

37-61-404 and 405, MCA, and Uniform District Court Rule 10.

D) Attorneys may not address a witness on the stand in any manner except to propound the question to which an answer is desired. Attorneys will not be permitted to address each other during a trial or argument except by permission of the Court, and then must use "Mr." or "Ms."

E) From six months after the time for appeal from any final judgment or decree expires, the court shall presume that a counsel who previously represented a party no longer represents that party in that particular matter. This rule does not prohibit continued representation in such matter if the client and attorney agree nor is it intended to prohibit earlier termination of the attorney - client relationship upon proper notice.

RULE 5 - FOOD, DRINK, CELL PHONES

A) No one shall bring food or drink into the Courtroom except for non-alcoholic liquids in suitable containers, except that only water is allowed in the courtroom when the judge assigned to Department One is presiding.

(B) Without court consent, cell phones are allowed in the Courtroom only if they are turned off. A person shall NEVER use a cell phone to relay pictures or testimony to someone outside the Courtroom or to text message someone outside the Courtroom.

RULE 6 - COURT SECURITY

In any case where a party or other interested person believes that a potentially violent situation may arise, that person, through counsel or pro se, shall notify the assigned judge and/or court bailiff sufficiently in advance so that appropriate security measures may be taken.

RULE 7 - SCHEDULING ORDERS AND COMMUNICATIONS WITH THE COURT

A) The Court will not receive letters or other communication from counsel or parties which do not include on their face that copies have been provided to opposing counsel. The Judicial Assistant will either return it to the sender or provide it to the judge with copies to pro se litigants and counsel of represented litigants. A Judge will not accept telephone calls from counsel or the parties, unless opposing party is also on the telephone or has consented to the call in advance. Properly noticed letters will be filed with the Clerk of Court and made a part of the Court file. Copies will be sent to all parties or counsel.

B) There will be no ex parte discussions with the Court of substantive issues involved in pending or anticipated cases without the presence of, or notice to, all opposing counsel, or without approval or stipulation by opposing counsel. With stipulation or approval, all discussions will be held before the Clerk of District Court, the Court Reporter, or both. A violation of this rule may result in a disqualification of the judge for cause as well as imposition of sanctions against the offending attorney or party.

C) If a judge has a motion or decision in a bench trial under advisement for more than 30 days, each party affects may, without fear of adversely affecting their position on the matter, send to the Judge a reminder letter particularly describing the matter under advisement and stating the date on which the matter was taken under advisement.

RULE 8 - FILINGS

A) All motions and briefs shall be filed with the Clerk of District Court.

B) Upon the filing of a motion for leave to file an amended complaint or answer, a complaint in intervention, or any other pleading requiring the leave of the Court to file, the movant shall file with the motion a copy of the proposed pleading or amendments and lodge the original with the Clerk of Court. If leave to file is granted, the Clerk shall immediately file the amended document.

C) Except as provided in Uniform District Court Rule 4, no one may file discovery documents with the Clerk of Court without prior leave of the Court. Upon receipt of a deposition pursuant to Rule 4, MUDCR, after leave of the Court has been granted, the Clerk shall file it in the open file, unless otherwise ordered.

D) When a litigant incorporates a demand for a jury trial in a pleading, the litigant shall so indicate the demand in the title as well as in the body of the pleading.

E) The Court may, on its own initiative and upon such terms as

the Court deems just, strike any papers filed which do not conform to Rules 1 and 2 of the Montana Uniform District Court Rules or to Rule 10 or Rule 11 of the Montana Rules of Civil Procedure.

F) Each written order of the Court must immediately be presented to the Clerk of Court for filing.

G) A copy of any order, the original of which is being taken out for service, shall be presented to the Clerk of Court for a minute entry immediately upon obtaining the judge's signature.

H) When a Montana attorney associates with an out-of-state attorney who is appearing *pro hac vice* on a Montana case, the Clerk of Court will mail orders and notices from the District Court to in-state counsel only with few exceptions.

RULE 9 - BRIEFS

A) Counsel and parties without counsel shall first file with the Clerk of District Court and serve on all opposing counsel or opposing parties without counsel all briefs presented to the Court.

B) All briefs required by rule, regulation, or by Court ordered to be filed by a date certain shall be filed by 5:00 p.m. on that date. Unless a litigant seeking extension of a filing deadline obtains approval from the Court prior to the date certain and provides notice to each other party, the Court may disregard the brief and cite the delinquent party's attorney for contempt for filing a brief beyond the date certain.

C) No individual brief shall exceed 25 pages in length, exclusive of indices and appendices, without prior leave of the Court.

D) Follow the most recent uniform system of citation. For citations to Montana Supreme Court cases, see Matter of Opinion Forms and Citation Standards (Dec. 16, 1997) 54 St. Rep. 1357; amended by Matter of Amending Citation Standards for TM Supreme Court, Rule AF 07-0064 (Jan. 22, 2009); amended by Matter of Opinion Forms and Citation Standards of the Supreme Court of Montana (Feb. 25, 2010).

RULE 10 - FACSIMILE AND EMAIL FILINGS

A) Documents may be submitted for filing by mail, email, or facsimile with the Clerk of Court. Documents submitted by email must be emailed to the address provided by the Clerk of Court and those submitted by facsimile must be faxed to the following applicable facsimile numbers:

Dawson County Clerk of Court	(406) 377-7280
McCone County Clerk of Court	(406) 485-3436
Prairie County Clerk of Court	(406) 635-5576
Richland County Clerk of Court	(406) 433-6945
Wibaux County Clerk of Court	(406) 796-2625

B) A person who submits a document for filing by facsimile or email must follow the following guidelines:

1. All documents must be properly signed and dated.
2. Email documents must be in a PDF format and submitted as an attachment to an email.

3. A hard copy original of a faxed or emailed document must be provided within five business days.

4. The Clerk of Court shall print, date stamp, and file the email or facsimile. The hard copy original shall be filed upon receipt. When the Clerk of Court files the original document, he or she shall retain the first page of the faxed or emailed version, reflecting the date it was filed, and may discard the remainder of the faxed or emailed copy.

C) The date and time of transmission to the Clerk of Court shall be the date and time of filing. If the original is not served on the same day as the facsimile or email, service of the facsimile must be made as provided in Rule 5, Mont. R. Civ. P. It is the obligation of the person faxing or emailing a document to arrange for it to be delivered to the Clerk of Court. A facsimile or email document must show all necessary signatures or it will not be filed by the Clerk.

D) The sender shall, on the date of the facsimile or email, mail the original of whatever is sent by facsimile or email to the Clerk of Court by first class mail. The original must be signed pursuant to Rule 11, Mont. R. Civ. P. The Certificate of Service must reflect that a facsimile or email was sent to the Clerk of Court and the date of such transmission. Unless an order of Court is obtained extending the time, failure of the sending party to provide the Clerk of Court with the original within five working days shall cause the facsimile or email document to be stricken and it shall be of no force and effect whatsoever. It shall be the obligation of the

notice as the Court deems reasonable, set for trial any cause coming to issue.

B) Trial briefs shall be submitted as required in the pre-trial order.

C) When, after the day is fixed for the trial of any cause, either party shall desire a continuance, he shall give to opposing party a reasonable notice that application will be made and upon what grounds. For good cause, the time may be shortened. Continuances may be granted on the Court's own motion or upon motion of counsel or a party if such a continuance does not inconvenience the Court in the process of the trial calendar. Continuances, even when stipulated to by Counsel, will not be routinely granted.

D) During any contested hearing, no argument or motion to the Court, other than a formal objection, will be entertained unless the attorney making the same first rises in his place to address the Court and the Court grants a request for argument. Argument, when permitted by the Court, shall cease upon completion of rebuttal.

The party whose duty it is to offer proof first in any trial or proceeding shall have the right to open and may close the argument. Should the adverse party waive argument, no rebuttal will be permitted.

In the examination of witnesses, but one attorney for each party will be permitted to examine or cross-examine the same witness, except by prior permission of the Court.

E) In any case, civil or criminal, no agreement or stipulation between the parties or their attorneys with respect to the proceedings in any cause will be considered for any purpose by the Court unless made in open Court on the record or entered on the minutes, or unless in writing, subscribed by the party against whom it is sought to be enforced, or by his attorney. It shall be the duty of the party relying upon such minute entry to see that it is duly made.

RULE 18 - JURY TRIALS

The following conduct shall apply to all jury trials, unless specifically addressed differently in a pre-trial order or omnibus hearing:

1. If the case is settled after the Clerk of Court has mailed the notices to the jurors, each counsel is expected to pay \$100 to the Clerk of District Court to help defray the cost of notifying each juror that the case is settled and he or she need not appear for trial.

2. Attorneys shall have a conference with the Judge one-half hour prior to trial.

3. A routine trial day will begin at 9:00 a.m. with the luncheon recess at 11:45 a.m.

Trial will resume at 1:15 p.m. and will end at 4:30 p.m. There will ordinarily be one fifteen-minute mid-morning and mid-afternoon recess each day. The Court may extend the trial past 5:00 p.m.

4. Each party shall prepare an index of exhibits which he or she expects to offer. At the pre-trial conference, counsel shall provide a copy for the Court and a copy for opposing counsel.

5. Counsel shall affix labels to their exhibits before the pre-trial conference, legibly marked with the exhibit number or letter and the cause number. Plaintiff's exhibits shall be marked in numerical sequence; Defendant's exhibits in alphabetical sequence. If there are more than twenty-six exhibits for the Defendant, they shall be marked "AA," "BB," etc.

6. It is expected that a copy of each labeled exhibit will be provided to opposing counsel at or before the pre-trial conference, and counsel will provide an additional copy of each labeled exhibit for the Court at that time, bound in a ring binder and index tabbed. To expedite trial, each exhibit to be offered shall be reviewed by opposing counsel prior to the pre-trial conference with the Court and a determination made as to whether an objection will be lodged and the basis for the objection. It is not anticipated that there will be interruptions of the trial for review of exhibits.

7. Counsel shall provide the Court with two copies of a list of their respective witnesses at the pre-trial conference. One copy will be given to the Court Reporter to avoid asking the spelling of names.

8. Counsel shall prepare a glossary of any unusual or technical terminology and provide it to the Court Reporter prior to trial.

9. Attorneys shall provide the Court and opposing counsel with instructions and verdict forms at the Pre-trial Conference, and any additions as soon thereafter as possible. Attorneys shall check instructions to avoid duplicates. The new Montana Pattern Instructions shall be used as primary source.

10. Instructions shall be on an 8 1/2 x 11 paper, and in the form of the attached Instruction, one set with source shown and the other without source shown.

11. Attorneys shall check their proposed instructions for spelling, errors in gender, and singular or plural parties.

12. The length and conduct of voir dire examination shall not exceed one and one-half hours per side without prior leave of Court.

a) Only one attorney for each party shall be allowed to question the prospective jurors on voir dire.

b) 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, will discourage counsel from:

- 1) Asking questions of an individual juror that are capable of being asked collectively.
- 2) Asking questions covered by and answered in a juror questionnaire, except to explore some answers in great 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.
- 6) Asking a juror what his verdict might be under any hypothetical situation, based upon expected evidence or otherwise.

13. There shall be no vocal challenge of jurors except for cause. Peremptory challenges shall be exercised or waived by counsel indicating on the jury list to be kept by the Clerk of Court what jurors are peremptorily challenged.

14. No exhibits or charts will be allowed in opening statement without prior approval of the Court.

15. Attorneys should not stand between the witness and the jurors.

16. If counsel intend to use diagrams or large exhibits, it is preferred that they be prepared before trial and placed on the board or otherwise mounted for display in the courtroom during recesses to best utilize available time. Erasable black board illustrations are discouraged since they cannot be preserved for the appellate record.

17. Attorneys should not have witnesses go to the easel with their back to the Court Reporter.

18. On the examination of witnesses, only one attorney for each side will be permitted to examine or cross-examine the same witness without prior permission of the Court.

19. Any attorney or party who anticipates that any witness to be called in trial may refuse to answer a question on the grounds that the answer may tend to incriminate him or her, shall so advise the Court in advance of such witness testifying. The Court shall hold a hearing outside of the presence of the jury to determine if, in fact, such will be the case. An appropriate order will then be entered for the purpose of avoiding, if possible, "taking the 5th" in the presence of a jury.

20. If the attorney for either party offers himself or herself as a witness on behalf of his client and gives evidence on the merits of an issue, he or she shall not argue the case or sum it up to the jury except by permission of the Court and then he or she shall not comment on his or her own testimony. The only exception to this rule is the issue of attorney's fees.

21. Not more than three witnesses for each side will be allowed to testify as to character in any case, civil or criminal, without first obtaining permission of the Court.

22. In any case, civil or criminal, no agreement or stipulation between the parties or their counsel with respect to the proceedings in any cause will be considered for any purpose by the Court unless made in open court on the record or entered upon the Minutes, or unless in writing, subscribed by the party against whom it is sought to be enforced, or by his or her attorney. It shall be the duty of the party relying upon such minute entry to see that it is duly made.

23. The Court will provide the attorneys with the prearranged order of the Instructions to be given.

24. **NOTE** - The Court will be in session until at least 4:30 p.m. Have witnesses ready to testify. Do not waste jury time. If arguments need to be made outside the presence of the jury, inform the Court before the jury is called in, or do so during recesses.

25. The Judge needs time to make rulings on objections -

