

**MONTANA TWENTY SECOND JUDICIAL DISTRICT
COURT RULES**

BIG HORN, CARBON, AND STILLWATER COUNTIES

The following Rules of Practice supplement the Uniform District Court Rules (UDCR) and the Montana Rules of Civil Procedure (M.R.Civ.P.) and any conflict shall be controlled by the Montana Rules of Civil Procedure and/or the Uniform District Court Rules.

RULE 1 - ASSIGNMENT OF CASES

The District Court of the Twenty-Second Judicial District has assumed full jurisdiction of all cases on file with the Twenty Second Judicial District in Big Horn, Carbon, and Stillwater Counties as of January 1, 2000, except for those cases which the Court elects to transfer to outside Courts where grounds for judicial disqualification exist or those in which the presiding Court is disqualified by one of the parties thereto within the time allowed by law. In addition, the Court may assign existing cases to outside Courts in those cases where such assignment is warranted in the interest of judicial economy.

RULE 2 - LAW AND MOTION

Day and Time. To conduct routine matters, reasonable effort will be made to schedule two law and motion dates monthly in each County. Consult the Clerk of Court for each County to determine Law and Motion on any given day. Scheduled law and motion will begin at 9:30 o'clock a.m. Scheduled law and motion may continue on any designated date at the discretion of the Court. Additional law and motion dates may be held in any County when, in the discretion of the Court, the business of the district so requires.

Routine Matters. Routine matters for purpose of law and motion shall include initial appearance, arraignment, judgment by consent or default, probate proceedings, uncontested ex parte matters, matters pertaining to questions of law only and any other matter reasonably anticipated to take less than 30 minutes to complete. Matters set for a law and motion date which become contested are subject to postponement and rescheduling.

Open Court. All matters presented to the Court shall be heard in open Court, except for *adoption hearings* (§40-8-126, MCA,) hearings and trials under the *Uniform Parentage Act* (§§40-6-111 and 40-6-120, MCA,) and such other matters required by law to be closed or allowed to be closed in the interests of justice.

Calendar Preparation. Counsel shall notify the Clerk of District Court in the appropriate County **by 12:00 p.m. on the preceding business day** of matters to be placed on the law and motion calendar. The matters addressed by the Court shall be listed by the Clerk of Court on a law and motion calendar, copies of which shall be made available to counsel in the Clerk's office. Emergency matters may be presented to the Court at any time upon adequate showing by the moving party. Parties or counsel not prepared as their cause is called from the calendar will be moved to the end of the calendar and be heard subject to available time.

Contested Matters. Unless scheduled by the Judge, contested matters, matters involving questions of fact, or matters requiring more than thirty (30) minutes for presentation shall be scheduled through the Court's Administrator at (406) 322-5406.

Document Presentation. No matter may be placed on the law and motion calendar until the motion or other documentation and all relevant supporting documents have been filed with the Clerk of Court.

Ex Parte Matters. *Ex parte* motions are not favored. Emergency matters requiring the Court's attention may be mailed or delivered to the Court with a request for the Court's immediate attention. No *ex parte* matter will be considered if the opposing party is represented by counsel or if the opposing party's location is known but the party has not been served.

RULE 3 - SUBSTITUTION OR RECUSAL OF JUDGE

Substitution of Judge is governed by §3-1-804, MCA. All motions for the substitution of Judge shall be accompanied by the required filing fee at the time of filing, otherwise the motion shall be stricken.

When an outside judge has been called in, the Clerk of Court shall

make and forward to such judge a complete copy of the case file to date. Likewise, copies of documents subsequently filed shall be promptly transmitted to the judge.

The outside judge shall be encouraged to schedule hearings and trials in consultation with the Court Administrator and/or Clerk of Court of the judge who originally had jurisdiction. The Judge of this district and the Clerk of Court shall promptly notify one another when they learn of any hearing or trial scheduled by the outside judge so that necessary arrangements can be made.

It shall be the duty of counsel, reasonably in advance of any proceedings to be taken therein, to notify the local judge and with the Court Administrator's assistance make arrangements for all personnel and facilities necessary to accommodate the needs of the case and the outside judge.

Nothing herein shall prohibit the judge from calling in an outside judge to take jurisdiction of a case, pursuant to §3-5-111, MCA.

RULE 4 - MOTIONS--BRIEFS--EXTENSION--PRESENTATION

Motions shall be governed by Rule 2, Uniform District Court Rules, except motions made pursuant to Rules 52, 56, 59, and 60 of the M.R.Civ.P., which shall be noticed for hearing by the moving party in accordance with the provisions of said Rules. All motions shall be identified in the title of the pleading with the applicable rule number of the Montana Rules of Civil Procedure.

Upon representation to the Court by the moving party that opposing counsel was notified and does not object to the motion, the Court may sign the order.

Counsel shall include with their motion a proposed Order granting oral argument if such is desired. In the event the Court determines that oral argument would be beneficial to ruling on a motion and orders oral argument, the moving party has the duty to obtain a hearing date and schedule such argument with the Court. The proposed Order granting oral argument shall include the date and time of argument or blanks for the Court to fill in the date and time.

Counsel shall include with all motions a proposed Order for the Court's signature.

Scheduled hearings on motions pending may be continued by the Court, on its own initiative, or upon the written motion of any party, with prior notice to all parties.

RULE 5 - SERVICE OF PROCESS AND PAPERS

Proof of service of all papers required or permitted to be served, other than those for which a particular method of proof exists as prescribed in the M.R.Civ.P. or other applicable statutes, 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. Proper service does not include placing copies in counsel's box in the Clerk of Court's office unless prior permission is obtained from counsel.

RULE 6 -SCHEDULING--CONFERENCES--ORDERS--DISCOVERY RULES

When a case is at issue and all parties have been served and have answered, upon the request of a party or on the Court's initiative, the Court Administrator will calendar a Scheduling Conference. After such conference, the Court will issue a Scheduling Order. Pursuant to Rule 16(b), M.R.Civ.P., the following matters are exempt from the scheduling procedure required by this Rule:

- (1) Youth Court cases
- (2) URESA actions
- (3) Abstracts of Judgment and Transcripts of Judgment
- (4) Adoptions
- (5) Competency (mental illness) hearings
- (6) Probate Cases
- (7) Small Claims appeals
- (8) Administrative appeals
- (9) Seizures and Forfeitures
- (10) Name Change Cases
- (11) Habeas Corpus and Post Conviction Relief
- (12) Criminal Cases
- (13) Abuse or Neglect proceedings
- (14) Emancipation
- (15) Any other case for which good cause is shown and the Court so orders.

~ Rule Section ~

RULE 11 - SETTLEMENT CONFERENCES OR MEDIATION

A. **Settlement Conference Required.** In each civil case subject to a Scheduling Order pursuant to Local Rule 6, a master-supervised Settlement Conference is required **before a case may be tried**, unless a stipulation executed by all counsel of record and any unrepresented party is filed with and approved by the Court waiving a Settlement Conference. The Settlement Conference shall be addressed in the Scheduling Order prepared and issued in accordance with Local Rule 6. The purposes of such conferences are to: (1) facilitate (but not coerce) settlement; (2) lessen congestion of the trial calendar; and (3) reduce the cost of litigation by providing a means to resolve contested cases prior to final trial preparation.

A mediation conducted by a trained mediator may be substituted for a Master-supervised Settlement Conference upon agreement of the parties, or by order of the Court.

The Clerk of District Court shall maintain a list of Court-approved Settlement Masters and Mediators.

B. **Master-Supervised Settlement Conference.** The Master-supervised Settlement Conference may be held at any time upon stipulation of the parties or order of the Court. Unless otherwise agreed, the conference shall be held after the close of discovery and rulings on pretrial motions but prior to submission of the Pretrial Order. The Court shall issue a separate order confirming the appointment of a Settlement Master and providing for their compensation and the procedures to be followed at the Settlement Conference. Fees for indigent litigants may be waived when the Court has approved an Affidavit of Inability to Pay Filing Fees.

Counsel who will try the case and all parties shall attend in person. Out-of-area corporations or insurance companies shall have a representative present via audio or video teleconference, unless personal attendance is ordered by the Court upon showing of good cause. All participants must have requisite settlement authority. The parties shall agree upon responsibility for the payment of the fees charged by the Settlement Master or mediator.

C. **Report of the Settlement Master.** Within five (5) days of the completion of the Master-supervised Settlement Conference, the Settlement Master shall submit a report indicating that the conference was held and describing the issues that were settled, if any. The report shall be filed with copies to the Court, all counsel of record, and any parties not represented by counsel. In the event that the case is not fully settled, the report shall also contain the following information obtained from counsel for the parties and any unrepresented party:

- (1) the length of time anticipated to be necessary for trial;
- (2) dates counsel or key witnesses are legitimately unavailable for trial;
- (3) any special requests or needs regarding trial scheduling; and
- (4) whether there is still a reasonable prospect for settlement.

Cases will be set for trial upon submission of the Settlement Master's report.

D. **Proceedings Confidential.** No person present at a Settlement Conference, including the Settlement Master, shall be subject to examination concerning statements made by any person at the Settlement Conference. The parties will not subpoena nor otherwise require the Settlement Master to testify regarding the Settlement Conference or the Settlement Master's opinions regarding the case.

RULE 12 - TRIALS

A. **Trial Settings.** Non-Jury trials shall be scheduled by the Court throughout the year as time is available. Jury trials shall be held throughout the year on a schedule to be provided by the Court.

B. **Jury Instructions.** Proposed instructions to the jury in a civil action shall be presented to the Court and served upon each adverse party as stated in the jury trial preparation order. The original and one copy of each instruction proposed must be furnished to the Court. The Court's working copy of each instruction shall indicate the party on whose behalf it is requested, be numbered consecutively, and on an **attached page, contain reference to the source thereof, and a citation of authority, if any, supporting the statement of law therein.** The Court may receive additional proposed instructions relating to questions arising during the trial at any time prior to completion of settlement of jury instructions. Proposed forms of verdict must be submitted by each party at the same

time and in the same manner as the jury instructions. A CD compatible with Word containing the proposed jury instructions shall accompany the instructions. The CD will not be returned after the trial.

RULE 13 - POSTPONEMENT OF TRIALS

A. **Absence of Witness or Evidence.** Pursuant to §25-4-201, MCA, a motion to postpone or continue a trial on the grounds of absence of a witness or evidence shall be made upon affidavit showing: (1) the nature and materiality of the expected testimony or evidence; (2) that diligent effort was timely made to secure the witness or the evidence; and (3) that reasonable grounds exist for the production of the witness or evidence if postponement or continuance is granted. If the testimony or the evidence would be admissible upon the trial and the adverse party stipulates that it shall be considered as actually given on the trial, there shall be no postponement or continuance unless, in the opinion of the Court, a trial without the witness or evidence would work an injustice on the moving party.

B. **Late Continuances.** If any action set for a jury trial is continued within 96 hours of the trial date the Court may require the moving party to reimburse the Clerk of Court for any expenditures incurred by the Clerk of Court.

RULE 14 - VOIR DIRE--OPENING STATEMENTS--CLOSING ARGUMENTS

A. **Length.** The length and conduct of *voir dire* examination shall not exceed one (1) hour per side without prior leave of the Court.

B. **Questioning.** Only one attorney for each party shall be allowed to question the prospective jurors on *voir dire*.

C. **Purpose.** The only proper purpose of *voir dire* is to select a panel which will fairly and impartially hear the evidence presented and render a just verdict, and to determine the grounds for any challenge for cause. Accordingly, the Court in exercising its discretion may discourage counsel from:

- (1) Asking questions of an individual juror that are susceptible of being asked collectively;
- (2) Asking questions covered by and answered in the juror questionnaire, except to explore some answer in greater depth;
- (3) Repeating questions asked and answered;
- (4) Using *voir dire* for the purpose of attempting to instruct the jury on the law;
- (5) Using *voir dire* for the purpose of arguing the case; or
- (6) Asking a juror what his/her verdict might be under any hypothetical situation based upon expected evidence or otherwise.

Opening statements and closing arguments (including rebuttal) shall be limited to one hour. For good cause shown, additional time may be requested and granted by the Court.

RULE 15 - ORDERS, JUDGEMENTS AND DECREES

It shall be the duty of counsel obtaining any order, judgment or decree to present the same, accompanied by the Court file, in written form for the signature of the judge at the time of applying for the order, judgment or decree. Except in those instances where prior arrangements have been made with the Court or in matters of a self-evident nature, no requests for the issuance of an order will be considered by the Court unless the request is made by counsel in person.

If service of an executed order is to be made by the Court, a party presenting an unopposed or routine order shall furnish stamped envelopes addressed to the parties upon whom the documents will be served. Failure to provide stamped, self-addressed envelopes will delay execution of the Order by the Court.

When any order is made by the Court, it must immediately thereafter be presented to the Clerk by counsel. A copy of any order, the original of which is being taken out for service, shall be presented to the Clerk immediately upon the signing thereof. All orders, decrees and judgments shall be immediately filed following signature by the Court.

RULE 16 - STIPULATIONS AND AGREEMENTS

Stipulations and Agreements between the parties or their attorneys shall be made on the record and/or reduced to writing.

may authorize the Court Administrator to use the Judge's signature stamp on documents requiring immediate attention by the Court. It shall be necessary to secure the Judge's authorization on every occasion before his signature stamp is used, and the signature stamp shall only be used when it is not feasible to wait until the Judge returns to the jurisdiction to personally sign the document.

RULE 28 - FREE PRESS AND FAIR TRIAL

Within the spirit of the First Amendment, the judge in any court proceedings open to the public shall permit the recording and broadcasting by radio and television, and the taking of photographs in circumstances of the individual case, or any portion thereof, that such recording broadcasting, or photography would not substantially and materially interfere with the primary function of the court to resolve disputes fairly under the law.

The following guidelines apply:

Television & Radio – The judge may limit the number of cameras in the courtroom and may order that coverage be pooled. Cameras shall be located in a preselected position and operated by one cameraman each. If pooling is ordered or agreed upon, unless the judge orders otherwise, it will be the responsibility of each broadcast news representative to achieve an understanding as to who will function at any given time and as to how the coverage will be pooled. All representatives shall share in the pool arrangement. A television camera shall give no indication as to whether it is or is not operating. Sufficient film and/or tape shall be available to alleviate film or tape changes except during Court recesses.

Microphones, if utilized, shall be limited to five: one at each counsel table, one at the podium, one at the bench, and one near the witness chair. The television microphone shall also serve the radio media. All equipment shall be in place at least 15 minutes before each session. Broadcast coverage outside the courtroom shall be handled with care and discretion but need not be pooled.

The jury *voir dire* process shall not be televised or broadcast.

Print Media – Representatives of the press, including still photographers, will be accommodated on a first-come, first-serve basis, and position themselves in the spectator section. Photographers/reporters will not be permitted to roam the courtroom. No flash cameras will be permitted and the cameras used shall operate with no distracting noise.

General – Jurors' faces will not be broadcast, photographed or drawn. There will be absolutely no interviews of jurors, witnesses, or Court personnel during the hearing/trial either inside or outside the courtroom. There will be no land telephones or cellular telephones in the courtroom unless prior authorization is given by the Court.

The Rules set forth herein shall be in full force and effect in the Twenty-Second Judicial District from and after January 1, 2014, until modified, supplemented, or deleted by further Order of the Court.

DATED this 25th day of November, 2013.

BLAIR JONES, District Judge