sound and video equipment, and easels with writing pads. Counsel are invited to use that equipment during trial. Training and familiarization sessions should be set up before trial by contacting the Courtroom Deputy to make acceptable arrangements for such a session. Counsel may also use their own equipment, but arrangements should be made with the Courtroom Deputy for doing so before trial.
- B. The Official Court Reporter is capable of providing Real Time Transcription. However, parties requesting Real Time Transcription must contact the Court Reporter at least three weeks prior to trial to make acceptable arrangements. The Official Court Reporter's contact information may be obtained by contacting Chambers.



## 14. Courtroom Procedures

- A. The Court's hours during trial will vary depending upon the type of case and the needs of parties, counsel, witnesses, and the Court. Court will usually convene at 9:30 a.m. and adjourn near 5:00 p.m., with a mid-day lunch recess. Court hours may also vary during trial due to other civil and criminal matters that must be heard during that time. Hours are subject to change.
- B. Counsel needing access to the courtroom to set up equipment or exhibits outside of normal business hours must arrange in advance with the Courtroom Deputy to have the courtroom open.
- C. Telephone messages for counsel generally will not be taken by the judge's staff and counsel shall generally refrain from requesting use of telephones in chambers. Counsel should be familiar with Local Rule 83.4.1 and are also advised to review the Wyoming Federal District Court General Order Regarding Wireless Communication Devices, Administrative General Order 2011-04, available online at <http://www.wyd.uscourts.gov/pdfforms/generalorder.pdf#2011-04>.
- D. Handing documents to the Courtroom Deputy does not constitute the filing of documents. All original documents must be filed in the Clerk of Court's office or filed electronically. Two copies of documents filed immediately before and during trial should be submitted to the Courtroom Deputy.
- E. Counsel and parties must comply with Local Rule 43.3 and Local Criminal Rule 53.1 regarding courtroom behavior and decorum.
- F. Counsel should enter and leave the courtroom only by the front doors and not through the Court's entrance or the side entrances.
- G. No food or beverages other than water are allowed in the Courtroom, unless otherwise specifically permitted by the Court.
- H. Seating for counsel and their clients is indicated by signs provided by the Court identifying each counsel table as either "Plaintiff" or "Defendant."
- I. Counsel should also adhere to the requirements of Local Rule 43.2 regarding exclusion of witnesses. Counsel are responsible for monitoring their witnesses at all

times to ensure a witness is not present in the Courtroom at any time that the witness is subject to exclusion.

- J. Counsel are responsible for summoning witnesses into the courtroom and instructing them on proper courtroom decorum. Counsel should bear in mind the Court's general hours and arrange for witnesses accordingly. The Court encourages discussions between counsel to make cooperative arrangements for appearance of witnesses out of order or as may be necessary to facilitate a witness's appearance at trial.
- K. Counsel must stand at the podium during opening statements and closing arguments and during questioning of witnesses. At all times during trial, counsel should take care to speak clearly into the microphones to ensure an accurate record of the proceedings.
- L. Counsel must make every effort to elicit from the witnesses only information relevant to the issues in the case and to avoid cumulative testimony.
- M. While the jury is deliberating, counsel shall be available within 15 minutes for jury notes or a verdict, unless otherwise ordered by the Court. Counsel should provide a telephone number to the Courtroom Deputy so counsel may be advised that their presence in Court is immediately required.

## **15. Voir Dire**

The Court will conduct a preliminary examination of the jury panel, following any necessary qualification of the jury panel. Generally, the Court will permit approximately 15 minutes to counsel on each side to examine the jury panel following the Court's examination. The amount of time allowed may vary depending on the case. Proposed voir dire questions must be submitted to the Court prior to the trial, as set forth in the pertinent pretrial scheduling orders.

## **16. Depositions**

- A. The Court will accept the parties' agreement to use a deposition at trial even though the witness is available. Otherwise, counsel should follow Fed. R. Civ. P. 32.
- B. Before trial, counsel must provide the Courtroom Deputy with a copy of any

deposition to be used at trial.

- C. Counsel must designate the portion of any deposition to be read by citing the pages and lines in the Joint Final Pretrial Memorandum. Objections to those portions (citing pages and lines) with supporting authority must be filed at least 7 business days before trial or as otherwise provided in any pretrial scheduling order.
- D. Use of videotaped depositions may be permitted, if edited to resolve all objections and incorporate the Court's rulings on objections.
- E. In a non-jury trial, counsel shall offer the entire deposition as a trial exhibit and are requested to attach to the front of the deposition exhibit a summary of what each party intends to prove by such testimony. If specific portions of the deposition are to be offered, counsel shall highlight or attach to the front of the deposition exhibit a list of those portions, citing line and page numbers.

#### **17. Settlements and Orders of Dismissal.**

- A. Counsel shall immediately notify the Court's Judicial Assistant or other Chambers Staff at (307) 433-2170 of a settlement of any matter set for conference, hearing or trial. If a motion (other than a motion seeking dismissal following settlement) has been resolved upon agreement of the parties, the Court will then deny the motion as moot.
- B. Announcement of a settlement must be followed by closing papers or pleadings necessary to terminate the action within 30 days, unless otherwise provided by the Court because the settlement cannot be completed within the allotted time or other good reason. Where failure to perfect a settlement has not been accomplished in a timely manner, the Court may order the action restored to the Court's active docket and set the case for trial.
- C. Any defendant upon whom service has not been perfected within 120 days after the complaint is filed will be dismissed for want of prosecution in accordance with Fed. R. Civ. P. 4(m).
- D. The parties and counsel should also be familiar with Local Rule 41.1, providing for dismissal for lack of prosecution in a languishing case. Where no action has been

taken in any case by a party for 3 months or the case has not come to issue by that time, the Clerk of Court will be directed to notify counsel of record or the parties whose addresses are known, and all *pro se* litigants, by certified mail return receipt requested, that the case shall be dismissed for lack of prosecution 30 days from the date of that notice. If no action is taken within that 30 day period after notice has been given, the Court may in its discretion enter the order of dismissal without further notice or hearing. The Order shall be mailed to all counsel of record or to the parties.