2025 Bench Book for Judge Kraig Powell

Judge: Kraig Powell -Juab, Millard, Utah, and Wasatch counties. – Fourth District Court

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: Nowadays, always a Webex hearing. Please follow the procedures in Rule 37 and the court clerk will schedule a hearing.

Q: What is your approach to granting extraordinary discovery?

A: Please file a statement of discovery issues.

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

A: Please file a motion pursuant to Rule 37(b).

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

A: Follow the rules and communicate with each other frequently.

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: The court clerk and I try to see and consider each notice to submit and schedule a hearing. If you have not heard from us ten days after filing a notice to submit, feel free to contact the clerk (Judicial Assistant Calli Stephensen, callis@utcourts.gov).

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: I always give first priority to matters that can be handled in under one minute. I will hear several dozen of those first. If you have a plea or a motion, you will need to wait. You may send a chat to the court clerk during the hearing if you have an urgent need to be heard.

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

A: No.

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: To highlight any disputes that may arise and can be handled before the trial begins.

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

A: Any unique, out-of-the ordinary features of the case or the anticipated presentation.

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

A: I usually ask about the contested issues and then give my view of the difficulties I will have in reaching a decision so the parties will know they can decide the issues on their own terms if they reach a settlement rather than rolling the dice with the judge.

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: File a motion or email the Judicial Assistant Calli Stephensen at callis@utcourts.gov.

Jury Trials

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

A: Yes. The Fourth District has a standard questionnaire that is used in all cases. Special requests for additional questions must be filed no later than 60 days before trial.

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

A: No

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

A: In a separate hearing scheduled shortly after the deadline for objections.

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

A: To expedite bench trials, I often ask counsel to proffer facts, subject to cross-examination if disputed. Also, I often ask counsel to intersperse legal argument along with their testimony and evidence in bench trials.

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. We have excellent facilities and can accommodate anything.

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

A: Freely.

Special Issues for Domestic Cases

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

A: No

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: Yes, I have the attorneys ask almost all the questions, in chambers.

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: Whenever the statutes allow it.

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

A: Speak with opposing counsel frequently.

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

A: Speak with opposing counsel frequently.

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

A: Yes. Calmly ask counsel to be calm.

Q: What are your opinions regarding courtroom dress?

A: No preference.

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: Just show common courtesy. Urgent needs may be addressed.

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

A: I warn attorneys and clients to be prompt. I always try to start on time or within 2 to 3 minutes of the posted time. If not, I apologize and explain the reason. I ask attorneys and parties to do the same.

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

A: In a Request to Submit for Decision, please include all information required by Rule 7(g), URCP. I greatly appreciate the expertise, professionalism, and civility shown by members of the Bar.

Comments from Case Managers and Judicial Assistants

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

A: Tracy Bullock, 801-429-1081

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

A: Calli Stephensen, 801-429-1011

Other items

Q: Please provide the following information

A: Kraig Powell

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

A: The parties may file a stipulated motion and order to modify the case schedule for my signature, or a party may file a contested motion to do so.

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

A: Yes. The parties almost always submit a proposed stipulated protective order when they desire one. If the order is not stipulated, a party may file a motion to describe the disagreement.

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

A: Yes.

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: Yes and yes.

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

A: Almost never. Only if the issue has already been heard and decided.

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

A: Be professional and civil.

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

A: No - you may do as you please.

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: No, you can just do what seems logical and efficient in light of the case and issues.

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: At the same time jury instructions are submitted.

Q: When do you require instructions to be submitted?

A: In civil cases, 60 days before trial. In criminal cases, 28 days before 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: A citation to MUJI is sufficient.

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 to 5:00 with 90 minute lunch. I do not hold jury trials on Mondays, which is my criminal law and motion day - the jurors always get a three-day weekend.

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

A: Other (please specify)

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

A: In a jury trial, I generally discourage this, due to potential objections. In a bench trial, it is no problem.

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

A: Please discuss with opposing counsel how to number your exhibits so you have different numbers or letters - only one side should have an exhibit D, only one side should have an exhibit 32.

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

A: Discuss with opposing counsel.

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

A: Only allowed if stipulated or by motion. Otherwise, in person is required.

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: Practice with your own Webex app the day before the hearing. Also, have all materials available digitally so they can be emailed immediately during the hearing if need be.

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

A: All of them are great.

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

A: No.

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

A: A written plea in abeyance agreement is required.

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

A: Specific requests on jail time, fines, names of any treatment providers, and names of anyone else who wants to speak at sentencing.

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: No, other than those required by statute.

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

A: I always schedule a 30-minute status conference first so I know if the parties need one hour or one day for the objection. So please just file your Request to Submit and I will then schedule the status conference.

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

A: In rtf format.

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/kraig-powell.html