

APPLICATION FOR

**DISTRICT COURT JUDGESHIP
Fifth Judicial District**

A. PERSONAL INFORMATION

1. Full Name: JANICE M. CASAROTTO
 - a. What name do you commonly go by? JANICE OR JAN
2. Birthdate: [REDACTED] Are you a U.S. citizen? YES
3. Home Address: [REDACTED]
Phone: [REDACTED]
4. Office Address: Casarotto Law Firm, PLLC, P. O. Box 3723, Butte, MT 59602 (physical address: 308 Latigo Lane, Butte, Montana 59701)

Phone: (406) 565-2726
5. Length of residence in Montana: Native 45 years (lived in Las Vegas for about 12 years and returned to Butte).
6. Place of residence for the last five years:

<u>Dates</u>	<u>City</u>	<u>State</u>
2013 to Present	Butte,	Montana
2010 to 2013	Butte,	Montana

B. EDUCATIONAL BACKGROUND

7. List the names and location of schools attended beginning with high school:

<u>Name</u>	<u>Location</u>	<u>Date of Degree</u>	<u>Degree</u>
Jefferson High School	Boulder, Montana	1973	Diploma
Butte Vocational Tech.	Butte, Montana	1986	Legal
Butte Vocational Tech	Butte, Montana	1986	Data Specialist
Montana Tech of U of M	Butte, Montana	1989-90 (Dates Attended)	
College of Great Falls	Great Falls, Montana	1992	Associate of Science Paralegal
University of Nevada, LV College of Urban Affairs	Las Vegas, Nevada	1998	Bachelor of Arts Criminal Justice
University of Nevada, LV Boyd School of Law	Las Vegas, Nevada	2003	Juris Doctor

8. List any scholarships, awards, honors and citations that you have received:

Federal Employee Scholarship, Masonic Scholarship, Golden Key Honor Society

9. Were you a member of the Law Review? If so, provide the title and citation of any article that was published and the subject area of the article.

No.

C. PROFESSIONAL BACKGROUND AND EXPERIENCE

10. List all courts (including state and federal bar admissions) and administrative bodies having special admission requirements in which you are presently admitted to practice, giving the dates of admission in each case.

<u>Court or Administrative Body</u>	<u>Date of Admission</u>
State Bar of Montana Montana Supreme Court All State District Courts, Courts of Limited Jurisdiction, Boards, Commissions, A	2008
Montana Bankruptcy Court	2008

11. Indicate your present employment. (List professional partners or associates, if any.)

Owner Casarotto Law Firm, PLLC

12. State the name, dates and addresses of law firms with which you have been associated in practice, governmental agencies or private business organizations in which you have been employed, periods you have practiced as a sole practitioner, and other prior practice:

<u>Employer's Name</u>	<u>Position</u>	<u>Dates</u>
*Daniel R. Sweeney	Attorney	3/12 – 11/12
Attorney General of the State of Nevada	Legal Researcher/Analyst	2008-2010
Cooper Christensen Law Firm, Nevada	Law Clerk to Managing Partner	2004-2006
U.S. Bankruptcy Court, District of Nevada	Court Recorder/Calendaring Deputy	2004

* Not employed by, but managing caseload.

13. If you have not been employed continuously since completion of your formal education, describe what you were doing.

Unemployed, volunteering, and seeking employment.

14. Describe the nature of your present law practice, listing the major types of law that you practice and the percentage each constitutes of your total practice.

At age 60, I elected to cut my practice to half time and to focus on providing assistance to persons of limited means and pro bono. I also narrowed the focus of my work to providing services to the people groups I identify as being most in need, elderly, families and mentally ill persons. My practice is primarily in the areas of:

- * elder law 40%;
- * wills, trusts and estates - 25%,
- * family law 25%,
- * legal malpractice and related civil cases, social security appeals, debt /negotiation and settlement, corporate formation/structuring; fraud/abuse 10%

15. List other areas of law in which you have practiced, including teaching, lobbying, etc.

Legal malpractice (Commission on Practice and State Bar)
 Legal malpractice associated civil case
 Legal malpractice associated social security appeal
 Bankruptcy (Primarily Chapter 7 and some Chapter 13)
 Adjunct Professor: Ethics and Employment Law, Medical Law and Ethics
 Legal Analyst/Researcher to Chief Prosecutor, Nevada Attorney General's Office – providing issue and case analysis for criminal cases; as for example – investigation for corruption of state official
 Legal Analyst/Researcher to Civil Bureau Chief, Nevada Attorney General's Office – providing issue and case analysis, as for example – ACORN voting issue;
 Research/analysis and drafting for Chief Deputy Attorney General drafting United States Supreme Court Brief – federal appeal Habeas
 Court Appointed Guardian Ad Litem
 Court Appointed Visitor
 Montana Medical Legal Panel - Panelist

16. If you specialize in any field of law, what is your specialty?

17. Do you regularly appear in court? Yes

What percentage of your appearance in the last five years was in:

Federal court	<u>4</u>	%
State or local courts of record	<u>94</u>	%
Administrative bodies	<u>1</u>	%
Other	<u>1</u>	%

18. During the last five years, what percentage of your practice has been trial practice? 1 %

19. How frequently have you appeared in court? 2-3 times or more per month on average in half-time

practice.

20. How frequently have you appeared at administrative hearings?
Infrequently.

21. What percentage of your practice involving litigation has been:

Civil	<u>100</u>	%
Criminal	<u> </u>	%
Other	<u> </u>	%

22. Have you appeared before the Montana Supreme Court within the last five years? If so, state the number and types of matters handled. Include the case caption, case citation (if any), and names, addresses and phone numbers of all opposing counsel for the five most recent cases.

No.

23. State the number of jury trials that you have tried to conclusion in the last ten years. None

24. State the number of non-jury trials that you have tried in the last ten years. None

25. State the names, addresses and telephone numbers of adversary counsel against whom you have litigated your primary cases over the last two years. Include the caption, dates of trial, and the name and telephone number of the presiding judge. If your practice does not involve litigation, provide the same information regarding opposing counsel and the nature of the matter.

My practices does not generally involve litigation.

- a. Guardianship –Matter of Guardianship Protection; contested
 - i. Cause No.: DG 16-01, Honorable Ray Dayton- (406) 563-4044;
 - ii. David Lockhart, 415 North Higgins, Ste. 7, Missoula, MT 59802
- b. Conservatorship–Matter of Conservatorship Protection; homeless person
 - i. Cause No.: DG 15-09, Honorable Brad Newman- (406) 497-6423
 - ii. Mike Anderson, OPD, 44 West Park Street, Butte, MT 59701
- c. Guardianship—Matter of Guardianship Protection; abandoned elder
 - i. Cause No.: Cause No.: DG 15-12, Honorable Brad Newman- (406) 497-6423
 - ii. Steven Hackett, OPD, 66 West Park Street, Butte, MT 59701
- d. Alps v. McLean et al.,
 - i. DV-14-82, Honorable James Haynes- (406) 375-6780
 - ii. Martha Sheehy, Sheehy Law Firm, P.O. Box 584, Billings, MT 59103
Michael McMahon, McMahon, Wall, and Hubley, P. O. Box 1713, Helena, MT 59624
Patrick Gallagher, Skakles & Gallagher, P. O. Box 1413, Anaconda, MT 59711
Bradley Luck, Garlington, Lohn & Robinson PLLP, P. O. Box 7909, Missoula, MT 59807
Doug Scotti, Morrison & Frampton PLLP 341 Central Avenue, Whitefish, MT 59937
Timothy Strauch, Strauch Law Firm PLLC, 257 W. Front St., Ste A, Missoula, MT 59802
William O’Leary Fleming & O’Leary PLLP, P.O. Box 527, Butte, MT 59703
- e. In the Matter of David M. McLean,

- i. ODC 14-101 and PR 14-0737 –
- ii. Shawn R. Thompson, Chief Disciplinary Counsel, P. O. Box 1099, Helena, Montana 59601
Michael McMahon
- f. Johnson v. Dick Anderson DV-2010-49; 200835009000319 (CMS number)
Personal Injury Settlement and Medicare Secondary Payer Recovery Holdback
- ii. Maxon R. Davis, Davis, Hatley, Haffeman & Tighe, P. O. Box 2103, Great Falls, MT 59403

26. Summarize your experience in adversary proceedings before administrative boards or commissions during the last five years.

My experience is limited to the approximately five cases that arose out of the underlying case before the Office of Disciplinary Counsel, and Commission on Practice. Based upon the evidence presented on behalf of my client in the cases, the federal and state prosecution was able to make a case against the offending attorney. The attorney is now serving his sentence.

27. If you have published any legal books or articles, other than Law Review articles, list them, giving citations, dates, and topics involved. If you lectured on legal issues at continuing legal education seminars or otherwise, state the topic, date, and group to which you spoke.

D. PROFESSIONAL AND PUBLIC SERVICE

28. List all bar associations and legal professional societies of which you are a member. Provide the titles and dates of any office that you have held in such groups and committees to which you belong. These activities are limited to matters related to the legal profession. List the dates of your involvement.

State Bar of Montana – 2008 to present, Member in good standing
American Bar Association – 2003 to present, Member of Real Property Section, past section member
corporate law, public law, ethics law

29. List organizations and clubs, other than bar associations and professional societies, of which you have been a member during the last five years. State the title and date of any office that you have held in each organization. If you held any offices, describe briefly your activities in the organization.

Ancestry.com – member of the Ancestry.com genealogy and research group- building a genealogy for my father’s family.
Textile art contributor/artist, Winter Bazaar, Butte, MT

30. Have you ever run for or held public office? If so, provide the details.

I am presently campaigning for Public Administrator for Butte, Silver Bow County. I have assisted the present public administrator on cases for approximately one year while handling case load for Daniel R. Sweeney while he was interim City Judge in Butte Silver Bow county.

31. Explain your philosophy of public involvement and practice of giving your time to community service.

I am deeply committed to community service, particularly as I have begun to look at “retirement” years. I believe that I have been given rich opportunities to pay forward into my community and state because of the opportunities and education I have received. I spent a few years struggling as a welfare mom in my twenties, and when my children started school, I started back to school. I had a child who was very disabled. It was difficult to get the services she needed, but professional people reached out to me. That experience drove me to become an attorney, and now drives me to get involved where I can.

It is my heart to serve where other professional people may not want to get involved, for example, mentally ill, disabled, abused and neglected elderly; and to give of my time, and professional skills, to offer respect and a hand up, especially where people are forgotten or ignored. I try to find the holes in the provision of legal services where people aren’t being served and come alongside to meet that need. Sometimes it is through an organization, the state or the Courts, and sometimes just being there. Most of the time I don’t have to go looking for people, they find me.

The times I have been called upon to get involved have been the most enriching and rewarding of my legal career.

E. PROFESSIONAL CONDUCT AND ETHICS

32. Have you ever been publicly disciplined for a breach of ethics or unprofessional conduct (including Rule 11 violations) by any court, administrative agency, bar association, or other professional group? If so, provide the details.

No.

33. Have you ever been found guilty of contempt of court or sanctioned by any court for any reason? If so, provide the details.

No.

34. Have you ever been arrested or convicted of a violation of any federal law, state law, or county or municipal law, regulation or ordinance? If so, provide the details. Do not include traffic violations unless they also included a jail sentence.

No.

35. Have you ever been found guilty or liable in any civil or criminal proceedings with conduct alleged to have involved moral turpitude, dishonesty and/or unethical conduct? If so, provide the details.

No.

36. Is there any circumstance or event in your personal or professional life that would, if brought to the attention of the Commission, Governor or Montana Supreme Court, affect adversely your qualifications to serve on the court for which you have applied? If so, provide the details.

No.

F. BUSINESS AND FINANCIAL INFORMATION

37. Since being admitted to the Bar, have you ever engaged in any occupation, business or profession other than the practice of law? If so, provide the details, including dates.

Yes. I worked briefly as a paralegal in 2011 for the state prior to opening my own practice.

38. If you are an officer, director, or otherwise engaged in the management of any business, provide the name of the business, its nature, and the nature of your duties. If appointed as a district court judge, state whether you intend to resign such position immediately upon your appointment.

N/A

39. State whether during the last five years you have received any fees or compensation of any kind, other than for legal services rendered, from any business enterprise or organization. If so, identify the source and the approximate percentage of your total income it constituted over the last five years.

None

40. Do you have any personal relationships, financial interests, investments or retainers that might conflict with the performance of your judicial duties or that in any manner or for any reason might embarrass you? If so, please explain.

No.

41. If appointed by the Governor, are you prepared to disclose the information required under 2-2-106, MCA (i.e., the name, address and type of your business; any present or past employer from which you currently receive benefits; any business or professional entity or trust in which you hold an interest; any entity in which you are an officer or director; and any real property, other than a personal residence, in which you hold an interest)?

Yes.

42. Have you filed appropriate tax returns as required by federal, state, local and other government authorities? Yes No

If not, please explain.

43. Do you have any liens or claims outstanding against you by the Internal Revenue Service (IRS)?

Yes No

If yes, please explain.

44. Have you ever been found by the IRS to have willfully failed to disclose properly your income during the last five years? If so, provide the details.

No.

G. WRITING SKILLS

45. In the last five years, explain the extent to which you have researched legal issues and drafted briefs. State if associates or others have generally performed your research and the writing of briefs.

I conduct all my own legal research, and do all my own legal writing. I do not employ any staff in order to keep costs down.

46. If you have engaged in any other types of legal writing in the last five years, such as drafting documents, etc., explain the type and extent of writing that you have done.

I draft all my own briefs, responses, correspondence, contracts and do not employ staff or assistance from others.

47. Attach a writing sample of no more than ten pages that you have written yourself. A portion of a brief or memorandum is acceptable. See attached.

48. What percentage of your practice for the last five years has involved research and legal writing?
20 %

49. Are you competent in the use of Westlaw and/or Lexis?

Yes, I have been certified in use of Lexis previously while employed at Nevada Attorney General's Office. However, I may be a little rusty since I cannot afford to use the services in my present practice. Instead I have generally opted for use of the State Bar's *Fastcase* service, and use of the local and state law libraries. I do use the Lexis service **Accurint**© to conduct background research of persons involved in cases.

H. MISCELLANEOUS

50. Briefly describe your hobbies and other interests and activities.

I am a fabric artist, quilter, pen/pencil portrait artist; am passionately involved in completing my family's paternal genealogy. I enjoy playing games like Backgammon, Pitch, Parchessi. I enjoy American history, and discussions about ethics.

I enjoy working out three times a week, and hiking as often as I can.

My daughters and I have developed a vacation destination bucket list that we are completing each summer.

51. Describe the jobs that you have held during your lifetime.

I chuckle to remember beginning work at age 11 (when it was okay to do that). I wrote out receipts for a local businessman, and cleaned out washers, dryers, and swept -- humble pocket money. I graduated on to helping my father carry buckets for his sluice box, waited tables at two establishments (going from one shift to another). I've worked as a short order cook, food service supervisor in an institution for mentally handicapped; cheerfully became chief cook and bottle washer for three beautiful children in a home that was not peaceful. I went on to work as a secretary, legal secretary, float secretary for Montana Power, and then to a Judicial Assistant for Honorable John L. Peterson. From there I went on to become a Deputy Clerk in the Montana Bankruptcy Court. From there, I transferred to the Nevada Bankruptcy Court to work as a Court Recorder. While attending law school, I worked as a Calendaring Deputy and Deputy Clerk in the Bankruptcy Court. After law school I worked as a law clerk to the managing partner of a midsized firm in Las Vegas. I left there and worked at the Office of Public Defender in Kalispell (my husband and I intended to move back to Montana), while I waited on licensure. I had to return to Las Vegas because of the housing crash (unable to sell our home without a loss). At that time, I was hired as a researcher for the Nevada Attorney General's Office (a job I loved). My husband and I sold our home and moved back to Montana and I took a brief job as a paralegal for the Department of Corrections. I then briefly worked with Daniel R. Sweeney handling his caseload while he completed an interim appointment as City Judge. I went on to form my own firm. I recently went to half-time practice.

52. Identify the nature and extent of any pro bono work that you have personally performed during the last five years.

Family law – divorce and child custody matters (moving from Montana to Florida);
Family law – guardian ad litem;
Elder law – abandoned elderly dementia patient;
Family law – divorce and child custody matters;
Estates law – inheritance issues;
Family law – guardian ad litem;
Family law – custody issues
Family law – custody issues (North Carolina)
Family law – custody of child while parent in prison
Family law – child support (Washington)
General – loss of license to operate motor vehicle
General – insurance coverage, house fire

These are not inclusive of modest means cases done at reduced rates.

53. In the space provided, explain how and why any event or person has influenced the way that you view our system of justice.

Thomas McAfee, one of my constitutional law professors helped me internalize the Constitution, the history of it, and its deeper foundations of all law in the United States. He uniquely understood that justice must be for all people, balanced – not based upon popular political positions – not iron fisted and unchangeable, but fair, just, merciful and available to all people. He was able to cultivate those good concepts of all the working parts of justice, and encourage me to take them forward with me into the practice of law.

54. In the space provided, explain the qualities that you believe to be most important in a good district court judge. Between the bookends of fairness and justice, a judge must be knowledgeable, of a good temperament, unafraid to follow and apply the law, and temper the law with mercy. The good jurist must have the patience of a saint and the wisdom and knowledge of Solomon.

55. In the space provided, explain how a court should reach the appropriate balance between establishment of a body of precedent and necessary flexibility in the law. The two must go hand in hand.
1. Examine the facts; 2. Ask what law applies; 3. Consider whether the application of that law fully settles the matter. 4. If so, *stare decisis*; 5. If not, a jurist must recognize that precedent does not always work justice and a flexible, but most carefully determined adjustment may be necessary in order to advance, protect and maintain law.

56. In the space provided, state the reasons why you are seeking office as a district court judge.
I am applying for many reasons. But chiefly, I desire more than anything to give back to my community – to serve. Granted, I am not the highest achiever, or the most brilliant mind, but I have been afforded the blessings of a fine education and opportunities that my mother and father never dreamed of. One hundred years ago, or even fifty, a woman would not have dared to seek judicial office – I do so because women not only can, but must step forward to serve in these types of positions.

Lastly, I do so to honor the memory of my grandfather, a Swedish immigrant who came to Jefferson County with nothing but the clothes on his back, and his own ingenuity. He built a life from which I reap benefits even today.

57. What items or events in your career have distinguished you or of which you are most proud?

I was honored to be requested to assist an elderly client who had been defrauded by an attorney whom my client and my client's spouse trusted as a friend. Together, we were able to achieve a very positive outcome in a very tragic situation that provided for an almost complete restoration of monetary losses, and aided in the prosecution of that attorney. I am not proud that an attorney ended up serving time, or that that person lost his way, but I am grateful that justice was done; and that a voice was given to someone who had lost so much.

58. Provide any pertinent information reflecting positively or adversely on you that you believe should be disclosed to the Judicial Nomination Commission.

59. Is there any comment that you would like to make that might differentiate you from other applicants or that is unique to you that would make you the best district court judge applicant?

My clients hold me in high regard as an honest, hard-working lawyer. I have a strong history of

personal sacrifice and perseverance. I am a problem solver and enjoy a challenge. I am the widow of a disabled veteran.

CERTIFICATE OF APPLICANT

I understand that the submission of this application expresses my willingness to accept appointment as District Court Judge for the 5th Judicial District, if tendered by the Governor, and further, my willingness to abide by the rules of the Judicial Nomination Commission with respect to my application and the Montana Code of Judicial Conduct, if appointed.

10-31-2016

(Date)



(Signature of Applicant)

A signed original **and** an electronic copy of your application and writing sample must be submitted by
5:00 p.m. on Monday, October 31, 2016.

Mail the signed original to:

**Office of Court Administrator
c/o Lois Menzies
P.O. Box 203005
Helena, MT 59620-3005**

Send the electronic copy to: mtsupremecourt@mt.gov

SUPPLEMENTAL BRIEF IN SUPPORT

A motion to dismiss for failure to join parties is appropriate when the substantive rights of a party may be affected by the outcome of a case. *See, Williams v. Bd. of Cnty. Comm'rs of Missoula Cnty.*, 371 Mont. 356, 360, 308 P.3d 88, 92 (Mont., 2013).

I. Joinder.

a. Victim Identification, Materiality, Feasibility, and Risk. An Order of Discipline was entered on March 17, 2015, by the Montana Supreme Court, in PR 14-0737, which identified known victims of David McLean in that case. The Supreme Court's Order disbarred David McLean from the practice of law, and ordered that he reimburse each of ten known party victims in designated amounts. Attached as **Exhibit "A"**, at p.2, para.3.

Montana courts have held that persons with a material interest in a case should be joined when feasible, allowing them an opportunity for fair hearing.

Concerning Rule 19(a), M.R.Civ.P., we have held that, "whenever feasible, persons materially interested in the subject of an action be joined so that they may be heard and a complete disposition of the case be made." *Village Bank v. Cloutier* (1991), 249 Mont. 25, 29, 813 P.2d 971, 974. Additionally, under Rule 19(a), M.R.Civ.P., a person who is subject to service of process must be joined as a party if he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may leave any of the persons already parties subject to substantial risk of incurring double, multiple or otherwise inconsistent obligations. *State ex rel. Boyne USA v. District Court* (1987), 228 Mont. 314, 319, 742 P.2d 464, 467.

Mohl v. Johnson (1996), 275 Mont. 167, 171, 911 P.2d 217, 220.

Here, joinder is necessary because each known party is identified, joinder is feasible, and each party will be materially impacted by this suit. Substantial risk of adverse impact on

the *party* victims is already apparent because they have been forced to respond to the allegations of this complaint.

Likewise, each of the eight non-party victims has a material interest in the outcome of this case because there is no question each is owed money by David McLean; and at question are the indemnification duties of Plaintiff to each of David McLean, Mike McLean and McLean & McLean Law Firm.

b. Formula. Whether a particular individual or individuals are joined is generally to be determined case by case.

There is no precise formula for determining whether a particular non-party is necessary to an action, consequently the determination is heavily influenced by the facts and circumstances of each case. *Confederated Tribes*, 928 F.2d at 1498.

Mohl v. Johnson (1996), 275 Mont. 167, 171, 911 P.2d 217, 220.

c. Section 27-8-301, MCA, UDJA. Montana Rules of Civil Procedure, Rule 12(b)(7) allows parties to seek dismissal on motion pursuant to M.R.Civ.P. Rule 19, for failure to join a necessary party. And, where proper party interests will be affected, all proper parties must be joined pursuant to Montana's Uniform Declaratory Judgments Act. (UDJA), § 27-8-301, MCA. See, *Williams v. Bd. of Cnty. Comm'rs of Missoula Cnty.*, 371 Mont. 356, 308 P.3d 88 (Mont., 2013). In this case, the non-parties must be joined because the rules require it. The non-parties should be joined to limit multiple actions, prevent ineffective judgment and protect limited judicial resources.

d. Rights Determination. Further, the victim non-parties should be joined so that rights determinations are appropriate.

“Rule 19 is concerned with necessary and indispensable parties; Rule 20 with proper parties. The absence of an indispensable party precludes the court from proceeding with the case since the rights of such party (may) be adversely affected by (the) judgment. A necessary party is one who should be present if (the) final determination of the case is to be obtained, but who is not available. The case [180 Mont. 376] may proceed if the same will not prejudice the rights of such party. A proper party falls within the scope of Rule 20. Such a person is one who should be joined if litigation is to be kept to a minimum and the rights of all persons concerned can be determined in one action.” *Wheat v. Safeway Stores, Inc.* (1965), 146 Mont. 105, 112, 404 P.2d 317, 320.

Preste, d/b/a Alpine Advertising, v. Mountain View Ranches, Inc., et al. (1979), 180 Mont. 369, 375, 590 P.2d 1132, 1136.

e. Fairness and Relief. Though David McLean’s victims may be deemed mere intended third party beneficiaries under the ALPS insurance coverage, and it can be argued whether coverage exists at all, or only as to the firm or to Michael McLean, victim relief is a core issue of this suit. If some victims were joined, all should be joined. Fairness dictates that each must be given notice, process, and afforded an opportunity to defend where a declaratory judgment affecting their rights is sought. Otherwise, there can be no adequacy of judgment; and no meaningful, consistent or complete relief can be granted in this case.

f. Passivity Affects Justice. It has been suggested that party victims can passively await determination of this case among the key players. However, if so, justice may be effectively rationed. Plaintiff and the party Defendants McLean will be permitted to seek to reach some agreement consistent and tolerable to their own interests where such outcomes impact victims in an unprecedented attorney malpractice action in Montana. Such

agreement will bind the parties. Like it or not, the entire issue on all fronts is not just about discipline, coverage, shield, limitation of liability or artful argument. Lest we forget, it is ultimately about justice,¹ and what justice is in Montana.

g. Ineffective Relief. Montana's civil procedural rules derive from Federal Rules of Civil Procedure which lend further support.

The Federal Rule 19, clause (a)(1), "stresses the desirability of joining those persons in whose absence the court would be obliged to grant partial or 'hollow' rather than complete relief to the parties before the court." JAMES W. MOORE ET AL., MOORE'S FEDERAL PRACTICE 3A p 19.07-1 (2d ed. 1994) (citing Advisory Committee Note, p 19.01; see also Jean F. Rydstrom, Who Must Be Joined in Action as Person "Needed for Just Adjudication" Under Rule 19(a), Federal Rules of Civil Procedure, 22 A.L.R.Fed. 765, 789 § 7 (1975). The requirement of clause (a)(1) is related to the third factor of subdivision (b) concerning the adequacy of judgment, and to holdings that the inability to fashion an effective decree in the person's absence may render him indispensable. Moore et al., p 19.07-1. While a party should be joined if his presence is deemed necessary for the according of complete relief, it must be noted that complete relief refers to relief as between the persons already parties, and not as between a party and the absent person whose joinder is sought. ...

Mohl v. Johnson (1996), 275 Mont. 167, 171, 911 P.2d 217, 220 [emphasis added].

It is desirable to join all the victims to avoid ineffective relief. Hollow relief must not be allowed, especially not in a predefined and very narrow sense, where the key parties are allowed to fashion a take-it-or-leave-it outcome. Such "relief" is truly ineffective, and could re-victimize the victims.

¹ It is the daily; it is the small; it is the cumulative injuries of little people that we are here to protect....If we are able to keep our democracy, there must be once commandment: **THOU SHALT NOT RATION JUSTICE. Learned Hand**, Address at the 75th anniversary celebration of the Legal Aid Society of New York, Feb. 16, 1951 [emphasis added].