

QUESTIONNAIRE FOR JUDGE'S BENCH BOOK

JUDGE: Deno Himonas – Third District Court

1. Discovery

Q: What is your practice with respect to setting an initial case schedule? Modifying it once set?

A: *Scheduling conferences are needed and used in my court. I will schedule a conference, either in person or telephonic, at the request of a party. I require that scheduling orders comply with the applicable rule(s).*

Q: Has your district adopted any local rules with respect to resolving discovery disputes?

A: *The rules for the third district are now uniform across the state (U.C.R.P.)*

Q: What is your practice regarding discovery disputes? How do you handle status and scheduling matters for discovery issues?

A: *Refer to the rules (civil and criminal procedure) as well as 4502 U.C.R.P.*

Q: What is your approach to granting extraordinary discovery?

A: *Refer to the rules.*

Q: What is your practice regarding sanctions for discovery abuses?

A: *I will impose sanctions in appropriate cases, but I want a hearing before I grant fees.*

Q: Are you generally available to hear disputes that arise during depositions?

A: *Absolutely.*

Q: What insights do you have for litigants with respect to discovery matters in general, especially in light of the November 1, 2011 amendments to the Utah Rules of Civil Procedure?

A: *n/a – refer to the rules of judicial administration*

2. Motions

Q: Do you prefer that counsel provide copies of the cited authorities prior to a hearing? What about unpublished cases?

A: *Yes, including unpublished cases.*

Q: Do you appreciate courtesy copies of briefs being delivered to your chambers prior to a motion hearing? If so, how far in advance do you want them?

A: *I appreciate courtesy copies of briefs, and I would like them at least two days in advance of the hearing. I also appreciate courtesy copies of the cases/authorities on which the parties rely.*

Q: What is your policy on allowing overlength memoranda? Extensions of the briefing schedule?

A: *I grant them, but I often wonder why counsel felt the need to turn a 10-page brief into a 50-page brief.*

Q: Do you schedule motion hearings automatically upon receipt of notices to submit, or do you prefer or require that counsel call to schedule hearings?

A: *I schedule hearings automatically upon receiving a notice to submit.*

Q: Under what circumstances do you decline to grant a request for oral argument?

A: *I typically grant requests for oral argument but there are exceptions.*

Q: Do you have any recommendations or preferences regarding written advocacy that you would like counsel to be aware of?

A: *A good brief is succinct and its points are supported by solid authority and/or are well-reasoned.*

Q: Do you have any particular guidelines or preferences that you expect counsel to follow at oral argument?

A: *Be a well-prepared and well-tempered advocate.*

Q: Do you have any guidelines or preferences that you expect counsel to follow regarding temporary restraining orders or preliminary injunctions?

A: *Generally speaking, I view each Rule 65A motion as unique. Therefore, I may schedule a multi-day evidentiary hearing; generally, I will set a relatively brief hearing and take evidence by proffer.*

3. Final Pretrial Conference

Q: In your view, what is the purpose of the final pretrial conference?

A: *To ensure that the parties and the court are on task.*

Q: What topics or issues should counsel come prepared to discuss at the final pretrial conference?

A: *Proposed findings and conclusions or jury instructions, witnesses, exhibits, etc.*

Q: What steps do you take, if any, at a final pretrial conference to encourage settlement of the case?

A: *None.*

Q: Do you require clients to be present at final pretrial conferences?

A: *It varies.*

Q: Do you typically hear motions in limine and other trial-related motions at the final pretrial conference, or at another time?

A: *I don't have a real preference. Some motions should be brought well in advance of trial; some don't really make sense until you see/hear them in the context of the evidence.*

Q: Do you appreciate or require pre-trial briefs from counsel?

A: *I appreciate them.*

4. Jury Trials

Jury Selection:

Q: How is voir dire conducted in your courtroom? Do you allow counsel to participate in voir dire? If so, to what extent?

A: *Primarily by me; however, I do allow attorney voir dire.*

Q: When do you require requested voir dire questions to be submitted?

A: *At the final pretrial conference.*

Q: Do you allow or encourage the use of jury questionnaires? If so, by when must jury questionnaires be filed?

A: *Yes, and preferably by the final pretrial conference.*

Jury Instructions:

Q: When do you require instructions to be submitted?

A: *At the final pretrial conference.*

Q: Do you have a set of standard jury instructions that you use? If so, how can counsel obtain a copy?

A: *Yes, and by approaching the court with opposing counsel.*

Q: What form do you prefer requested instructions to take (e.g., do you prefer instructions accompanied by supporting cases, etc.)? Is a citation to MUJI 1st or 2nd sufficient legal authority?

A: *I prefer instructions accompanied by supporting authority, and a citation to MUJI is generally sufficient. I also require a set on disk (preferably in WordPerfect 10). Written and electronic.*

Q: Do you prefer to receive an electronic copy of requested instructions?

A: *Yes.*

Q: When do you prefer to hear disputes over jury instructions?

A: *During the trial.*

Trial Procedure:

Q: What is your preferred trial schedule (e.g., 9 to 5 with an hour for lunch, 8 to 2 with no lunch, etc.)? Are there any set days/times when you schedule other matters and not trial?

A: *It depends on the length of the trial. I prefer 9 to 5 for trials of short duration, and 8 to 2 for longer ones.*

Q: Do you prefer to hear disputes over trial exhibits before trial or during?

A: *It varies.*

Q: What is your practice regarding the use of trial exhibits or demonstratives during opening statements?

A: *It varies.*

Q: What are your preferences with respect to trial exhibits? What are the preferences of your clerks with respect to trial exhibits?

A: *None.*

Q: Do you have any guidelines or preferences regarding the use of technology at trial?

A: *I encourage it.*

Q: What are your preferences and/or procedures related to witness scheduling?

A: *None.*

Q: Do you allow counsel to move freely around the courtroom during trial?

A: *Yes.*

5. Bench Trials

Q: Do you have any particular guidelines or preferences that counsel should be aware of regarding bench trials as opposed to jury trials?

A: *None.*

6. Post-trial Issues

Q: Do you appreciate or require proposed findings of fact and conclusions of law from counsel?

A: *I require them.*

Q: Do you appreciate or require post-trial briefs from counsel?

A: *Typically.*

7. Technology in the Courtroom

Q: To what extent do you allow the use of technology in your courtroom?

A: *I encourage it.*

Q: Do you find the use of any particular type of computer-assisted presentations effective and/or useful?

A: *No.*

Q: Do you find the use of any particular type of computer-assisted presentations unhelpful?

A: *No.*

8. Criminal Matters

Q: How do you handle requests for continuance on pretrials, arraignments or roll calls?

A: *By stipulation or motion.*

Q: When may the issue of bail best be addressed in your courtroom?

A: *At any time as may be appropriate.*

Q: What is your policy, if any, on pleas in abeyance?

A: *n/a*

Q: What information do you want from counsel at the time of sentencing?

A: *It varies, among other items: (1) Criminal history; (2) efforts at self-correcting the behavioral issues; (3) family support; (4) restitution efforts; and (5) mitigating/aggravating circumstances.*

Q: Are private pre-sentence evaluations useful or encouraged?

A: *n/a*

Q: Do you have any standard sentences the bar should be advised about, *i.e.*, DUI sentencings, acceptance of alcohol-related recklessness?

A: *No.*

Q: How should counsel on busy law and motion calendar handle calling a case?

A: *I allow defense counsel to call them as they see fit.*

Q: What advice do you have for prosecutors to be most effective in your courtroom?

A: *Be well prepared and well tempered. Being overly aggressive does not work.*

Q: What advice do you have for defense counsel to be most effective in your courtroom?

A: *Be well prepared and well tempered. Being overly aggressive does not work.*

9. Special Issues for Domestic Cases

Q: Are there any special issues that arise in your courtroom in domestic cases of which you would like the bar to be aware?

A: *None*

Q: What documents do you want filed before appearing on a motion for temporary orders?

A: *These are typically referred to the commissioner in the first instance.*

Q: What documents do you want filed before appearing on a motion for a custody evaluator?

A: *n/a*

Q: What are the special procedures for filing a Motion for an Order to Show Cause?

A: *n/a*

Q: Do you have any preferences for compelling and filing financial declarations? Any practice pointers for counsel as to how you would like these completed or filed?

A: *n/a*

Q: Do you want any type of motion binder delivered? Is this helpful, or does e-filing render these obsolete?

A: *I still prefer courtesy copies.*

Q: Do you appreciate courtesy copies of briefs being delivered to your chambers prior to a motion hearing? If so, how far in advance do you want them, and how do you want them assembled (folder, binders, with or without exhibit tabs, etc.)

A: *Yes, at least two days in advance and in three-ring binders.*

Q: Is there a special way that you would like proposed orders to be filed?

A: *No.*

Q: How should discovery deadlines be handled on petitions to modify, where a schedule is not automatically issued by the court?

A: *n/a*

Q: Do you have a policy on child interviews with respect to custody?

A: *n/a*

10. Courtroom Protocol

Q: Is lack of civility ever a problem in your courtroom? If so, what steps do you take to address it?

A: *Very seldom is lack of civility a problem.*

Q: What are your opinions regarding courtroom dress?

A: *I require lawyers to dress appropriately. I don't care about how the witnesses dress.*

Q: Do you allow children in your courtroom?

A: *Yes.*

Q: What is your courtroom practice with respect to attorney cell phones? Clients? Those in the gallery?

A: *I don't have any problem with cell phones in the courtroom as long as ringers are turned off.*

Q: What, if anything, do you do to enforce promptness in your courtroom?

A: *Promptness has not been a problem.*

11. Comments from Case Managers and Judicial Assistants

Q: The name and phone number of my case manager(s) is:

A: Christine Laterza - 801-238-7026

Q: My case manager wants you to please do these things:

A:

Q: The name and phone number of my judicial assistant(s) is:

A:

Q: My judicial assistant wants you to please do these things:

A:

12: Other items

Q: Do you have a judicial biography that you would like hyperlinked to your bench book? If so, please advise us of the link to this information or provide us with a copy of the same so we may link it to your bench book.

A: *No.*

Q: Do you have any stock jury instructions, verdict forms, or other information you would like hyperlinked to your bench book? If so please advise us to the link to

this information or provide us with copies of the same so we may link it to your bench book.

A: *No.*