2025 Bench Book for Judge Denise M. Porter

Judge: Denise M. Porter – Fourth District Court (Juab, Millard, Utah, and Wasatch Counties)

Date of Bench Book: September 30, 2025

Discovery

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 disputes? Do you ordinarily set a telephonic or in-person hearing?

A: Web-ex hearing as soon as practicable.

Q: What is your approach to granting extraordinary discovery?

A: I generally set a hearing to listen to concerns from both parties and either upon consideration of those arguments / pleadings issue a brief minute entry ruling. Sometimes the discovery is necessary. Sometimes it is not.

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

A: I follow rule 26(d)(4) and will strongly consider exclusion.

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

A: I expect professionalism in the discovery process and disclosure of all relevant material in a timely way pursuant to the rules.

Motions

Q: Do you appreciate courtesy copies of briefs being delivered to your chambers prior to a motion hearing?

A: No

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: We do our best to schedule hearings based on the request to submit if they are requested therein but counsel are always welcome to call or email to be placed on the calendar.

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

A: Most folks appear by webex and the best way to do this is leave your camera off until you are ready to call your case, make sure you client and opposing counsel is present, and then turn on your camera. I call through people just as fast as I can using that as a signal that you are ready to go.

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

A: I generally don't need a binder for motions. I do appreciate it for trial.

Q: Do you appreciate courtesy copies of briefs being delivered to your chambers prior to a motion hearing?.1

A: No

Final Pretrial Conference

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

A: FPTC is the last stop before trial. Everything should be done before FPTC and it is simply a quick hearing for counsel to tell me they are ready to go.

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

A: FPTC should be short and simply a certification that everything is ready to go. Maybe there are a couple of quick straggler issues or jury instructions, but that's it. All other issues should have been previously argued and decided.

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

A: None. I do my best to not insert myself in any form or fashion in settlement discussions.

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

A: Yes

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

A: Most often these are done at the waiver hearing (or roll call). I then give the new date on the spot. Moves quite quickly. Happy to also consider written motions in advance.

Jury Trials

Q: Do you allow or encourage the use of jury questionnaires?

A: Yes. We do a general survey and extra questions have to be vetted and submitted well in advance.

Q: Do you have a set of standard jury instructions that you use?

A: Yes. Request them from me at a PTC or request them from my JA

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

A: Same times as motions in limine. I gather all pending motions and set aside one chunk of time to argue prior to FPTC.

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

A: Nothing in particular.

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?

A: No

Post-trial Issues

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

A: Yes

Technology in the Courtroom

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

A: Yes. Please come test the courtroom BEFORE trial so you know your tech works.

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

A: My courtroom is filled with tech and counsel is welcome to use all of it! With that said, please test in advance. Nothing is worse that sitting with the jury while counsel try to get something to pull up on their laptop and can't get it to work.

Special Issues for Domestic Cases

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

A: Yes. I have yet to find it appropriate to conduct an interview.

Courtroom Protocol

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

A: Jury selection is via WebEx. Counsel will have gotten general juror survey answers a day or two before selection. All questions are asked of the jurors in a breakout session so no other jurors hear the answers. After I have asked all questions I have identified from the survey answers, counsel will each have a few minutes to ask a couple of their own questions. This is limited and the questions have been pre-screened.

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

A: Yes

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

A: At any point the state has been put on notice.

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

A: Be as prepared as possible for a big L/M calendar and have supporting rules or caselaw ready to go for arguments on bindover or motions. Talk to opposing counsel before court so everyone is ready to go.

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

A: Be as prepared as possible for a big L/M calendar and have supporting rules or caselaw ready to go for arguments on bindover or motions. Talk to opposing counsel AND YOUR CLIENT before court so everyone is ready to go.

Q: Is lack of civility ever a problem in your courtroom?

A: Yes. I am direct and firm in my request that the behavior stop.

Q: What are your opinions regarding courtroom dress?

A: I recognize that post-COVID things have become more casual but I do notice that some counsel have taken this too far, particularly on WebEx, e.g. wearing sweatshirts, tshirts or open collars. For in-person court, I prefer a shirt and tie. I do not care if someone wears a jacket. Similarly, for female practitioners, I prefer business wear but it certainly does not have to be a suit.

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: All parties need to silence their cellphones in the courtroom. I do not care if they use them while in court.

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

A: Court starts promptly and folks ready to go get called first so it's a positive way to reward being on time. On the other hand, I will also send my bailiff out to track someone down if we have no other cases left to call or I will continue a hearing if I can't locate counsel.

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

A: I am always looking for ways to improve my service to the patrons of Utah's courts and welcome feedback on my courtroom practices to increase the quality and efficiency of my work and the work of my team.

Comments from Case Managers and Judicial Assistants

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

A: Holly Hoggard (criminal) and Rogelio (Neff) Garcia (civil) hollymh@utcourts.gov. rogeliog@utcourts.gov

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

A: Please promptly respond if the JA reaches out for a question. Please be as flexible as possible when they are trying to set court dates for you.

Other items

Q: Please provide the following information

A: Denise M. Porter

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

A: I will generally give two stipulated extensions and then indicate that any further extensions need to have court approval and significant circumstances supporting the request.

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

A: To the best of my ability.

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

A: No

Q: What about unpublished cases?

A: Yes

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

A: I rarely allow overlength memos as I found the most often did not aid in the discussion of the issue. I have no difficulty granting extensions during briefing if unforseen issues arise. Stipulations to those extensions are appreciated if possible.

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

A: This happens rarely and only when the issue is not dispositive and is clearly articulated in the briefing from both sides.

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

A: Personal attacks on opposing counsel are becoming far too frequent. Please list the standard, the issue for your case, and why you believe you should prevail with relevant supporting law in as succinct a manner as possible.

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

A: I give counsel wide latitude at OAs. Each side is given the same amount of time, e.g. each side is given 30 minutes and they may use it in whatever way they see fit. The argument is terminated at the end of that allotted time and does not run over unless I have asked an inordinate amount of questions that have unfairly taken up some of counsel's allotted time.

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: My mild preference is by proffer but I defer to counsel's preference almost entirely.

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

A: Yes

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

A: Depends on the case. Most often this is done at the same time as argument for motions in limine.

Q: When do you require instructions to be submitted?

A: If they are stipulated, by FPTC. If not, by the time scheduled for argument for motions in limine.

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: MUJI is fine for anything stipulated just to make sure we're all on the same page. Cases are helpful when there is a dispute.

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

A: Yes

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: 8:30-5 with 75 minutes for lunch. Monday mornings and Tuesdays are most often not available due to standing Mental Health Court and criminal calendars. Extraordinary circumstances can cause that to change. I will shorten lunches/breaks if we are falling behind.

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: That's fine absent any objections from the opposition.

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

A: Digital exhibits are preferred for the JA and I appreciate a courtesy binder so I may follow along during trial. Exhibits are admitted as they are used in trial, not in advance.

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

A: I expect enough witnesses to be ready to fill the entire trial day without any significant break other than lunch so we do not waste juror time.

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

A: Remote appearance for trial is not my preference but I allow it if circumstances warrant it. For PTC and other hearings, I have zero problems with remote hearings. Happy to accommodate counsel's preferences.

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

A: Yes

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: General WebEx rules - minimal background noise, etc. minimal exhibits or courtesy copies sent in advance in case the tech doesn't work. Appear from a location with stable internet and please be seated with a camera that is secure and doesn't wobble. It may sound silly but it is incredibly distracting.

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

A: I have recently found several PowerPoint presentations during oral arguments for MSJs incredibly helpful. These presentations identified the issues, included citations, and made for easy reference back when deliberating. Much appreciated!

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

A: The challenge here isn't the presentation but when counsel wish to make a presentation or present an exhibit and they can't get their tech to work. This is incredibly frustrating.

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

A: I generally accept them as agreed by the parties as I view them as a contract between those parties. I have rejected a few here and there but that is rare.

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

A: I want to hear a solid argument for why the requested sentence is appropriate and if community supervision is requested, conditions that have the best chance of making that successful.

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 generally require mandatory DUI jail terms to be served in jail as opposed to community service. I'm happy to break up the service days if that is helpful.

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

A: I set those hearings as soon as I can accommodate them on my calendar.

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

A: No.

Q: Do you have a judicial biography that you would like hyperlinked to your bench book?

A: Yes. https://www.utcourts.gov/en/about/courts/judges-bios/district-courts/fourth-district-court/denise-m-porter.html