QUESTIONNAIRE FOR JUDGE/COMMISSIONER BENCH BOOK

JUDGE/COMMISSIONER: Michael S. Edwards – Davis County – Farmington Second District Court

Date of Bench Book: July 22, 2025

1. Discovery

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

A: If possible, counsel can work together to modify the case schedule, and file a stipulated modification of the remaining discovery dates. If counsel are unable to resolve these issues, I am open to having a hearing to help resolve the dispute. As a general rule, I want to ensure that all parties have adequate time to complete their discovery.

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

A: Yes. For civil cases, discovery disputes are resolved first by counsel through a meet and confer. If the dispute cannot be resolved in this way, a Statement of Discovery Issues is to be filed. For domestic relations matters, the commissioner assigned to the case typically handles discovery disputes until the case is scheduled for trial. Once a domestic relations case is scheduled for trial, the assigned judge handles any discovery disputes.

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

A: I am conscious of the fact that court appearances are costly for clients in dollars, and for attorneys (and the court) in time. For that reason, I would prefer to handle SODIs via WebEx or a telephone conference. That said, I am open to the input of counsel on what type of hearing is needed. If counsel feel that an in-person hearing is needed, I will work with them to get that done. Sometimes it can take longer to find time for an in-person hearing on the court's calendar.

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

A: I tend to leave the format of discovery-related protective orders to the attorneys handling the case in question. I have noticed that many civil practitioners use the federal court standard protective order, or something similar to it.

Q: What is your approach to granting extraordinary discovery?

A: Though this does not come up very often, my approach would be a practical one. Keeping in mind the purpose of the Rules of Civil Procedure, I would do my best to ensure that all parties are able to conduct the discovery that is needed, while avoiding undue burden on any party, undue delay, as well as any abuse of the discovery rules to gain an unfair advantage.

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

A: I am reluctant to impose sanctions on attorneys, because I start from the presumption that all attorneys are doing their best to handle difficult cases and situations well. With that in mind, I am also aware that if judges do not enforce the discovery rules, and impose sanctions when they are justified, then attorneys (and parties) will be more likely to abuse the discovery process. Thus, I impose sanctions that I think are justified by the facts and the rules, doing my best to tailor them so they are an equitable response to the discovery violation in question.

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

A: I do my best to make myself available to counsel to assist with disputes like this. That said, I am in court a lot, and it can be practically difficult to have these conversations quickly. Counsel are welcome to contact my civil judicial assistant to arrange for these communications, if and when needed.

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

A: I know that if you are considering taking a discovery dispute before me as a judge, you are feeling that there is no other practical way to get relief. I am ready and willing to do my part in ensuring the fair and efficient administration of justice by resolving these disputes, when necessary. I would appreciate it if you work with your opponent(s) to try to resolve these issues without my intervention as much as possible. Please keep in mind that I am just a human being who will do my best to resolve the dispute in a practical, common sense, and fair way. And please provide me with the information I need as succinctly as you can, so I can focus my time on thinking about the best way to resolve the dispute.

2. Motions

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

A: No, for cited authorities. Yes, for 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: No.

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

A: Understanding that a judge should probably never admit this, I tend to grant requests to allow overlength memoranda. In doing so, I am trusting the attorney (or party) who is making the request to do her or his best to provide the facts and legal authorities and arguments to me as succinctly as they can. I am only human, and I actually read the memoranda counsel (or the parties) submit to me for motions. This can take a lot of time! It is one of the most time-consuming facets of this position, and it takes considerable mental energy. Please do your best to present what you need to in a way that is easy to understand, so I can focus my thought on understanding the dispute, and how it should be resolved correctly under the law and the facts of your case.

As for extensions to a briefing schedule, I find that attorneys (or parties) can usually work this out on their own. I rarely need to get involved in this. If I do get involved in a situation, my tendency would be to ensure that everyone has plenty of time to do the work they need to do, while ensuring that no party or attorney is being dilatory.

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: When a request to submit for decision is placed in my efiling queue, I tend to read the initial memorandum in support of the motion in question, to get a feel for the motion. If it is a motion that has not been responded to by the opposing party, or can otherwise be granted summarily, I consider signing the proposed order that has been submitted by the motion's proponent. If the matter is going to require considerable reading and deliberation on my part (and that of my law clerk), I forward the request to submit to my civil judicial assistant in the efiling system, asking her or him to schedule the matter for oral argument. That way I can prepare for the hearing, and if possible, issue a ruling from the bench at the conclusion of oral argument. Of course, if counsel (or an unrepresented party) want to contact my civil judicial assistant to schedule a hearing, rather than waiting for the process I described above to transpire, that is fine too.

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

A: First, I think this is quite unlikely. But I think I would only decline a request for oral argument if I really believed that the matter was straightforward, and that I could rule on the motion without having oral argument. I would be hesitant in most instances to deny a request for oral argument, because due process requires that I give each party an opportunity to be heard on material issues in their case. If that requires a hearing, then that is what we will do.

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

A: I want to say that most attorneys do a very good job of presenting their facts and making their legal arguments in their memoranda. I am also aware that if you are reading the contents of this bench book, you are probably one of these great writers. But my general advice to any attorney or unrepresented party is to remember that the judge who is reading your submission is a very busy person who does not have as much time to read as he would like. So please present the facts, law, and argument as succinctly as you can. Please don't feel the need to repeat a given point multiple times. Please remember to follow the Rules of Civil Procedure for the type of motion you are dealing with. It is a simple point, but I do sometimes see memoranda where these rules are not followed, and I do my best to fairly but firmly enforce the rules. But in general, thank you for the excellent work you do.

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

A: I don't have a lot to write in this area. You can count on the fact that I, and often times, my law clerk, have read your memoranda before you come to oral argument. I have done my best to prepare to engage with you in the oral argument, so I can make the correct legal decision at the conclusion of the hearing (or in writing, if necessary). You don't need to repeat every point in your memoranda. But please do tell me why you think your position on the issue in question is the correct one, and why your opponent is wrong. Especially on more complicated matters, focusing on the most salient points in dispute will be helpful to me.

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: The main point I would make in this area is to be sure you comply with Rule 65A of the Utah Rules of Civil Procedure, including the submission of your proposed order. I find that with the consideration of a Motion for Temporary Restraining Order, counsel (or parties) often do not do this, which causes me to need to spend a lot of time re-writing the proposed order, so it complies with Rule 65A, and so it adequately explains why the motion satisfies each of the elements of the rule (likelihood of prevailing on the merits, etc.). At a preliminary injunction hearing, I would prefer to have counsel proffer their client's position. If an evidentiary hearing is needed, we will need to correspond with the parties via my civil judicial assistant to arrange the appropriate length of hearing for the court to receive the evidence. As with everything else, I want to make the process as expeditious and efficient as possible for everyone, to save the parties and their attorneys time, money, and stress.

3. Final Pretrial Conference

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

A: The purpose of the final pretrial conference is to schedule trial dates, as well as any other hearing dates that are needed leading-up to trial. It is also a time for me to work with the attorneys, to ensure that we have a good plan for the trial, what needs to be done before it, and how the trial process will play-out.

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

A: Trial dates, pretrial motions that need to be argued and decided (if known), number of jurors needed (if it is a jury trial), jury instruction issues, etc.

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

A: I ensure that the parties have attempted some form of alternative dispute resolution before we schedule the trial. I also encourage them to continue settlement efforts leading-up to trial. We also offer judicial settlement conferences to help parties make one last attempt at settlement. I do not require these, but I leave it to counsel to decide if a judicial settlement conference might be helpful to them and their clients in getting the case settled.

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

A: No.

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: I have the basic voir dire questions I ask of the jury in civil cases. I am open to counsel asking additional voir dire questions. Optimally, to avoid issues, it is best to know what these questions will be in advance, so the other party can object if they choose to do so. I am willing to present the questions to the potential jurors, or counsel can do so. I am open to either option.

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

A: I prefer for them to be submitted in advance, so the opposing party can object to them if needed. It also helps to be able to discuss this the morning of jury selection with counsel, to ensure the process goes smoothly, and to avoid having objections to voir dire questions in the presence of the jury panel.

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

A: Yes. In the Second District, we have a standard civil jury questionnaire. If that is sufficient, we would prefer to just use that. If something different is needed, counsel will need to work with my civil judicial assistant, my law clerk, and/or the jury coordinator to ensure that the "custom" questionnaire gets submitted to the jury pool for that case. There is no set time in place for this. This is an issue we would coordinate at the final pretrial conference.

Jury Instructions:

Q: When do you require instructions to be submitted?

A: If possible, I prefer that counsel submit a stipulated set of jury instructions well before the trial. If there are some instructions that cannot be stipulated to, they are to be brought to the court's attention well in advance

of trial, so the court can rule on which proposed instruction (or other instruction) will be used.

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

A: Yes. You can communicate with my law clerk and/or my civil judicial assistant to obtain a copy of a set of jury instructions for a case that is similar to yours.

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 parties are stipulating to instructions, I don't need or want citations. If instructions are disputed, then citations, including to case law and/or MUJI is expected and appreciated.

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: This depends on the complexity of the disputes. If there are a lot of disputed instructions, and a lot of time will be needed for the court to hear argument on the instructions and rule on which instructions will be given, this is the sort of thing that should be taken care of via a pretrial hearing. On the other hand, if there are relatively few disputed instructions, and/or if argument and decision will not take much time, I am fine with taking care of them on the day of or 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: For jury trials, I prefer to start at 8:30 am on the first day of trial with jury selection. From then on, the trial goes from 8:30 am to around noon, when we break for lunch. We then resume at 1:00 or 1:30 pm, depending on the preference of counsel, the parties, and the jurors. Trial then continues until around 5 pm, until the trial is concluded.

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: I would prefer that counsel reach an agreement on this issue before the trial begins. What I do not want is for counsel to be repeatedly interrupting each-other with objections over the use of these things. In other words, if this is going to be a contested issue in your trial, we need to discuss it before the trial at a motion hearing.

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

A: Hard copies of your trial exhibit binders need to be provided to the Farmington Court Clerk's office one-week prior to the beginning of your jury trial. If your exhibits are more than about 10 pages, they need to be Bates stamped. I prefer that the attorneys (or parties) reach stipulations on the admissibility of as many exhibits as possible. This saves time at trial. As needed, I will rule on the admissibility of trial exhibits.

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

A: Yes. Our courtroom has HDMI connections at each counsel table for connecting your computer to our video exhibit display system. We have a large portable monitor in the courtroom for the jury, a monitor at each counsel table, a monitor at the judge and clerk stations, and a monitor on the witness stand. You are welcome to use them as needed throughout the trial to present your evidence.

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

A: I expect counsel to work with each-other to present your witnesses on a mutually agreed upon schedule. I appreciate it when attorneys accommodate each-other in allowing witnesses to appear out of order, if necessary, because of the witness' schedule.

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: We have the SYNAP system in our courtroom, which allows for a witness to testify remotely, be visible on the court monitors, and be heard through the courtroom's audio system. If counsel want to present witnesses remotely, I am open to that.

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: As with the jury trials, I ask that you have your exhibit binders provided to the court at least one week before the first day of trial, and that your exhibits are Bates stamped. I do not require trial briefs, but I welcome them with bench trials, as I am the fact finder and the decision maker in these situations. Any assistance I can have in doing my job better is appreciated.

6. Post-trial Issues

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

A: Yes.

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: I think most attorneys are good at this now. Avoiding places where there is background noise is helpful. Muting yourself when it isn't time to speak also avoids unnecessary background noise. If we are doing a bench trial remotely (we don't do jury trials remotely in Second District), I still require that the physical copies of your exhibits are filed with the court one-week before the first day of your trial, and that the exhibits are Bates stamped.

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

A: Counsel are welcome to use all of the technology we have available in the courtroom. You are also welcome to bring your own technology, as needed.

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

A: I don't have any opinion on this subject. I would prefer that counsel use what works best for them, so they can present well in court.

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

A: I don't have an opinion on this subject.

8. Criminal Matters

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

A: If counsel stipulate to a continuance, they can either file a stipulated motion and order with the court, or they can email my criminal judicial assistant, informing her or him of the stipulation to continue the hearing, including the opposing attorney or party on the email. My judicial assistant will then work with counsel to reschedule the hearing.

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

A: The issue of bail can be addressed as allowed by the bail statute for the initial bail determination. This is sometimes done on the first appearance calendar, but it can be delayed until the case comes to my felony law and motion calendar. After the initial determination is made, the issue can be raised only with notice to the opposing party, and a change must be stipulated to, or based on a substantial change in circumstances. See Utah Code Sections 77-20-205 & 77-20-207.

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

A: I simply follow the state statutes in this regard. If a particular charge is not legally prohibited from being held in abeyance, and the parties agree to a plea in abeyance, I will generally approve such an agreement.

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

A: Any information counsel (or an unrepresented party) feels will assist me in imposing a sentence and/or probationary conditions that are in keeping with the law, and will best help the defendant in question rehabilitate themselves.

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

A: Yes.

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

A: I don't know of anything I do in this way that is unusual. I simply do my best to ensure that the sentence I impose is lawful under our statutes in each case.

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

A: If possible, approach the lectern and tell the court your client's name (or your name, if you are self-representing), and the calendar number of your case. If you do not know the calendar number, that is fine. Just tell us the name of the person who is there for court.

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

A: I do not feel that I need to give any input on this issue. The attorneys I have worked with in my court have done excellent work.

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

A: As with the prosecutors, I do not have input to provide on this issue. The attorneys I have worked with in my court have done excellent 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:

For Courts without Commissioners:

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

A: Motions for Temporary Orders are considered by our domestic relations commissioners. Their rules and procedures should be followed for these motions. I believe the commissioners in Second District follow the Rules of Civil Procedure in this regard.

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

A: Motions for Temporary Orders are considered by our domestic relations commissioners. Their rules and procedures should be followed for these

motions. I believe the commissioners in Second District follow the Rules of Civil Procedure in this regard.

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

A: Motions for Temporary Orders are considered by our domestic relations commissioners. Their rules and procedures should be followed for these motions. I believe the commissioners in Second District follow the Rules of Civil Procedure in this regard.

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: The only things I would mention about financial declarations is to ensure they are complete, and that they do as good a job as possible about differentiating between marital expenses and current expenses, if alimony is at issue in your case. One of the trickiest things district court judges have to do on the issue of alimony is to make adequate findings of fact as to how much money it will take the party in question to live as close as possible to the standard of living they enjoyed during the marriage. Any facts and/or evidence you can provide that will help us make that determination fairly and accurately is appreciated.

For Courts with Commissioners:

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

A: Once the objection has been fully briefed by the parties and/or counsel, they can contact my civil judicial assistant to schedule an objection hearing. At the objection hearing, I would prefer to resolve the objection based on counsel's proffer. If I will need to receive evidence, rather than resolving the issue(s) based upon counsel's proffer, please be sure to schedule adequate time for the court to receive evidence.

For all Courts:

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

A: I do not need a binder with motions or memoranda in support of motions filed. If there is evidence and/or exhibits I need to receive, then those need to be submitted to the court, Bates stamped, one week prior to the hearing.

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: No.

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

A: I just ask that you file them when and as required by the Rules of Civil Procedure. Of course, it is preferable that they are "approved as to form" by the opposing attorney or party. That expedites the signing of orders, and I always do my best to sign orders in a timely manner (meaning as soon as possible after they are in my efiling queue).

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

A: Yes. I have a strong preference against interviewing minor children in child custody cases. I do not think it is best to put the children in this situation unless it is necessary. In the end, I do my best to follow Utah Code Section 81-9-204(5) in this regard. If counsel think that this will be necessary in your case, please bring it to my attention before the trial, so I can make a decision about this, and the parties can proceed according to my ruling.

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: Yes. I do my best to address issues with civility by calmly asking the parties and/or counsel to behave civilly. If the problem persists, I might consider other action, like a contempt sanction.

Q: What are your opinions regarding courtroom dress?

A: I think that courtroom attire should indicate respect for our judicial system, and the gravity of the decisions that are made in our courtrooms. That said, I try to be flexible with people, understanding that not all people have the more formal clothing that is typical of traditional courtroom attire. So long as people are dressed sufficiently that they will not cause affront or alarm to other court patrons, I will most likely not take issue with it. I do typically have court security personnel ask people to remove their hats in the courtroom.

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: As long as cell phones are not disruptive, and are not used in ways that violate court rules, as by recording court proceedings, I am open to people using their cell phones in the courtroom. I think we are at a place in our society where this is commonplace, and I do not want people to feel that my courtroom is a hostile or unfriendly place to be and work.

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

A: I encourage people to make their appearances timely. If people fail to appear in criminal cases (without explanation), I typically issue bench warrants for their arrest. In civil cases, failing to appear for a hearing might lead to me making a decision in your opponent's favor. Depending on the situation, failing to appear for something like a trial could lead to my granting judgment in favor of your opponent. I try to grant all parties a reasonable amount of time before I move forward with a scheduled case. If you are running late, it would be best to contact the court clerk's office (801-447-3800), tell them what is happening, and when you will arrive. That way they can let my judicial assistant and I know when we can expect you. That information can be crucial as I decide how to handle your situation.

11. Comments from Case Managers and Judicial Assistants

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

A: Daniel Farnsworth: 801-447-3914

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

A: Follow the rules, and be very courteous to all judicial assistants.

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

A: Criminal Cases: Linda Osgood: 801-447-3840
Civil & Domestic Cases: Marcus Christensen: 801-447-3816
First Appearance Calendar: Kalin Johnson: 801-447-3815
Probate Cases: Martha Gonzalez: 801-447-3809

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

A: Give as much notice as you can of needs you have. Get stipulations as often as you can before you bring issues to the judicial assistants. Speak clearly and near microphones for a good record in court. Be courteous, remembering that our judicial assistants are helping a large number of

people every day, in addition to their courtroom and administrative duties. They are doing the best they can to help you!

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: Yes. https://www.utcourts.gov/en/about/courts/judges-bios/district-courts/second-district-court/michael-s-edwards.html

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: Let's work together to make the resolution of your cases as just, speedy, and inexpensive as we can, as suggested by Rule 1 of the Utah Rules of Civil Procedure. I acknowledge that I can always improve how I do this important work, and I welcome general suggestions through appropriate channels to this end. Thank you for your work to help justice be done in our court system.