

2019 FEB -7 PM 12:32

MONTANA ELEVENTH JUDICIAL DISTRICT COURT  
FLATHEAD COUNTYFILED BY \_\_\_\_\_  
DEPUTY

IT IS HEREBY ORDERED that the existing rules of practice of the Montana Eleventh Judicial District Court are ~~repealed~~, and the following rules of practice are adopted as the Court's Local Rules, effective this 7<sup>th</sup> day of February, 2019. These rules supplement the Uniform District Court rules (UDCR), and Title 25, Chapter 19, MCA. Where applicable, the rules of this Court, as well as the UDCR shall apply to criminal as well as civil proceedings. All standing orders shall be maintained on the Clerk of the District Court's web site.

**RULE 1: Departments and Assignment of Cases**

- A. Categorization and Assignment of Cases. The District Court is divided into four Departments each having one judge. Upon the filing of an action to which this rule applies, the Clerk shall append to the case number an A (Judge Amy Eddy), B (Judge Robert Allison), C (Judge Heidi Ulbricht) or D (Judge Dan Wilson) to designate which department the case has been assigned. All cases shall be assigned to the departments on a random and even basis by the Clerk of Court, with the following exceptions:
- (1) Should a criminal defendant (DC), delinquent youth (DJ), or respondent in an involuntary commitment proceeding have a subsequent case filed against them, the Clerk of Court shall assign the new case to the same department that was assigned the individual's prior case.
  - (2) Youth in need of care cases (DN) shall be assigned so that the same department is assigned all DN matters related to the same family.
  - (3) Post-conviction relief cases shall be assigned to the same department which was assigned the underlying criminal case.
  - (4) Petitions for Temporary Orders of Protection shall be assigned to the same department that was previously assigned a dissolution of marriage, parenting, or prior order of protection case between the same parties.
  - (5) In appropriate cases the Judges may sign a Relinquishment and Acceptance to allow the same judge to sit on multiple types of cases involving the same family.
- B. Consolidation of Cases. If a Motion to Consolidate is filed pursuant to Rule 42(a), Mont.R.Civ.P., the Judge in whose department the initial action was filed shall determine, in consultation with the other Judge, whether consolidation shall be ordered and all actions thus consolidated shall be assigned to that department which has had the most significant contact on the matter.
- C. Absence or Disability. The work in the District shall be interchangeable among the Judges thereof during the absence or disability of any Judge, or upon the request of the Judge. Any Judge acting on behalf of the Judge of another Department will be presumed to have acted with the consent of that Judge. Such actions do not result

in a transfer of the case to another Department unless both Judges sign a Relinquishment and Acceptance of jurisdiction.

## **RULE 2: Court Calendar**

- A. Daily Calendar. Each Department's daily calendar of court hearings is posted on the Clerk of District Court's website.
- B. Annual Calendar. The District Court Administrator will provide a current copy of the calendar identifying dates for law and motion, contested law and motion, civil and criminal jury terms, and nonjury terms for each Department upon request. Individuals receiving copies of such calendar are advised it is routinely subject to change.

## **RULE 3: Court Filings and Communications with the Court**

- A. Motions. All motions must certify whether the opposing counsel or party objects to the motion. Routine or unopposed motions must be accompanied by a proposed order, with sufficient copies and addressed and stamped envelopes for service. Briefs filed in support of motions shall not exceed 25 pages in length, exclusive of indexes and appendixes, without prior leave of the Court
- B. Communications. The Court may refuse all communication from counsel or parties, which do not indicate copies have been sent to the opposing counsel or parties.
- C. Reminders to Court. In the event a Judge has under advisement any matter for more than sixty days, each party affected thereby may file with the Clerk of Court a Notice of Issue particularly describing the matter under advisement, and stating the date the matter was taken under advisement. Such Notice of Issue must then be brought to the attention of the presiding Judge.
- D. Hearings on Self-Represented Se Matters: Hearings may not be set in cases where both parties are self-represented litigants without the filings and documentation having been reviewed by the Self Help Law Center for completeness, consistency and readiness for hearing. It is not the role of the Self Help Law Center to provide legal advice.

## **Rule 4: Court Records**

- A. With the exception of Family Court Services, the Clerk of Court shall not permit any files or documents to be removed from the office without prior order of the Court, signed by the Judge to whom the affected cause has been assigned. Family Court Services is permitted to remove files for the purposes of copying their contents without prior order of the Court. The Clerk must obtain a receipt from any

party removing any file or court record.

- B. The records and files in dependent/neglect and adoption actions shall not be withdrawn, examined, or inspected by anyone except upon order of the Court. The records of the Youth Court are governed by Mont. Code Ann. §41-5-215.

#### **RULE 5: Settlement Conferences**

- A. Mandatory. All civil actions set for trial shall be subject to a settlement conference as provided in the Court's Rule 16 Scheduling Order, unless specifically waived by the Court for good cause shown. Lead counsel, the parties, and the individual with ultimate authority to settle the claim without the necessity of seeking or obtaining authority from some other person or entity must attend the settlement conference in person, except as excused by the settlement master. The structure and timing of the settlement conference shall be determined by the settlement master, including the contents of any settlement brochures exchanged by the parties, conference calls in advance of the settlement conference, etc.
- B. Cost. The cost of the settlement conference will be shared equally between the parties unless a separate agreement is entered into. If any party is unable to afford the cost of a settlement conference, the Court will assign a pro bono mediator upon request of the party to do so. The settlement master or mediator's fees assessed to a party may be charged by the Court as a recoverable cost pursuant to Mont. Code Ann. §25-10-201(9).
- C. Confidentiality. All settlement conferences are subject to the confidentiality provisions of Mont. Code Ann. §26-1-813. The settlement master and counsel are charged with ensuring the parties, corporate representatives and insurance carrier representatives are aware of these provisions.

#### **RULE 6: Attorneys**

- A. Unless appearing on behalf of one of the attorneys of record, no attorney or firm may participate in any proceedings in the case until the attorney or firm has filed a Notice of Appearance on behalf of one of the parties to the case.
- B. 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 any attorney to appear in such proceedings absent specific permission of the client.
- C. For purposes of Mont. Code Ann. §41-5-215(2)(c), the youth's counsel of record has "a legitimate interest in the case or in the work of the court" and is entitled to have access to "[s]ocial, medical, and psychological records, youth assessment materials, predispositional studies, and supervision records of probationers." A youth's counsel of record shall have access to be provided with a copy of these

materials upon written request to the Chief Probation Officer at Youth Court Services without further order of the Court. The materials shall be provided within five (5) days of the written request being made to the Chief Probation Officer.

**RULE 7: Decorum**

- A. When the Court first convenes in the morning and after any recess, the Court Clerk or Bailiff shall announce the opening of Court, and all persons in attendance in the Courtroom shall rise until the Judge has taken the bench.
- B. Each Judge may make such further rules or regulations regarding the hours of opening and closing Court, the conduct of its attendants, and the care and custody of its rooms and chambers, as such Judge shall elect.

**RULE 8: Domestic Relations Matters**

- A. Montana Conciliation Law. Pursuant to Mont. Code Ann. §40-3-104 et seq., all of the District Court Judges are also designated as Conciliation Court Judges.
- B. Family Court Services. In appropriate circumstances, the Court may refer the matter to Family Court Services for investigation, report and recommendation regarding custody, support, and visitation rights of each child and parent. The report shall be returned to the Court, the parties and their attorneys as soon as reasonably possible thereafter.
- C. Confidential Documents: The Clerk of Court is directed to file under seal the following documents in all domestic relations (DR) cases:
  - (1) Reports and Recommendation from Family Court Services;
  - (2) Medical records, chemical dependency evaluations, sex offender evaluation, and psychiatric or mental health evaluations, including therapist case notes;
  - (3) Financial affidavits and child support worksheets;
  - (4) All financial documents, including W-2s, pay stubs and tax returns; and
  - (5) Confidential Disclosure Statements and Sensitive Data Forms.

Parties and counsel are directed to file these documents separately from related pleadings they are filed in support of. The sealing of these documents ensures that only the parties and authorized personnel of the District Court will have access to them, and that the privacy rights of the parties as to these documents will be protected. However, there may be circumstances under which the public's right to know will outweigh the parties' right to privacy. In those cases, the documents will be unsealed after proper motion and order of the District Court.

## **RULE 9: Small Claims Court Appeals**

The procedure for perfecting the record upon appeal from a judgment of the Small Claims Division of the Flathead County Justice Court and the procedure and schedule for the filing and serving of briefs is governed by the following:

- A. Each party shall inform the Clerk of the District Court of that party's mailing address if the information has not been provided to the Justice Court.
- B. Within 30 days after the filing of the notice of appeal, the Justice Court shall forward the electronic recording or transcript of the proceedings to the Clerk of the District Court, together with the original papers filed, certified by the Justice Court to be accurate and complete. When the record is transferred the Justice Court shall notify the parties in writing.
- C. Within 15 days after the date on which the record is filed, the appealing party shall file a written brief. According to Mont. Code Ann. § 25-35-803(2) the District Court's review on appeal is limited to alleged errors of law. The District Court may not conduct a new trial.
- D. Within 15 days after the filing and service of appealing party's brief, the other party(ies) shall file an answer brief. If the appealing party's brief is served by mail, the other party(ies) shall have an additional 3 days to file and serve a brief.
- E. The appealing party may file a reply brief within 10 days after the filing and service of the answer brief. There is no additional time allowed for filing the reply brief if the answer brief is served by mail.
- F. If the appealing party fails to file a brief within these times, the appeal shall be deemed without merit and subject the appeal to summary dismissal by the District Court. Failure by the other party(ies) to file an answer brief may subject the appeal to summary ruling in favor of the appealing party. Reply briefs are optional and failure to file will not subject the appeal to summary ruling.

## **RULE 10: Media Guidelines**

- A. Cell Phones: Cell phones must be on silent or vibrate so that they do not disturb court proceedings. Should any such disturbance occur, the individual will be asked to leave the courtroom.
- B. Recordings of Court Proceedings: Any individual or entity wishing to video, photograph, or otherwise record a court proceeding must coordinate with the District Court Administrator in advance of the proceeding to minimize any disruption. The jury voir dire process may not be recorded in any manner.

- C. Jurors and Alleged Victims: No video, photographs or drawings shall be made of jurors or alleged victims and their family members.



---

Amy Eddy, District Court Judge



---

Robert B. Allison, District Court Judge



---

Heidi J. Ulbricht, District Court Judge



---

Dan Wilson, District Court Judge