

F. It shall be the obligation of the person filing the document to pay any required fees in the manner and within the time required by the Clerk of Court.

RULE 5 - COURT ORDERS AND MINUTES PROVIDED ELECTRONICALLY

In an effort to promote the electronic storage and exchange of documents and reduce redundant scanning of documents produced by the Court, the Clerk of Court may distribute copies of Court Orders and Minute Entries by email rather than by hard copy. Attorneys or parties must provide the Clerk of Court's office with the email address(es) to which copies of Orders or Minute Entries are to be emailed.

An attorney who has filed any document in this District electronically is deemed to have provided written consent to receive documents electronically. Rule 5(b)(2)(E), Montana Rules of Civil Procedure.

RULE 6 - MOTIONS AND HEARINGS

A. The proponent of any motion filed with the Court must cite to statute or precedent that allows the Court to grant the relief requested and must submit, contemporaneously with the motion, a proposed order granting the relief sought. The preferred format is a Microsoft Word document.

B. Parties are alerted to the specific requirements set forth in Uniform District Court Rule 3 concerning application for relief ex parte.

C. For a motion seeking specific relief, the motion must confirm that opposing counsel has been contacted regarding the motion, and also state whether any party objects to the relief requested. In the event of objection, the motion must state whether the objecting party will exercise the right to file a written objection. Unless the Court has been informed the adverse party does not oppose the motion, or the adverse party opposes the relief but does not intend to file a written objection, then absent good cause to act ex parte, the adverse party is entitled to the opportunity to respond or object to the Motion before the Court makes a ruling. Timelines established by the Uniform District Court Rules, the Rules of Civil Procedure, and applicable specific statutes govern the time to be allowed for any response or objection.

D. Even when a hearing on motions has been tentatively docketed at an Omnibus Hearing or scheduling conference, when hearing on a motion is requested in a criminal or civil matter, counsel shall state the request for hearing within the motion, response, or reply. The request shall specify the purpose of the hearing (oral argument or evidence hearing). Counsel shall include a proposed order granting (or confirming the tentatively-docketed) hearing. If the Court determines on its own motion that oral argument would be beneficial to a determination of the motion, the Court shall so order and will notify the parties of the date and time for hearing.

E. The Court may establish time parameters for any hearing. The Court will enforce the time limits set by the Court as well as the time parameters stated by the parties at the time of scheduling.

F. Absent a showing of good cause, a Section 61-8-403, M.C.A. petition to challenge a driver license suspension or revocation will be scheduled for no more than one (1) hour, and will be calendared to be heard at the next reasonably available opportunity. While statute allows the return of a seized license pending a hearing, such requests will not be routinely granted. Due process will be assured by docketing the matter for a timely hearing.

G. In Youth in Need of Care proceedings, if a contested show cause hearing is requested pursuant to Section 41-3-427, M.C.A., or if the hearing is otherwise disputed, counsel and the parties must be in or near the courtroom sufficiently in advance of the scheduled hearing time to allow meaningful discussion of the issues of dispute with all parties present, prior to the hearing. Counsel shall coordinate this pre-hearing meeting. Counsel shall confirm compliance with this requirement on the record before proceeding with the contested hearing.

H. For hearings related to family law Show Cause orders and other contested family law proceedings, counsel and the parties must be in or near the courtroom sufficiently in advance of the scheduled hearing time to allow meaningful discussion of the issues of dispute with all parties present, prior to the hearing. Counsel shall coordinate this pre-hearing meeting. Counsel shall confirm compliance with this requirement on the record before proceeding with the contested hearing.

RULE 7 - SERVICE OF PROCESS AND PAPERS

A. Following the initial filing for any matter, when a party files a document with the Clerk of Court or provides a document to the judge, whether via fax or email or US Mail, the party shall use the same (quickest) method to provide the document to the opposing party. To do otherwise is the functional equivalent of ex parte communication with the Court. This notice requirement is in addition to the service required when a particular method of service or method of proof of service exists as prescribed in the Montana Rules of Civil Procedure, or other applicable statute.

B. Proof of service of all papers required or permitted to be served shall be filed with the Clerk of Court promptly and in any event before any action is to be taken thereon by the Court or the parties.

C. Whenever the Clerk of Court is required to furnish notice of any pleading, judgment or order, all necessary copies of such pleading, judgment or order shall be furnished to the Clerk of Court by the party requesting such judgment or order to be provided by US Mail, together with properly addressed and stamped envelopes. Without proper envelopes and postage, the document will be provided by the Clerk of Court via email, only.

D. Two originals of any order to show cause, or like order, together with a sufficient number of copies to be conformed for service or mailing to all parties, shall be presented to the judge for signature. If the judge signs the order, the judge will sign both as original orders. One original shall be retained as part of the file and the other shall be used for service.

E. Any counsel obtaining a judgment or decree shall immediately deliver it to the Clerk of Court for filing together with the required filing fee. Failure to comply with this requirement shall be deemed a contempt of court.

F. An attorney who has filed any document in this District electronically is deemed to have provided written consent to receive documents electronically. Rule 5(b)(2)(E), Montana Rules of Civil Procedure.

RULE 8 - SCHEDULING ORDERS; COMMUNICATIONS WITH THE COURT

A. Not later than one hundred twenty (120) days after the filing of a Complaint in a civil action, counsel for the plaintiff or petitioner shall file a written request for a scheduling conference or scheduling order which shall be issued by the Court in accord with Rule 16(b), Montana Rules of Civil Procedure, unless all parties stipulate otherwise and the Court deems a scheduling order unnecessary. Failure to file such a request in a timely manner may result in sanctions, including dismissal for failure to prosecute the action. Counsel for the Defendant or Respondent may also move for a Scheduling Order.

B. The Court will not receive letters, emails, or other communication from counsel or parties that do not indicate on the face of the document that a copy has been sent to opposing counsel and any unrepresented party. Whenever possible, parties are to avoid addressing substantive matters within email correspondence.

C. No party shall discuss ex parte with the Court any substantive issue related to a pending or anticipated case without notice and approval of all opposing counsel, or as otherwise expressly allowed by law. A violation of this rule may result in a disqualification or recusal of the judge, as well as imposition of sanctions against the offending counsel or party.

D. In the event the Court has any matter under advisement for more than thirty (30) days, any party affected thereby may file with the Clerk of Court a pleading entitled "Request for Decision" which shall state the date the matter was taken under advisement and shall request a decision thereon from the Court.

E. All the Court's scheduling shall be coordinated with the judicial assistant or other personnel the judge may designate. The Court, on its own motion, may docket a matter giving the respective parties reasonable notice of the date. The foregoing rule shall apply in like manner where the presiding judge has been called in and assumed jurisdiction.

RULE 9 - TRIALS AND HEARINGS

A. Counsel

1. Counsel shall have a conference with the Judge prior to trial, unless waived by the Judge.

2. At the scheduled time of a court proceeding, hearing, or trial, all counsel shall be seated at counsel table with their client, with all

exercised outside the presence of the jury pool. Counsel may challenge jurors 'for cause' during the voir dire process with the jury pool present in the courtroom.

5. The proper purpose of voir dire is to select a panel that will fairly and impartially hear the evidence presented and render a just verdict, and to determine the grounds for any challenge for cause. Accordingly, during voir dire questioning counsel shall not use voir dire for the purpose of arguing the merits of the case, or ask a juror to commit to a specific verdict based on hypothetical evidence.

RULE 10 - STIPULATIONS

In any case, whether civil or criminal, the Court will not consider for any purpose any stipulation between the parties unless the stipulation is either made in open court on the record, or made into a writing which is subscribed by either the party against whom the stipulation is sought to be enforced, or by such party's counsel.

RULE 11 - COURTROOM TECHNOLOGY

A. Electronic Evidence Presentation System (where available)

1. At a time well-in-advance of the scheduled trial or hearing date, counsel unfamiliar with the electronic evidence presentation system shall advise the Clerk of Court and shall make arrangements to come to the courthouse at a time convenient to the Clerk of Court in order to receive the necessary training for use of the electronic evidence presentation system.

2. It is counsel's responsibility to confirm the availability and functioning of the electronic evidence presentation system prior to trial or hearing. Counsel must completely set up and test all electronic evidence presentation equipment prior to using the system in any judicial proceeding. Upon request from counsel, the Clerk of Court shall turn-on the electronic evidence presentation system prior to the start of the trial or hearing. Operation of the equipment is the responsibility of counsel. In the event that an immediately irreparable malfunction of the equipment, counsel must be prepared to present evidence using alternative means.

3. During the course of the trial or hearing, the Court will be responsible for directing at which locations within the courtroom the electronic evidence can be viewed (i.e. witness seat, jury, counsel tables). Counsel is responsible for requesting locations for the Court to publish the evidence. Counsel is also responsible for requesting any lighting adjustments needed during the course of trial to assist the viewing of evidence using the system.

B. Sound System

Operation of the sound system located in the courtroom, and adjusting volume levels, shall be the responsibility of the Clerk of Court and/or the electronic court reporter. The Clerk of Court shall confirm that all microphones in the courtroom are in proper working order at the time of the trial or hearing. The Clerk of Court shall be responsible for adjusting sound levels as needed.

C. Videoconferencing - Judicial Video Network

1. The Judicial Video Network ("JVN") allows for two-way electronic audio-video communication whereby all participants are able to see and hear each other simultaneously and communicate with each other during a proceeding. Testimony may be provided under oath, and during the examinations opposing counsel and the finder of fact are able to see and hear the witness, interact face-to-face through the electronic system, and assess witness demeanor akin to in-court testimony.

2. The JVN system also allows for an audio-only interaction through a telephone connection without a video component.

3. Counsel or parties may participate in proceedings via JVN only with the prior permission of the Court. JVN appearances and JVN witness testimony will be liberally allowed for routine proceedings. However, the JVN system is generally discouraged as the means for counsel to conduct a contested proceeding.

4. Supplementing the information required by Local Rule 6, a motion for appearance or testimony via the JVN system (whether by audio-video connection, or by telephone) must specify: whether the moving party seeks to contest the proceeding; whether the proceeding will be contested by any party; whether any opposing party objects to the JVN appearance; and whether appearance will be audio-video or telephone audio. A telephone contact number for use in the event of technical difficulties is also required.

5. Requests for audio-video JVN connection must identify the

physical location of each person who is to appear via JVN; and all necessary IP addresses.

6. In all instances, including upon the consent of all parties, a motion for appearance or testimony via the JVN system must be filed in advance of the hearing, as early as is practical to do so. In all instances, a motion for JVN appearance must be filed no less than one hour prior to the scheduled start of the hearing. (See deadline herein specific to Crime Lab testimony via the JVN system.)

7. Deadline specific to Crime Lab Testimony via JVN. For good cause, forensic testimony by employees of the Montana State Crime Lab may be offered via the JVN system during a criminal trial. Except for good cause, a Motion seeking leave for crime lab expert testimony via JVN shall be filed no later than thirty (30) days prior to the first day of trial. The motion must contain all the information specified for JVN motions within these Rules. Response or objection to such testimony via JVN shall be filed within ten (10) business days following the filing, including whether a genuine issue exists as to the analysis or procedure at issue. In the event of objection, the Court will determine if the testimony will be allowed via the JVN system.

8. Absent good cause, a motion for appearance or testimony via the JVN system that does not comply with the provisions herein will not be granted.

9. Any party/counsel granted leave to use JVN shall make all necessary arrangements for such use with the Clerk of Court or judicial assistant.

10. In the event a proceeding must be continued because of an untimely motion for JVN appearance without good cause that necessitates a continuance of the proceeding, counsel may be sanctioned the cost of other parties' appearance at the hearing.

11. The Court reserves the authority to recess a hearing to a time when all parties, counsel, and witnesses are personally present in the courtroom.

12. Counsel is responsible for keeping the Clerk of Court and other individuals informed of site or IP address changes effecting JVN participation. Participants in the hearing via JVN are to maintain a means of communication (cell phone) so the individual may be readily contacted in the event of unforeseen difficulty establishing the JVN connection, or other delay.

13. Counsel and participants via JVN shall complete all necessary arrangements, any required connections, and be in place prior to the scheduled start of the hearing. At the time of a hearing conducted using the JVN system, the Clerk of Court (or the Clerk of Court's designee) shall be responsible for turning the equipment on, dialing up IP addresses and, when possible, confirming connections prior to the judge's arrival at the bench. The Clerk of Court shall operate the movement and proper positioning of the camera during JVN system use.

14. The Court cannot guarantee the functioning of the JVN system. In the event that an immediately irreparable malfunction of the JVN connection, counsel must be prepared to present necessary testimony using alternative means.

15. Any party/counsel requesting use of the JVN equipment for hearings or meetings other than Sixteenth Judicial District Court business shall make proper reservations for such use through the Clerk of Court or judicial assistant, and shall be responsible for operation and movement of the camera. The party/counsel shall report to the Clerk of Court upon arriving for the JVN session and will be directed to the appropriate location for use of the equipment. Charges for the use of JVN may be assessed.

RULE 12 - COURTROOM RECORDS; COURTHOUSE FACILITIES

A. The Clerk shall not permit any files or documents to be removed from the Clerk of Court's office without obtaining a receipt from any person removing any file or court record. The person removing the file or court record shall return it within twenty (20) days, and in any event, no later than two (2) business days prior to any scheduled Court activity.

B. The records and files in abuse/neglect actions shall not be withdrawn, examined, or inspected by anyone except as allowed under Section 41-3-205, M.C.A. Youth Court records shall not be withdrawn, examined, or inspected by anyone except as allowed under Sections 41-5-215 and 41-5-216, M.C.A. Adoption records may not be withdrawn,

- b. Duration
- c. Reasons
4. Spouse opposing maintenance (omit if not applicable)
 - a. Reasons
 - b. Alternative to maintenance
5. Itemized, proposed property settlement listing all assets with assigned values and all liabilities. (Indicate if proposed property settlement is in lieu of or in addition to spousal maintenance in the appropriate case.)
6. Request for Payment for attorney fees and cost (if requesting payment from other party).
7. Include the following relevant documents:
 - a. Recent and representative pay stubs
 - b. Account Financial Statements for the relevant period (up to 3 years)
 - c. Copies of federal and state income tax returns (up to 3 years)
 - d. Any reports that have been prepared by experts
 - e. If expert witnesses are anticipated, set out summary of testimony
 - f. Other witnesses – set out summary of testimony
 - g. If legal issues are going to be presented to the Court, specify the issues
8. Are there any matters not addressed above to which the parties have agreed?
9. Are there any matters not addressed above which the parties dispute?
10. Estimate the time required for formal trial or hearing

B. No later than thirty (30) days following service of the Petitioner's affidavit, the Respondent shall serve upon the Petitioner an Affidavit following the outline format as show above, and stating any objection or concern to the Petitioner's responses. The Affidavits are not to be filed with the Court unless in the event of a trial, or as directed by the Court. An Affidavit, with all attached documents, may be filed as evidence during the trial of this matter, subject to cross examination of the author. The purpose of the Affidavits is to initiate disclosure as required by statute, and to assist the parties and the court by identifying the issues to be resolved and each party's position prior to hearing.

C. All parents of minor children shall satisfactorily complete the parenting education program sanctioned by the Sixteenth Judicial District Court prior to the final hearing, the issuance of a final decree for dissolution of marriage, or the issuance of a final parenting plan. Upon completion of the education program each parent shall file a certificate of completion with the Clerk of Court. The Court may consider a parent's failure to do so an act contrary to a child's best interests.

D. Counsels are alerted to the requirements concerning application for relief ex parte. Section 40-4-220(2), M.C.A. Uniform District Court Rule 3. Rules of Professional Conduct Rule 3.3(3)(d).

E. Unless the parties stipulate to an interim or amended parenting plan, the moving party must submit an affidavit setting forth facts supporting the proposed amendment and shall give notice in accordance with Section 40-4-220(1), M.C.A. The opposing party then has an opportunity to present counter affidavits, and based on the affidavits, the Court will determine whether, based on the best interests of the child(ren), "adequate cause for hearing the motion" exists. If adequate cause for amendment has not been presented, the Court will deny the motion without a hearing. If adequate cause for amendment has been presented, the Court will issue an order to show cause requiring the parties to appear and show why the requested interim or amended parenting plan should not be granted. Section 40-4-220(1), M.C.A.

F. Section 25-1-201, M.C.A., provides for a \$120 filing fee to file a contested petition (motion) for amendment of a final parenting plan. Pursuant to Section 40-4-219(7), M.C.A., a prior parenting plan means a parenting determination contained in a judicial decree or order made in a parenting proceeding. Therefore, a final custody decree or order qualifies as a "final parenting plan" in determining whether a new filing fee is due. A motion to amend parenting plan (custody decree) is deemed contested unless both parties stipulate to the motion at the time it is filed with the Court.

G. After entry of an order for child support that is to be collected by Child Support Enforcement Division, counsel for the party to receive the child support shall give notice to Child Support Enforcement Division in accord with Montana law.

H. When child support or spousal maintenance is ordered to be paid directly to the Office of the Clerk of Court, counsel for the party ordered to pay child support shall inform their client to include an additional \$2.00 in each payment in order to cover the associated costs, including the check, ledger sheets, and postage. The proposed decree shall include in the final order the child support obligor's obligation to include the additional \$2.00 in each child support payment.

I. A completed Vital Statistics reporting form shall be presented to the Clerk of Court when filing the Final Decree of Dissolution.

RULE 19 - CRIMINAL ACTIONS

A. Any Defendant desiring a public defender shall complete a sworn Financial Affidavit and other information as required by the Office of Public Defender. The Office of Public Defender shall determine the eligibility of a defendant requesting a public defender in accordance with Montana law. The Financial Affidavit form is available from the Office of Public Defender.

B. For all criminal evidentiary hearings and criminal bench trials where the Court must enter written findings of fact and conclusions of law, all parties shall file with the Clerk of Court and serve upon opposing parties proposed findings of fact and conclusions of law, unless waived by the Court. Post-hearing or post-trial amended and supplemental findings of fact and conclusions of law may be submitted in appropriate circumstances as directed by the Court. In addition to the submission for the Court file, the preferred format for submission to the judge is Microsoft Word.

C. After the defendant enters a plea of "not guilty", the Court shall set an omnibus hearing. Prior to the time set for omnibus hearing, counsel for the prosecution and defense shall consult and attempt to stipulate to the contents of the Court-approved omnibus form which shall be submitted for the Court's approval at the date set for the omnibus hearing.

D. For offenses committed prior to October 1, 2015, upon motion of the defendant who has successfully completed his or her deferred imposition of sentence, the Court may order that the action be dismissed. Evidence of successful completion of the requirements must be submitted to the Court along with a proposed order.

RULE 20 - CLOSING ESTATE WITH FOREIGN PERSONAL REPRESENTATIVE

Upon completion of those probate matters in which a foreign personal representative is qualified under the provisions of Section 72-4-303, et seq., M.C.A., counsel for the foreign personal representative must file with the Court a Foreign Personal Representative's Sworn Statement to Close Estate.

Effective October 10, 2015