

**MONTANA NINTH JUDICIAL DISTRICT  
COURT RULES**

**TETON, TOOLE, GLACIER and PONDERA COUNTIES**

**RULE 1 - SCOPE**

These Rules govern the procedure in the District Court of the Ninth Judicial District of the State of Montana. They shall be construed to secure the just, speedy and inexpensive determination of every action.

These Rules supplement the Montana Rules of Civil Procedure, Uniform District Court Rules, statutes related to Criminal Procedure and other applicable provisions of Montana Code Annotated. All prior Rules issued by the Ninth Judicial District are superseded in their entirety.

**RULE 2 - LAW AND MOTION DAYS**

Court will convene as set forth below on each judicial Law & Motion Day as set forth below, unless the Court orders otherwise. For example, telephonic scheduling conferences may be scheduled at 8:30 or 8:45 A.M. The typical schedule for Law and Motion Days/Terms is on a bi-weekly basis:

Every other Monday:	Pondera County, Conrad	9:00 a.m.
Every other Monday:	Teton County, Choteau	1:00 p.m.
Every other Tuesday:	Toole County, Shelby	9:00 a.m.
Every other Wednesday:	Glacier County, Cut Bank	9:00 a.m.

Counsel and parties should set and confirm hearing dates with the Clerk of District Court. In the event that counsel or parties encounter extreme difficulties because of the date selected, they should consult with the opponent and then advise the Court by stipulation or motion stating efforts to contact the opponent and the opponent's position.

**RULE 3 - FILING OF PLEADINGS AND OTHER PAPERS**

**A. Civil Rules Applicable:** Any pleading filed in any civil action which does not conform to Rule 10 or 11 of the Montana Rules of Civil Procedure may be stricken by the court on its own initiative.

**B. Form of Papers Presented for Filing:** Documents should be firmly bound with holes punched at the top ready for placement in the court file. Any filing fee required by statute must accompany the document or it will not be filed. All papers filed in any action must conform to Rule 1 of the Montana Uniform District Court Rules. Any paper not in conformity with this Rule shall not be filed by the clerk and shall be returned to the party submitting it. If filed, it may be stricken by the court.

**C. Necessary Copies Presented:** When the clerk is required to provide copies, parties must furnish to the clerk all necessary copies of any such pleading, proposed order or other matter filed of record in any cause, so as to enable the clerk to provide conformed copies. Pre-addressed envelopes for all parties of record are likewise to be provided for distribution of copies by the clerk.

**D. When Leave of Court Required:** When leave of court is required before a pleading can be filed, a proper motion must be filed and served. An original of the pleading should be attached (to be removed and stamped for filing immediately upon granting of the motion). This rule does not apply to filing an Information in a criminal case.

**RULE 4 - COURT RECORDS**

**A. Withdrawal of Files or Papers.** The clerk may not permit files or documents to be removed from the office except upon order of the court for good cause shown. The clerk must obtain a receipt from any party removing any file or court record.

**B. Juvenile (Delinquent Youth and Youths In Need of Care) and Adoption Matters.** Except as provided by statute, the records and files in juvenile and adoption actions shall not be withdrawn, examined, or inspected by anyone except upon order of the court.

**C. Withdrawal Prohibited.** No will, bond, or undertaking shall be taken from the clerk's office under any circumstances, and no judgment before it is recorded.

**D. Exhibits.** Exhibits offered during a trial may be withdrawn at any time after trial upon stipulation of counsel. After a judgment has become final and appeal rights no longer exist, any party may withdraw any exhibit

which that person has offered into evidence, unless some person has filed with the clerk notice that a third person is entitled to the exhibit. Withdrawal shall then be permitted only on order of the court.

If exhibits are not withdrawn within thirty days after the judgment has become final and non-appealable, the clerk shall give ten days' notice to the party offering the exhibit of his/her intention to dispose of the same and may do so, if not then withdrawn, after obtaining a court order to destroy the exhibit.

**RULE 5 - CONTESTED MATTERS**

**A. Disposition of Motions.** All motions shall be disposed of pursuant to Rule 2 of the Uniform District Court Rules, or as otherwise required by the Montana Rules of Civil Procedure.

**B. Notice of Issue.** When all briefs have been filed, or the time for filing of briefs has expired, at least one party shall file a "Notice of Issue" with the court indicating that the matter is ready for ruling by the court. The party filing the Notice of Issue shall additionally serve a copy of the Notice of Issue on the court at chambers and shall include certification of such supplemental service in the certificate of service for the original Notice of Issue. The clerk shall thereupon deliver the original Notice of Issue and the court file to the judge having jurisdiction.

**C. Motions to Dismiss.** Motions to Dismiss by a Defendant not supported by a timely brief shall be deemed overruled and the moving party shall have twenty days after notice from the clerk to further plead.

**D. Briefs.** Except with leave of court for good cause, Initial and Answer Briefs shall not exceed twenty pages. Reply Briefs shall not exceed ten pages.

**E. Requests for Oral Argument.** When counsel desire oral argument on a motion, other than a motion in which oral arguments are mandatory unless waived by all parties, counsel shall state with their Notice of Issue or in a separate request for oral argument their reasons in support of oral argument and why the written briefs are inadequate to fully and satisfactorily articulate their position. Oral argument will be set only by court order, whether upon motion of a party or upon a *sua sponte* determination that oral argument would be beneficial. A proposed order shall accompany any request for oral argument and the Clerk of Court shall promptly deliver both documents to the judge.

**F. Notice to the Judge of Settlement.** In the event any contested matter set for hearing is resolved between the parties, the judge's judicial assistant shall be immediately advised so that other matters may be scheduled in the time previously allotted for that case. A written stipulation or appropriate pleading shall subsequently be filed within two days. Failure to abide by this provision may result in imposition of sanctions by the court.

**G. Discovery Motions.** The court will deny any motion pursuant to Rules 26 through 37 of the Montana Rules of Civil Procedure, unless counsel shall have conferred concerning all disputed issues before the motion is filed. If counsel for the moving party seeks to arrange such a conference, and opposing counsel willfully refuses or fails to confer, the judge may order the payment of reasonable expenses, including attorney's fees, pursuant to Montana Rules of Civil Procedure 37(a)(4). Counsel for the moving party shall include in the motion a statement of compliance with this rule. See also Rule 4 of the Uniform District Court Rules.

**H. Contested Hearings.** Any motion requiring presentation of testimony shall be scheduled as a contested matter with the appropriate Request for Hearing pleading being presented to the judge's judicial assistant.

**I. Courtesy Copies.** If any pertinent document is filed within forty-eight hours of a contested hearing or oral argument, a copy thereof shall be delivered to the judge's chambers.

**J. Motions to Continue or for Extensions.** Motions to continue and for extensions must be in writing and shall state the position of opposing counsel to the motion. It is not sufficient that the motion state that opposing counsel could not be contacted. If a motion to continue or for extensions does not state the position of opposing counsel, the motion shall be subject to Rule 2, Uniform District Court Rules. The court will not rule on the motion until the response time has expired.

**K. Reminders to the Court.** If a judge has any matter under advisement for more than ninety days, any party affected thereby may send to the judge a letter, with copies to all counsel, describing the matter under advisement and stating the date it was taken under advisement.

~ Rule Section ~ Rule Section ~ Rule Section ~ Rule Section ~ Rule Section ~ Rule Section ~ Rule Section ~ Rule Section ~ Rule Section ~ Rule Section ~



## RULE 11 - DOMESTIC ACTIONS (REPEALED)

## RULE 12 - STIPULATIONS

No agreement or consent between the parties, or their attorneys, shall be accepted by the court unless made in open court, and taken down by the court reporter or entered in the minutes by the clerk, or unless the same shall be in writing, signed by the party against whom the same may be urged, or by that party's attorney. It shall be the duty of the party relying upon such minute entry to see that the same is duly entered.

## RULE 13 - OUTSIDE JUDGE

Pursuant to Section 3-1-308 MCA, the district judge substituted or disqualified shall call in a judge from another district. When a case is assigned to a judge from another district, the clerk 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 judicial assistant of the judge who originally had jurisdiction.

The judge of this district who originally had jurisdiction and the clerk 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.

## RULE 14 - DISMISSAL OF ACTION FOR LACHES

The Clerk of Court will, on an annual basis, bring to the attention of the judge in whose department it is filed any cause which the pleadings show to have been at issue and no activity has occurred for more than one year. An order to show cause for failure of prosecution will be issued, and the court may dismiss the case unless good cause is shown that it should remain open.

## RULE 15 - ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDERS

Two originals of any order to show cause, temporary restraining order or like order shall be presented to the judge. One shall be signed by the judge as the original order and retained as part of the court file. The other shall be issued by the clerk and shall be used for the purpose of making service.

## RULE 16 - JUDGEMENT ON WRITTEN INSTRUMENT

In all cases in which a judgment is entered upon a written instrument, the instrument must be presented to the clerk at the time judgment is granted by the court. The clerk shall note in ink across the face of the instrument the fact of the entry of judgment and its date. The clerk shall sign the entry, attach the official seal, and file the instrument. The instrument shall not be removed except by the order of the court in writing setting forth the facts of such removal.

## RULE 17 - RULES OF DECORUM

**A. Opening Announcement.** When Court is first convened in the morning and after any recess, the Court Reporter, Clerk of Court, or Bailiff shall announce the opening of Court and all persons in attendance in the courtroom shall rise until the presiding judge has taken the bench.

**B. Court Reporter.** Unless the presence is waived by the parties and the Court, a court reporter shall be on duty in the courtroom at all times the Court is in session.

**C. Dress.** All counsel appearing before the Court shall be dressed in the appropriate business attire.

**D.** At the trial of any cause or in the presentation of any matter before the Court, only attorneys and parties engaged in the matter shall occupy positions before the bar, except by permission of the Court. No argument, motion or suggestion to the Court, other than a formal objection to the evidence, need to be entertained unless the attorney making the same first rises in his place and addresses the Court.

## RULE 18 - FREE PRESS AND FAIR TRIAL

Within the spirit of the First Amendment, the presiding 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 the courtroom unless the judge is convinced from the particular circumstances of the individual case, or any portion, that such recording, broadcasting, or photographing would substantially and materially interfere with the primary function of the court to resolve disputes fairly under the law.

The District Court has the responsibility to assure appropriate decorum within the courtrooms of this court and to assure no substantial or material interference with the primary function of the court to fairly resolve disputes. No still photography, videotaping, audio recording or broadcasting of court proceedings shall occur without prior consent of the presiding district judge. That in the event such coverage is granted, the following guidelines shall apply:

### TELEVISION and RADIO.

No more than one camera will be permitted. It shall be located in a preselected position and operated by one cameraman. 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. Permission for such coverage is on the condition that all representatives share in the pool arrangement. The television camera shall give no indication as to whether it is or is not operating and it shall remain stationary during the entire proceeding.

Sufficient film or tape capacities shall be available to alleviate film or tape changes except during court recess. Microphones, if utilized, shall be limited to three: one near counsel table, one on 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 fifteen 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.

Print Media Representatives, including still photographers, will be accommodated on a first-come basis, and position themselves in the spectator section. Photographers and 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.

There will be no interviews of jurors, witnesses, or court personnel either in or out of court during a trial or any ancillary proceeding. This rule applies to all of the media. There will be no available telephones on the courtroom floor. Representatives of the media shall not be dressed in a manner which would set them apart from other spectators.

## RULE 19 - TREATMENT COURT

A Treatment Court has been established by the Judge of the Ninth Judicial District Court of the State of Montana. The Ninth Judicial District Treatment Court seeks to improve the quality of life in our judicial district by establishing a comprehensive, diversionary program of incentives and sanctions aimed by breaking the offender's addiction.

Possible Treatment Court participants may be referred for screening by the County Attorney's Office or the defendant's attorney. The Treatment Court team will make a preliminary decision as to whether to accept the individual. The Court will make the final decision at sentencing of the defendant.

Eligibility for Treatment Court will be limited to defendants charged with one of the following enumerated offenses, or a probation violation: CRIMINAL POSSESSION OF DANGEROUS DRUGS, A FELONY, in violation of Section 45-9-102, MCA; THEFT, A FELONY, in violation of Section 45-6-301, MCA when motivated by addiction; ISSUING A BAD CHECK, A FELONY, in violation of Section 45-6-316 MCA when motivated by addiction; DECEPTIVE PRACTICES, A FELONY, in violation of Section 45-6-317, MCA when motivated by addiction; FORGERY, A FELONY, in violated of Section 45-6-325, MCA when motivated by addiction; DRIVING UNDER THE INFLUENCE OF ALCOHOL (fourth or subsequent offense, A FELONY, in violation of Section 61-8-401, MCA; Any other non-violent offense in which drugs or alcohol were involved.

