QUESTIONNAIRE FOR JUDGE/COMMISSIONER BENCH BOOK

JUDGE/COMMISSIONER: Michael D. DiReda– Second District Court

Date of Bench Book: July 23, 2025

1. Discovery

Q: What is your practice with respect to modifying an initial case schedule under Rule 26?

A: I will defer to counsel on the case to create a Case Management Order ("CMO") that best addresses the complexities of the case.

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

A: No.

Q: What is your practice regarding statements of discovery issues ("SODI") disputes? Do you ordinarily set a telephonic or in-person hearing?

A: I will schedule a SODI for a WEBEX hearing which seems to be the quickest and most efficient way to handle discovery disputes.

Q: What is your approach to protective orders? Do you often use something similar to the federal court standard protective order?

A:

Q: What is your approach to granting extraordinary discovery?

A:

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

A: I intend to enforce the rules and consider the imposition of appropriate sanctions when violations occur as we have been asked to do.

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

A:

Q: What insights do you have for litigants with respect to discovery matters in general?

A: My expectation is that the lawyers will do their very best to follow the rules governing discovery and to work cooperatively to achieve a "just, speedy, and inexpensive" determination of the issues before the court.

2. Motions

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 What about unpublished cases?

A: Yes for both cited authorities and unpublished cases.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: Yes. 1 week in advance.

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

A:

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: At my direction, my judicial assistant will contact counsel to schedule the hearing.

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

A: I am not a judge who typically denies requests for oral arguments, unless the unless the court finds that the motion or opposition to the motion is frivolous or the issue has been authoritatively decided. (See rule 7(h) of the Utah Rules of Civil Procedure).

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

A: I would appreciate it if footnotes were reserved for case citations and not lengthy narrative paragraphs.

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

A: Professionalism and civility.

Q: Do you have any guidelines or preferences that you expect counsel to follow regarding temporary restraining orders or preliminary injunctions? In particular, do you have any preferences regarding the presentation of evidence during these proceedings?

(For example, do you prefer exhibits to be marked in a certain manner, or for counsel to proffer affidavits with the witnesses present for potential cross examination rather than proceeding with direct examination by default?)

A:

3. Final Pretrial Conference

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

A: To confirm the trial and to tie up loose ends (jury instructions, proposed voir dire, motions in limine, etc.)... and make sure that counsel and the court are on the same page as trial approaches.

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

A: See above.

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

A: Depends on the type of case.

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

A: Yes.

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

A: Another time.

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

A: Yes.

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: The court and counsel participate in voir dire.

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

A: 1 week prior to trial.

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

A: Yes. 30 days before trial.

Jury Instructions:

Q: When do you require instructions to be submitted?

A: Jury instructions should be submitted 1 week prior to trial.

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

A: Yes. The court's staff attorney will email the standard instructions to counsel 1-2 weeks prior to trial.

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: If the instruction is disputed then counsel should provide the court with supporting authority. If the instruction is not disputed, no supporting authority is necessary.

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: I will typically handle these disputes during the trial, prior to the jury returning from a recess, as some instructions may become unnecessary depending on the presentation of evidence.

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. Shorter trials (2-3 days) will follow a more traditional schedule (9-5) with an hour break for lunch. Longer trials

will follow a modified schedule (9-3) with a 10 minute mid-morning, a 15-20 minute lunch and a short 10 minute afternoon break.

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

A: Before trial.

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

A: Use of trials exhibits or demonstratives is permissible provided that the exhibit or demonstrative is not in dispute or inadmissible under the rules of evidence.

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

A: They should be pre-marked by counsel.

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

A:

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

A:

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

A: Yes.

Q: What is your preference or practice regarding witnesses appearing remotely at trial?

A: In certain exceptional circumstances, I will consider it. Otherwise, witnesses are expected to appear in person.

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:

6. Post-trial Issues

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

A: No.

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

A: No.

7. Technology in the Courtroom

Q: Do you have recommendations or requirements for counsel who will be participating in a remote hearing? (E.g., use of headphones, providing chambers with physical copies of all exhibits in advance, certain practices to avoid when appearing remotely, etc.)

A:

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

A:

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

A:

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

A:

8. Criminal Matters

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

A:

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

A: At any time, as long as notice is provided to opposing counsel sufficiently in advance of the bail hearing.

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

A:

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

A:

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

A: No.

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

A:

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

A: I call the cases on my law and motion calendar and frequently ask counsel if their cases are ready to be called.

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

A:

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

A:

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:

For Courts without Commissioners:

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

A:

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

A:

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

A:

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

A:

For Courts with Commissioners:

Q: What is your practice with regard to setting hearings on Objections to Commissioners' recommendations?

A:

For all Courts:

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

A:

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. 1 week in advance.

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

A:

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

A: No.

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: No.

Q: What are your opinions regarding courtroom dress?

A:

Q: Do you allow children in your courtroom?

A: No.

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

A: As long as they are on silent and not being used to record, I'm okay with them.

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

A:

11. Comments from Case Managers and Judicial Assistants

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

A:

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, articles, standing orders, checklists, remote hearing protocols, 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.

Q: Is there anything else that you would like attorneys or parties to know about case management or proceedings in your courtroom?

A: