

**MONTANA TWENTY-SECOND JUDICIAL DISTRICT  
COURT RULES**

**BIG HORN, CARBON, AND STILLWATER COUNTIES**

**HONORABLE MATTHEW J. WALD  
District Judge  
P.O. Box 1268  
Columbus, Montana 59019  
Telephone: (406) 322-5406 Fax: (406) 322-8429**

**EFFECTIVE: January 1, 2024**

## PREFACE

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. Further, pursuant to Local Rule 30, the Court may refer cases to the Twenty-Second District's Standing Master, at its sole discretion. 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

A. **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 the time and date of law and motion. 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.

B. **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.

C. **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.

D. **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.

E. **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.

F. **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.

G. **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 OF RECUSAL OF JUDGE**

A. 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.

B. 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.

C. 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.

D. 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.

E. 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**

A. 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.

B. 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.

C. Counsel shall include with their motion a proposed Order granting oral argument if such is desired. If the parties request a hearing and are entitled to one, or the Court finds one beneficial, the Court will confer with the parties regarding scheduling such a hearing. The proposed Order granting oral argument shall include blanks for the Court to fill in the date and time.

D. Counsel shall include with all motions a proposed Order for the Court's signature. Counsel shall provide an electronic copy of the proposed Order in Word format to the Court Administrator.

E. 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.

#### **RULE 6 – SCHEDULING, CONFERENCES, ORDERS, DISCOVERY RULES**

A. **Scheduling Conference.** 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.

B. **Exempt Matters.** 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.

C. **Discovery Rules.** Pursuant to Rule 26, M.R.Civ.P., the following discovery rules shall be followed in every cause not exempted above, except Domestic Relations Cases and those cases wherein good cause is shown by motion and affidavit:

(1) Except with leave of Court, a party may not seek discovery from any source before making an appropriate pre-discovery disclosure and may not seek discovery from another party before serving that party with an appropriate disclosure. A party may serve written interrogatories upon a party simultaneously with service of the required disclosure statement upon that party. Every party shall serve and file an appropriate disclosure not later than fifteen days in advance of the Case Scheduling Conference. The disclosure shall contain the following information:

(a) the factual basis of every claim or defense advanced by the disclosing party. In the event of multiple claims or defenses, the factual basis for each claim or defense;

(b) the legal theory upon which each claim or defense is based including, where necessary for a reasonable understanding of the claim or defense, citations or pertinent legal or case authorities;

(c) the name, and if known, the address and telephone number of each individual known or believed to have discoverable information about the claims or defenses, and a summary of that information;

(d) a copy of, or a description, including the location and custodian, of documents or data compilations, and tangible things and relevant documents reasonably likely to bear on the claims or defenses;

(e) a computation of any damages claimed; and

(f) the substance of any insurance agreement that may cover any resulting judgment.

(2) **Supplementation of Disclosure.** The disclosure obligation is reciprocal and continues throughout the case. A party who has made a pre-discovery disclosure is under a duty to supplement or correct the disclosure within a reasonable time if the party learns that the information disclosed is not complete and correct or is no longer complete and correct.

(3) **Signing of Disclosure.** Every mandatory disclosure or supplement made by a party represented by counsel shall be signed by at least one attorney of record. A party who is not represented by counsel shall sign the disclosure. The signature of counsel or the party constitutes a certification that to the best of the signer's knowledge, information, and belief, formed after the reasonable inquiry, the

disclosure is complete as of the time it was made.

(4) Sanctions. A sanction may be imposed for violation of Rule 6. Sanctions shall be imposed in accordance with Rule 37, M.R.Civ.P.

#### **RULE 7 – COMMUNICATIONS WITH THE COURT**

A. **Communications.** All communications with the Court shall go through the District Court Administrator or the Clerk of Court to ensure that no *ex parte* communications take place and to ensure judicial economy. The Court will not receive letters or other communication from counsel or parties which do not indicate on their face that copies have been sent to opposing counsel.

B. **Ex Parte Communications.** There will be no *ex parte* discussion with the Court of substantive issues involved in pending or anticipated cases without the presence of or notice to all opposing counsel, or without prior approval or stipulation by such counsel. A violation of this rule may result in the imposition of sanctions against the offending attorney or party.

C. **Reminders to the Court.** In the event the Court has under advisement any matter (including but not limited to a motion or decision in a bench trial) for a period of more than ninety (90) days, each party affected thereby is encouraged to send to the Court a reminder letter particularly describing the matter under advisement and stating the date the matter was taken under advisement. Such reminders shall be titled “Note of Issue”.

#### **RULE 8 – COURT RECORDS**

A. The Clerk of Court of each county is the custodian of the files of the Court for such county. The Clerk may allow papers to be taken from the Clerk’s office in accordance with the rules of court and appropriate statutes provided that no will, bond, deposition, exhibit or undertaking shall be taken from the Clerk’s office under any circumstances, and no judgment before it is recorded, except by order of the Court in writing. Nothing shall be removed from the files in criminal actions before trial without a written order from the judge.

B. No file shall be taken from the office of the Clerk of Court in any county without the consent of the Clerk and without a receipt acknowledged in writing by the party taking the same provided, however, that no record or paper belonging to a file shall be taken from the custody of the Clerk for a period of twenty-four (24) consecutive hours of a working day after its initial filing except by permission of the judge of the Court.

#### **RULE 9 – DISMISSAL FOR FAILURE TO PROSECUTE**

A. When no proceedings have been taken in any civil cause for a period of one year, the action may be dismissed on its merits and/or the file closed by the Court on its own motion after twenty (20) days notice of such intended dismissal unless good cause to the contrary is shown.

B. Any party that intends to show cause that an action should not be dismissed or the file closed will give notice of his/her reasons for opposing the dismissal to any other party. Within twenty (20) days of such notice, any other party may file his/her objection and notice the matter for hearing. The Clerk shall give notice to the attorneys of record or the parties when an action is dismissed pursuant to this rule.

C. The Clerk shall notify the attorney of record ninety (90) days before the expiration of two (2) years from the filing of an estate matter that it has not been completed and that fact will be brought to the attention of the Court in ninety (90) days for such action as may be appropriate.

#### **RULE 10 – FILINGS**

A. **Filing Fees.** All pleadings, motions, and briefs shall be filed with the Clerk of Court. The Clerk of Court shall not accept or file any document required to be accompanied by a filing fee, unless the fee is paid or the Court has approved a fee waiver in writing.

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

C. **Discovery.** Pursuant to Rule 4, UDCR, no discovery documents shall be filed with the Clerk of Court without prior leave of Court. Upon receipt of a deposition, the Clerk of Court shall mark it received and place it in the court file.

D. **Jury Demands.** When a demand for a jury trial is incorporated in a pleading, parties shall so indicate in the title as well as the body of the pleading.

E. **Striking Pleadings.** Any papers filed which do not conform to Rule 10 or 11, M.R.Civ.P., may be stricken by the Court, on its own initiative and upon such terms as to the Court may appear just.

F. **Orders.** When any written order or judgment is made by the Court, it must immediately thereafter be presented to the Clerk for filing.

G. **Brief Deadlines.** All briefs required by rule, statute, or Court order to be filed by a date certain shall be filed on or before 5:00 p.m. by that date. Except where approval from the Court is obtained prior to the date certain, and notice thereof is provided to each party by the party seeking an extension of time, filing beyond the date certain may result in the Court's disregarding the brief and/or subject counsel to an appropriate sanction.

H. **Format of Briefs.** All briefs shall comply with Local Rule 10-2, *infra*. Failure to comply with Local Rule 10-2 may subject an offending brief to being stricken from the record and not being considered by the Court.

I. **Courtesy Copies.** Courtesy copies for all motions and briefs filed with the Clerk of Court shall be made available to the Court for consideration. See Local Rule 10-1, *supra*. Copies may be mailed, faxed or emailed to the Court Chambers in Columbus, Montana. The Court strongly prefers that courtesy copies are provided to the Court Administrator via email. Courtesy copies must be provided even if the county where the case is taking place has adopted e-filing.

J. **Facsimile Filing.** Any document which may be filed by mail can be submitted by facsimile transmission using the following procedure. However, documents may not be filed via facsimile if the county where the case is taking place has adopted electronic filing.

- i. The date and time of receipt of the transmission by 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 filing transmission, service of the facsimile document must be made as provided in Rule 5, M. R. Civ. P. It is the obligation of the person sending the document to arrange for it to be delivered to the clerk of court's office. A facsimiled document must show all necessary signatures or it will not be filed by the clerk.
- ii. The sender shall, on the date of the facsimile transmission, mail the original of whatever is sent by facsimile to the clerk of court by first class mail. The original must be signed pursuant to Rule 11, M. R. Civ. P. The original document shall be filed by the clerk and the date of filing shall be deemed to be the date of the filing of the facsimile transmission. Service of the original must be made as provided in Rule 5, M. R. Civ. P. The certificate of service must reflect that a facsimile 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 facsimiled document to be stricken and it shall be of no force or effect whatsoever. It shall be the obligation of the party filing the facsimiled document to ensure the original is received by the clerk of court within the allotted five (5) working days.
- iii. The use of facsimile transmission shall not change or delay the required payment of fees. It shall be the obligation of the person filing the facsimiled 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 facsimileing any document to pay any costs associated with use of facsimile equipment or telephone services.

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| <b>RULE 10-1 – COURTESY COPIES</b> |
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Courtesy copies of all filings are mandatory and should be provided to the Court Administrator simultaneously with their filing with the appropriate Court Clerk. Failure to provide a courtesy copy may delay the Court's review of the filing.

## **RULE 10-2 – FORMAT OF BRIEFS**

- A. **Form of Briefs:** All briefs shall comply with Rule 1, U.D.C.R., including but not limited to its restrictions on pagination, spacing, page numbering, etc.
- B. **Acceptable Fonts:** All briefs shall be written in either Times New Roman or Arial font, no smaller than 12 pt.
- C. **Length of Briefs:** No brief shall exceed 20 pages in length, exclusive of indices and appendices. This page limit includes the statement of undisputed facts in a Motion for Summary Judgment. No separate statement of genuine issues, disputed, or undisputed facts shall be filed by any party when briefing a Motion for Summary Judgment, nor may a separate statement be submitted as an attachment. Rather, all such issues shall be included in the brief that is subject to the page limitation. Additional pages may be filed only with leave of the Court upon a showing of good cause.
- D. **Case Citations:** Every specific reference to a statement from a cited case shall contain a pinpoint citation.

## **RULE 11 – MEDIATION**

- A. **Mediation Required.** In each civil case subject to a Scheduling Order pursuant to Local Rule 6, a mediation performed by a trained mediator must be completed **before a case may be tried**. The purposes of such mediations 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 Settlement Conference conducted by the Standing Master or other qualified individual agreed upon by the parties may be substituted for a mediation upon agreement of the parties, or by order of the Court.
- B. **Mediation.** The mediation may be held at any time upon stipulation of the parties or order of the Court. Unless otherwise agreed, the mediation shall be held as ordered in the scheduling order. 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 mediator or Settlement Conference Master.
- C. **Report of the Mediator.** Within five (5) days of the completion of the mediation, the mediator 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. Cases will be set for trial upon submission of the mediator's report.
- D. **Proceedings Confidential.** No person present at a mediation or settlement conference shall be subject to examination concerning statements made by any person

thereat. The parties will not subpoena nor otherwise require the mediator to testify regarding the mediation or the mediator'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. **Stipulated Jury Instructions.** The parties shall provide a set of proposed jury instructions upon which the parties agree, as well as a stipulation thereto, signed by counsel for all parties. Such stipulated instructions shall be provided to the Court via the same methods described in Rule 12(B). The stipulation accompanying the stipulated instructions shall include a brief description of which proposed instructions remain contested.

C. **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. Electronic copies of the proposed instructions and verdict forms shall be provided to the Court in Word format, via email, CD, or other electronic media. The Court's preferred method of receiving proposed instructions and verdict forms is by email.

#### **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.

D. **Length of Opening Statements/Closing Arguments.** Opening statements shall be limited to thirty (30) minutes. Closing arguments (including rebuttal) shall be limited to one (1) hour. For good cause shown, additional time may be requested and granted by the Court.

**RULE 15 – ORDERS, JUDGMENTS AND DECREES**

A. It shall be the duty of counsel obtaining any order, judgment or decree to present the same in written form for the signature of the judge at the time of applying for the order, judgment or decree. Requests for the issuance of an order may be made by counsel in person or via email.

B. 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.

## **RULE 17 - ATTORNEYS**

A. **Attorneys of Record.** Unless appearing especially on behalf of one of the attorneys of record, no attorney, unless the attorney's name appears on the pleading in the case, may participate in any proceedings in the case until the attorney's name has been entered of record.

B. **Authority as Attorney.** In case of a dispute over the authority of an attorney to represent a party to a proceeding pending before the Court, the Court will not recognize the right of the attorney to appear in such proceedings unless said attorney has an agreement in writing, signed by the client and filed in the record of the case, or unless the party has personally signed the pleadings by virtue of which the attorney appears therein.

C. **Withdrawal by Attorney.** Except as otherwise provided by law, no attorney may withdraw from any case except by consent of the client or by leave of the Court after notice has been served on the parties and opposing counsel. This provision is subject to §§37-61-403 through 37-61-405, MCA and Rule 10, UDCR.

D. **Addressing Witnesses and Attorneys.** Attorneys will not be permitted to address a witness on the stand in any manner except to propound a question to which an answer is desired. Attorneys will not be permitted to address each other during a trial or hearing except by permission of the Court.

E. **Attorney Fees.** In all civil cases in which attorney's fees are granted, the party seeking an award of attorney fees shall file and serve upon opposing counsel an affidavit itemizing the claim. The opposing party shall within ten (10) days thereafter file a request for a hearing on the reasonableness of the claimed attorney fees. The attorney fees hearing will not consider whether attorney fees are appropriate, but rather will be limited to whether the amount of fees claimed are reasonable. Failure to file such a request shall be deemed a waiver of right to a hearing on fees. In a contested proceeding, receipt of evidence pertaining to attorney's fees shall be deferred until a final decision or order on the merits of the case has been issued by the Court.

## **RULE 18 - EVIDENCE AS TO CHARACTER**

Not more than two (2) witnesses will be allowed to testify as to character in any cause, civil or criminal, without leave of the Court being first asked and obtained.

## **RULE 19 - DECORUM**

On the trial of any cause or in the presentation of any matter before the Court, only attorneys and parties engaged therein 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 be entertained unless the attorney making the same first rises in his/her place and addresses the Court.

**RULE 20 – JUDGMENT ON WRITTEN INSTRUMENT**

In all cases in which a judgment is entered upon a written instrument, the Clerk shall, at the time of entering judgment, note in ink over his/her official signature across the face of the instrument the fact of the entry of judgment and its date and attach his/her seal thereto, and file the said instrument in his/her office, which instrument shall not be removed except by order of Court. Then a proper entry of the same and of the order shall be made in the register of actions under the title of the case in which it was filed.

**RULE 21 – INTERROGATORIES**

A. The form of interrogatories and answers thereto shall conform to the requirements of Rule 33, M.R.Civ.P.

B. The Court will, except in extraordinary circumstances, sustain a motion to quash all interrogatories if it appears that numerous frivolous interrogatories are asked therein. (Comment: This rule is intended to require the interrogator to custom prepare his/her interrogatories to the case at hand.)

**RULE 22 – TRANSCRIPT**

Except for good cause shown, no extension of time will be granted in any case in addition to the time allowed by statute in which to prepare a transcript unless the party desiring such extension shall first make a written request to the Court Reporter for a transcript of the notes of the testimony and shall file and serve a copy of his/her request and, at the same time, make satisfactory arrangements to pay the estimated fees required.

**RULE 23 – GUILTY PLEA**

Before the judge will accept any plea of guilty, the attorney for the defendant shall file with the Court a fully executed acknowledgment of waiver of rights by plea of guilty, in the form and with content consistent with the one on file with the Clerk in the general order file, copies of which shall be available from the Clerk. Copies of the executed document shall be served upon the persons designated by said form and at the time provided.

**RULE 24 – CRIMINAL CASES**

A. In a criminal case, if a not-guilty plea is entered at the time of the arraignment, the case will be set for Omnibus hearing at a later date. The State or the defendant may make any motion permitted under the Montana Rules of Criminal Procedure at any time after arraignment and said motion shall be noticed for hearing by the moving party. Dispositive motions shall be made as directed in the Omnibus Hearing Order.

B. The Court hereby urges the full discovery, exploration and plea discussions be carried out between counsel prior to the Omnibus hearing.

C. In all cases in which the Court has discretion to consider a motion or allow the exercise of a defense at a later date than that designated in any statute, no party shall be deprived of the right to make such a motion to designate such defense by waiting to present the same at the time of the Omnibus hearing, as contemplated by this rule.

D. Counsel shall inform the Court no later than fourteen (14) days prior to trial regarding whether the cause will proceed to a jury trial, or at such other time that the Court may order. Failure to advise the Court shall be grounds for the Court to vacate and reset the trial date. The next regularly scheduled case shall then have priority for trial.

E. At its discretion, the Court may refuse to vacate a trial setting by reason of a plea agreement until after defendant has appeared and entered a plea found acceptable to the Court.

F. In preparing a Pre-Sentence Investigation Report (PSI), the probation officer shall make reasonable effort to contact any victim(s) and inform them of a right to be present and give testimony at the sentencing hearing and seek a written statement to be attached to the PSI. Unless effectively waived by a defendant, a PSI shall be completed and filed with the Court no later than ten (10) days prior to sentencing. Prior to sentencing, defense counsel shall review the filed PSI with defendant.

G. Unless excused by the Court, an officer of the Sheriff's Department shall be present during sentencing. The prosecution shall inform the Sheriff's Department of the dates and times of all sentencing hearings.

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| <b>RULE 25 – APPEALS FROM JUSTICE OR CITY COURT</b> |
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A. When an appeal from Justice or City Court, being civil or criminal, has been filed and the record received by the Clerk of Court, the Clerk shall send out by regular mail to parties a letter indicating that the matter has been appealed to District Court and indicating what the assigned District Court case number is.

B. The appealing party must clearly indicate on their notice of appeal whether the case was decided in a court of record. Further, the notice of appeal must clearly indicate the standard of review governing the appeal, be it *de novo* or another more deferential standard.

C. In a criminal matter, the defendant shall be set for an initial appearance on the next appropriate Law & Motion day. In a civil matter, the Court shall set the matter for a scheduling conference.

D. **Failure to Appear.** In any appeal from Justice or City Court, if one of the parties does not appear for the initial appearance or scheduling conference, the Court may dispose of the matter as the ends of justice dictate, including issuance of order dismissing the appeal.

**RULE 26 – EVALUATIONS, THERAPY AND COUNSELING IN DR CASES**

In a case with visitation and/or child custody issues, the judge shall consider, at the time of the scheduling conference or at any subsequent time, the advisability of requiring the parties to participate at their own cost in such evaluation, counseling, therapy and/or course of education as may appear necessary and appropriate in the circumstances relative to visitation and/or child custody issues. Any party may also request the Court to order the same at any time.

**RULE 27 – SIGNATURE STAMP, ELECTRONIC SIGNATURE**

The Court Administrator shall maintain a signature stamp bearing a facsimile of the Judge's signature. On occasions when the Judge is unable to personally sign an order or other document, the Judge may authorize the Court Administrator to use the signature stamp on documents requiring immediate attention by the Court. Further, the Court Administrator and Law Clerk are authorized to maintain a copy of the Judge's signature in electronic format and may affix this signature to electronic documents when instructed to do so by the Judge.

**RULE 28 – FREE PRESS AND FAIR TRIAL**

A. 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.

B. The following guidelines apply:

1) *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.

2) *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.

3) *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.

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| <b>RULE 29 – USE OF ELECTRONIC DEVICES IN THE COURTROOM</b> |
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A. An “electronic” device is any device capable of transmitting and/or recording data or audio, including smartphones, cellular phones, still and video cameras, voice recorders, computers, laptops, tablets, notebooks, personal digital assistants and other similar devices.

B. Members of the public are not permitted to use electronic devices in the courtroom. Electronic devices possessed by members of the public must be turned off and kept out of sight.

C. Subject to the following, attorneys, court staff, law enforcement, probation, social workers, persons representing him or herself, and the media are permitted to use electronic devices in the courtroom, as necessary related to matters in front of the Court and in the Court’s sole discretion.

(1) Usage is limited to court or business-related matters.

(2) Unless leave of court is granted, litigants and/or lawyers may not use electronic devices to audio record court proceedings.

(3) Electronic devices must be in silent mode and used in a discreet manner.

(4) Electronic devices must not:

(i) Interfere with courtroom decorum or the proper administration of justice.

(ii) Interfere with court recording equipment or other courtroom technology.

(iii) Be used for voice communication.

D. This policy is not intended to interfere with the use of any adaptive technology used by a person with a disability.

E. An electronic device shall not be used in a manner that interferes with court proceedings or the work of court personnel.

F. Nothing in this policy affects the authority of a judge to determine what use, if any, can be made of electronic devices in the courtroom.

G. Any person using an electronic device in a manner in violation of this policy or in violation of a court order may be:

- (1) Required to turn the device off;
- (2) Required to forfeit the device while in the courtroom;
- (3) Required to leave the courtroom; and/or
- (4) If found to be willfully violating the policy, may be found in civil or criminal contempt of court and may be sanctioned.

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| <b>RULE 30 – ELECTRONIC FILING</b> |
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A. Stillwater County and Big Horn County have implemented an electronic filing system for all case types capable of being electronically filed. All lawyers admitted to practice in Montana, or those appearing *pro hac vice*, who shall appear in cases filed in the these counties shall become registered users of the electronic filing system and begin using the electronic filing system. Counsel shall contact the appropriate Clerk of Court to determine which cases implicate mandatory electronic filing.

B. The Montana Supreme Court has adopted rules governing access to and use of the electronic filing system. See *In Re Temporary Electronic Filing Rules*, AF14-0745, filed October 3, 2017 (hereinafter “Electronic Filing Rules”). These rules are incorporated herein as the rules governing electronic filing for counties in the Twenty-Second Judicial District that have adopted electronic filing.

C. Consistent with Electronic Filing Rule 2(b), use of the electronic filing system for all lawyers admitted to practice in Montana, or those appearing *pro hac vice*, is mandatory in all cases in counties that have adopted electronic filing. Mandatory use of the electronic filing system shall apply to all cases, irrespective of filing date.

D. All registered users of the electronic filing system are responsible for keeping the registration information profile current, accurate and complete in the electronic filing system by notifying the Clerk of Court of the appropriate county should the registered users email address change. See Electronic Filing Rule 3(e). Registered users shall submit all proposed orders in the electronic filing system in Word format so they may be edited as necessary by Chambers. Registered users are also reminded that pursuant to Twenty-Second Judicial District Local Rules a courtesy copy of all documents must be provided to Chambers by counsel.

E. Service of any notice, order, judgment or other document issued by the Judge or Standing Master of the Twenty-Second District in counties that have adopted electronic filing shall be accomplished by the appropriate County Clerk of Court consistent with Electronic Filing Rule 6. The Clerk of Court’s responsibility to provide service is irrespective of whether the type of case requires mandatory filing or not.

F. Upon application to the Judge of the Twenty-Second Judicial District, waivers for use of the system may be granted for compelling or extenuating circumstances. Such

waivers will only be granted upon a showing of genuine necessity.

G. While use of the electronic filing system is not currently mandatory for self-represented litigants, self-represented litigants are strongly encouraged to become registered users of the system. Instructions on becoming a registered user and accessing the electronic filing system are available at <https://courts.mt.gov/courts/efile>.

#### **RULE 31 – STANDING MASTERS**

A. The Twenty-Second Judicial District’s appointed Standing Master is Laurie Grygiel. The Standing Master performs her duties in accordance with Mont. Code Ann. §§ 3-5-124-126, and this Court’s *Order Establishing Standing Master*.

B. Unless a party has filed and served written specific objections or applied to the district court for an extension within 10 days after being served with notice of filing of the findings of fact and conclusions of law or order, the Standing Master’s judgment is final.

#### **RULE 32 – REMOTE APPEARANCES**

The Court may permit a party and/or their counsel to appear remotely at a hearing, conference, etc. Such a remote appearance may be conducted by Zoom, telephone, or other type of telecommunication method. If a counsel wishes to appear remotely, they must file a motion with the Court no later than forty-eight (48) hours prior to the date of the hearing or conference. The motion shall clearly state that the moving party has consulted with the opposing party(s) and their counsel and shall indicate whether the motion is opposed. The Court reserves, in its sole discretion, the right to grant or deny a request to appear remotely.

#### **EFFECTIVE DATE OF REVISED RULES**

The Rules set forth herein shall be in full force and effect in the Twenty-Second Judicial District from and after January 1, 2024, until modified, supplemented, or deleted by further Order of the Court.

**DATED** this 28th day of December, 2023.

**MATTHEW J. WALD, District Judge**