

transmission subject to the provisions of this rule. The Court discourages telefax and e-mail filings unless a deadline is imminent.

1. Filing of Telefax or E-Mail Document. The date and time of receipt of the fax shall be the date and time of filing by the Clerk of Court. If the original is not served on the same day as the telefax or e-mail transmission, service of the telefax or e-mail document must be made as provided in Rule 5, Mont.R.Civ.Pro. It is the obligation of the person telefaxing or e-mailing any document to arrange for it to be delivered to the Clerk of Court's office. A telefaxed or e-mailed document must show all necessary signatures or it will not be filed by the Clerk.

2. Filing of Original. The sender shall, on the date of the telefax or e-mail transmission, mail the original of whatever is sent by telefax or e-mail to the Clerk of Court by first class mail. The original must be signed pursuant to Rule 11, Mont. R. Civ. Pro. The original of the document shall be filed by the Clerk and the date of filing shall be deemed to be the date of the filing of the telefax or e-mail transmission. Service of the original must be made as provided in Rule 5. Mont. R. Civ. Pro. The Certificate of Service must reflect that a telefax or e-mail transmission 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 Clerk to receive the signed original within five (5) working days shall cause the telefaxed or e-mailed document to be stricken and it shall be of no force or effect whatever. It shall be the obligation of the party filing the telefax or e-mail document to insure that the original is received within the allotted five (5) working days.

3. Telefax Receivers. (1) Documents may be telefaxed to the Court in Fort Benton at (406) 622-3028. (2) Documents may be telefaxed to the Court in Havre at (406) 265-3693. (3) Documents may be telefaxed to the Court in Chester at (406) 759-5996.

4. Fees and Costs. The use of e-mail and telefax equipment shall not change or delay the required payment of fees. It shall be the obligation of the person filing the telefaxed or e-mailed document to pay any required fees in the manner and within the time required by the Clerk of Court. It shall be the obligation of the person telefaxing any document to pay any costs associated with use of telefax equipment or telephone services.

(e) Copies to Presiding Judge. When a non-resident judge accepts jurisdiction of a matter, the parties shall file all documents in the action with the Clerk of District Court in the appropriate county, providing a courtesy copy to the Judge in chambers. The Judge's name shall be added to the Certificate of Mailing on all documents to show the Clerk that the Judge has been served.

RULE 7 - PROBATE AND ADOPTION MATTERS

(a) Adoption Investigation. In all adoption matters the records check required by §42-3-2-3 (1) (a), MCA will be ordered by the Court. The evaluation will be considered for waiver by the Court under §42-3-212, MCA.

(b) Payment of Fees. The amount and payment of administrator, personal representative, conservator, guardian and attorneys' fees shall be governed by the Montana Uniform Probate Code, as amended from time to time.

(c) Petition for Probate of Will. Whenever a petition for the probate of a Will is filed, a copy of the Will shall be attached, unless the original is filed with the Clerk.

RULE 8 - JUDGMENT ON WRITTEN INSTRUMENT

In all cases in which a judgement is entered upon a written instrument, the instrument must be presented to the Clerk at the time judgment is granted by the Court. The judge shall note across the face of the instrument the entry of judgment and its date. The instrument shall not be removed except by order of the Court in writing setting forth the facts of such removal.

RULE 9 - CLERK. CUSTODIAN OF FILES.

Check Out of Files. The Clerks of Court are the custodians of the file of this Court. Files may be taken from the Clerk's office only upon order of the Court.

RULE 10 - AMENDMENTS BY ERASURE OR ADDITIONS.

No amendments shall be made to any filed document by erasing or adding any words in the original on file, except in the handwriting of

the judge, and initialed by the Judge, unless otherwise ordered by the Court. No documents shall be deleted from any file, nor shall any page in a document be removed and another substituted therefore.

RULE 11 - ATTORNEY FEES.

Civil Actions. In cases other than probate where attorney fees are recoverable by law or contract, they shall be determined and fixed by the Court upon evidence as to the amount of a reasonable fee presented in open court at the trial or hearing, unless the Court allows presentation of such evidence at another time.

RULE 12 - ALTERNATE DISPUTE RESOLUTION.

(a) Mediation. Parties, at their cost, may voluntarily retain a private individual for mediation of their case. In such case, mediation shall be a confidential meeting between the parties and the mediator to seek and promote communication between the parties with a view toward reaching a settlement agreement. Parties may agree to attend mediation without counsel. Any agreement reached in mediation shall be promptly reduced to writing and upon execution by parties, a written status report shall be filed with the Court.

(b) Settlement Conference. In all civil cases, the Court may require at any time a settlement conference before an appointment settlement judge or master. Any party may move the Court to order a settlement conference with an appointed settlement judge or master. At the discretion of the Court, trial may be postponed or not set until after a settlement conference.

1. Settlement Judge or Master. The settlement judge will be either a current or retired state District Court Judge. The settlement master may be any person qualified under Rule 53, M.R.Civ.P.2.

2. Settlement Conference Defined. A settlement conference is a confidential meeting between the parties, attorneys and the settlement judge/master with a view toward negotiating a settlement. Each party will submit to the settlement judge/master a confidential settlement statement containing a summary of their case and description of strengths and weaknesses on each side. The parties and their attorneys must be present unless excused by the settlement judge/master.

3. Sanctions. Failure of a party or counsel to participate in a Court-ordered settlement conference may result in sanctions such as imposition of costs and attorney's fees incurred by opposing party in preparation for settlement conference.

4. Attendance of Insurance Claims Persons. In all cases where pertinent, claims representative(s) from insurance companies, with requisite settlement authority, shall be required to attend the settlement conference in person or by speaker phone. Upon good cause shown, the Court may require personal appearance.

6. Fees. Fees charged by a settlement judge/master may be imposed upon parties in discretion of the Court.

(c) Settlement Documents. If a case is settled by settlement conference or other method before the trial date without documentation, parties shall forthwith inform the Court in person or by conference call and a minute entry will be made vacating trial as the case has been settled. Once of record, the agreement is binding and enforceable. Within thirty (30) days, settlement documents must be prepared and filed.

RULE 13 - COURT APPEARANCES

(a) Prisoners. Prisoners may appear in court in jail clothing when a jury or jury panel is not present. While in the courtroom prisoners will have handcuffs, manacles, and other restraining devices removed unless, in the discretion of the Sheriff, they are deemed advisable. Prisoners shall not appear in court or in any place where they may be observed by a jury or jury panel in prison clothing or in restraints without permission of the Court. Suitable clothing for a criminal defendant who has none shall, on application of counsel, be provided by the Court for appearances before a jury.

(b) Attorneys. Attorneys shall appear before the Court in clothing that is appropriately formal for the conduct of serious matters and that meets current concepts of business attire. Attorneys shall advise their clients and witnesses to dress in clean clothes which shall be appropriate for serious occasions in the conduct of their ordinary business.

(c) Conduct. Spectators shall remain quiet while Court is in session. Court sessions are not an appropriate place for small children who cannot be expected to conduct themselves suitably.

