

MONTANA FIRST JUDICIAL DISTRICT COURT RULES

LEWIS & CLARK AND BROADWATER COUNTIES

Rule 1 - Application of Rules

The First Judicial District is comprised of Lewis and Clark County and Broadwater County. Except where otherwise indicated, these rules apply to all cases filed in either county.

These rules supplement the Montana Rules of Civil Procedure and the Montana Uniform District Court Rules. All prior rules issued by the First Judicial District Court are rescinded and these rules substituted therefor.

Rule 2 - Departments of the District Court

A. Lewis and Clark County

In Lewis and Clark County, the Court is divided into four departments:

Department No. 1: Honorable Mike Menahan presiding.

Criminal law and motion – Wednesdays at 9:00 a.m.

Uncontested probate and other civil matters – Wednesdays at 1:30 p.m.

Youth in need of care law and motion – Wednesdays at 3:00 p.m.

Department No. 2: Honorable Michael F. McMahon presiding.

Behavioral Health Court – Mondays at 2:30 p.m.

Uncontested civil matters – Tuesdays at 8:30 a.m.

Youth in need of care law and motion – Wednesdays at 9:00 a.m.

Criminal law and motion – Wednesdays at 1:30 p.m.

Department No. 3: Honorable Kathy Seeley presiding.

Youth in need of care law and motion – Wednesdays at 1:30 p.m.

Youth Court law and motion – Wednesdays at 3:00 p.m.

Uncontested civil matters – Thursdays at 8:30 a.m.

Criminal law and motion – Thursdays at 1:30 p.m.

Department No. 4: Honorable Christopher D. Abbott presiding.
Adult Drug Treatment Court – Tuesdays at 2:00 p.m.
Criminal law and motion – Thursdays at 9:00 a.m.
Uncontested civil matters – Thursdays at 1:30 p.m.
Youth in need of care law and motion – Thursdays at 3:00 p.m.

Standing Master: Honorable Hannah D. Roe
Criminal Initial Appearances & Arraignments – Tuesdays at 8:30 a.m.
DN EPS Hearings – Mondays at 9:30 a.m. & Thursdays at 1:30 p.m.

The courtrooms are assigned according to seniority.

B. Broadwater County

The Judges will rotate conducting hearings on Fridays:

Judge Menahan, 1st Friday of each month;
Judge McMahon, 2nd Friday of each month;
Judge Seeley, 3rd Friday of each month;
Judge Abbott, 4th Friday of each month.

If a specific month has a 5th Friday, no hearings will be scheduled for that day.

Rule 3 - Chief Judge

The position of Chief Judge is assumed for a calendar year in rotating order as follows:

Department No. 1 – 2024; Department No. 2 – 2027;
Department No. 3 – 2025; Department No. 4 – 2026.

Rule 4 - Assignment/Designation of Cases

A. Assignment of Cases

In Lewis and Clark County, all probate cases are assigned to Judge Menahan; all youth court cases are assigned Judge Seeley, and all Adult Drug Treatment Court cases are assigned to Judge Abbott. Guardianship cases are assigned randomly to Judge McMahon or Judge Abbott. To the extent it is reasonably practicable, dependent/neglect, domestic relations (including petitions for orders of protection), and adoption cases involving the same children are assigned to the same judge. All other cases are assigned at random.

In Broadwater County, all cases are assigned at random.

In the First Judicial District, all Water cases are assigned to Department 2.

B. Designation of Cases

All cases are designated by numbers and letters as follows: Judge Menahan's are designated by first letter A; Judge McMahon's are designated by first letter B; Judge Seeley's are designated by first letter C; and Judge Abbott's are designated by first letter D. Standing Master Roe's cases are designated by first letter E followed by the letter assigned to the judicial department from which the case was assigned, e.g., EADR-2024-123.

The second and third letters indicate the general nature of the case, followed by four digits indicating the year in which the case was filed, followed by a number assigned in chronological order to causes filed in that category, in that year. For example:

Adoption – DA-2022-06
Civil – DV-2022-03
Criminal – DC-2022-01
Dependent/Neglect – DN-2022-07
Developmentally Disabled Commitment – DD-2022-13
Domestic Relations – DR-2022-02
Guardianship/Conservatorship/Trust – DG-2022-04
Investigative Subpoena – IS-2022-15
Juvenile – DJ-2022-08
Marriage License – ML-2022-14
Mental Health – DI-2022-11
Paternity – DF-2022-10
Probate – DP-2022-05
Process Server – DS-2022-12
Search Warrant – SW-2022-16
Special Book – SB-2022-17
Treatment Court – TE-2022-01

If a judge is substituted or recused, the letter corresponding to the department of the judge assuming jurisdiction shall thereafter be used in all captions. If an out-of-town judge assumes a case, the case remains assigned to the original department, but the case number will be preceded by an "X" (i.e., XBDV-2021-18).

C. Sealing of Cases

All SW, IS, DF, DA, DD, DI, and DN matters shall be filed under seal. The respondent, the respondent's attorney, the county attorney, and all court personnel are allowed access to these files without specific authorization from the Court. Any other access to these files will only be made with specific authorization from the Court.

No other cases will be sealed except upon motion and leave of the Court for good cause shown.

Rule 5 - Pleadings/Briefs

A. Length

1. Pleadings/briefs, except initial pleadings, in all cases shall be limited to 20 pages, not including attachments. Additional pages may be filed only with leave of the court and with good cause showing. Serial motions filed for the purpose of evading the 20-page limitation may result in summary denial of all such motions.

2. Filings may alternatively be limited to 6,500 words (excluding the caption, signature block, certificates of service or compliance, any tables of contents or authorities, and any appendices or exhibits) if accompanied by a certification of compliance which states the word count and the document's line spacing and states either: (1) the document is proportionately spaced, together with the typeface and point size; or (2) the document uses a monospaced typeface, together with the number of characters per inch. A party may rely on the word count of the word processing system used to prepare the brief. The certification is not included in calculating the document's length.

B. Form of Briefs

Please refer to Montana Uniform District Court Rule 1, except that the font size shall be no smaller than 12 point.

C. Citations

The First Judicial District Court follows the uniform system of citation in the most current edition of the ALWD CITATION MANUAL for citing case law. For citations to Montana Supreme Court cases issued after 1998, see *Matter of Opinion Forms and Citation Standards* (Dec. 16, 1997) 54 St. Rep. 1357; amended by *Matter of Amending*

Citation Standards for MT 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).

D. Motions

All motions filed conventionally, except for contested dispositive motions (e.g., motions to dismiss and summary judgment motions), shall include a proposed order with copies and addressed envelopes for all counsel of record. All such motions filed via e-filing shall include a proposed order that is submitted in .doc or .docx format.

E. Notice of Submittal

i. When any motion has been fully briefed and oral argument has been held (if requested), the movant shall advise the Court by filing and serving a “Notice of Submittal.” Until such notice has been filed and served, the matter will not be deemed submitted for decision.

ii. If a judge has had any matter under advisement for more than thirty days, any party affected thereby may file and serve a “Reminder of Submittal,” describing the matter under advisement and stating the date it was taken under advisement.

F. Motions to Continue

Motions to continue must be in writing.

G. Motions to Extend Scheduling Orders

Motions to extend deadlines in scheduling orders must include a statement of when trial is scheduled (or if no trial is scheduled, the date of the pretrial conference).

H. Filing Deadlines

Filing and scheduling order deadlines will be strictly adhered to unless a written motion for an extension has been received and approved by the Court.

I. Electronic Filing

In **Lewis and Clark County**, email and fax filings will no longer be accepted. All filings in DC, DD, DN, DJ, DR, DV, and DI cases must be filed in accordance with the Court's standing Order Implementing Electronic Filing System and Email Filing Discontinued and Abolished, DV-2023-11 (Apr. 10, 2023), which adopts and incorporates the Montana Supreme Court's Temporary Electronic Filing Rules, Cause No. AF 14-0745. Self-represented litigants and litigants in other case types must file documents conventionally with the Clerk of Court.

In **Broadwater County**, documents may be submitted for filing by email. Fax filings will no longer be accepted. Email filings must be sent to: vhornsveld@mt.gov, aplymale@mt.gov or desiree.taves@mt.gov

A hard copy original must be provided as indicated in section iii below.

The following guidelines must be followed:

- i. All documents must be properly signed and dated.
- ii. Email documents must be in a PDF format and submitted as an attachment to an email.
- iii. A hard copy original of an emailed document must be provided within five business days.
- iv. The Clerk of Court shall print the first page of the emailed document, date stamp, and file it. If the original is not filed within five days, the Court may direct that the Clerk of Court strike the filing from the record. Any filing so stricken is void.

J. Copies of Court Documents

When a Montana attorney is associating with an out-of-state attorney who is appearing *pro hac vice* on a Montana case, orders/notices from the District Court will be delivered to in-state counsel only, with few exceptions.

Rule 6 - Specific Trial/Hearing Conduct

A. Unless otherwise ordered by the Court, plaintiffs/petitioners shall use numbers to identify their exhibits, and defendants/respondents shall use letters.

B. If a party is represented by more than one attorney, only one of the attorneys may question a specific witness.

C. If a party is represented by more than one attorney, and one of those attorney objects to a line of questioning, then only that objecting attorney may cross-examine the witness.

D. Attorneys must request permission of the Court to approach witnesses.

E. If a document is presented during trial/hearing, copies of the document must be presented to the judge and to opposing counsel.

F. Jury trials are normally scheduled to begin on Monday mornings at 9:00 a.m. All settlement negotiations should be completed by 4:00 p.m. the preceding Friday. Failure to comply with this rule may result in the imposition of sanctions in appropriate circumstances.

G. Attorneys/clients shall not keep the Court waiting but shall appear at the scheduled time ready to proceed.

H. If attorneys appear by Zoom, the attorney(s) appearing remotely will mail any exhibits will to the Clerk of Court sufficiently in advance of the hearing to ensure receipt, and copies will provide copies in advance to opposing counsel.

Rule 7 - Dependent Neglect Cases

A. In abuse and neglect cases brought by the Montana Department of Health and Human Services (Department), counsel for the Department, at the time of the filing of a petition for any type of custody, shall provide to counsel for the parents, the GAL, and the CASA worker (if any) copies of all documents sought to be admitted into evidence at any hearing by the Department, including, but not limited to, all reports generated by third parties gathered by the Department in the course of its investigation and treatment of the family involved.

Counsel for each party will not disseminate without prior Court approval the discovery obtained from the Department or any excerpt, exhibit, or transcript prepared from these recordings to any person other than the following:

- i. any attorney of record for the mother, father or youth;
- ii. CASA/GAL assigned to the case;

- iii. investigators and support staff for the counsel of each party;
- iv. any expert retained to review the recordings; and
- v. any person retained for the purpose of preparing an excerpt, exhibit, or transcript from the recordings.

B. Counsel for each party may show the discovery to the parties, but at all times counsel for the party or a paralegal shall be present. If counsel chooses to provide a copy to their parent client, it is counsel's obligation to redact confidential information. Counsel for the parties shall advise any above-listed person receiving the discovery that further dissemination, in *its broadest sense*, is strictly prohibited.

C. It shall be the responsibility of the attorneys of record in an action to employ, consistent with this local rule, reasonable measures to control the duplication of the access to, and the distribution of discovery. The parties will not be prohibited from using the discovery, at the hearings of this matter, to the extent otherwise permitted by law.

D. Failure of any party to comply with the terms of this rule will subject themselves to punishment to the fullest extent of this Court's inherent authority as set out in Montana Code Annotated § 46-15-329.

Rule 8 - Criminal Cases

A. Subpoenas *duces tecum* in criminal cases will not be issued except upon prior leave of Court. Applications for leave to obtain a subpoena *duces tecum* must conform to the requirements of the Court's standing order in SB-2010-75.

B. Unless either party timely requests an omnibus hearing in writing, omnibus hearing memoranda shall be completed by both parties and filed by the State within six weeks of arraignment. Requests to extend the omnibus deadline shall be made in writing prior to the passing of the deadline.

C. The State and Defendant shall exchange discovery as required by Montana Code Annotated §§ 46-15-322 and -323 and other applicable law. Discovery shall be accomplished as soon as reasonably practicable and in most non-complex cases, should be substantially complete by the omnibus memorandum deadline. Disputes about discovery, however, are not a basis for refusal to complete an omnibus memorandum.

Any motion to compel discovery or for discovery sanctions shall certify that the movant has in good faith conferred or attempted to confer with the party failing to make discovery in an effort to obtain it without court action.

D. A party in receipt of material through discovery that constitutes confidential criminal justice information (CCJI) within the meaning of the Montana Criminal Justice Information Act (MCJIA) may further disseminate such materials to their counsel, employees, agents, investigators, and experts to the extent necessary to assist in the preparation or investigation of the case but may not otherwise disseminate the information without complying with the MCJIA. Any party in receipt of CCJI shall advise any person to whom it is disseminated under this rule of their obligation to keep CCJI confidential under the MCJIA.

E. Whenever a party discloses information that is sensitive because it contains personally identifying information regarding a child or that implicates the privacy interests of a non-party to the case—for example, social security numbers and financial or medical information—the disclosing party may designate those materials as CONFIDENTIAL by conspicuously marking or designating them as such. Unless ordered otherwise by the Court, CONFIDENTIAL materials shall be handled as follows:

i. Access to materials marked CONFIDENTIAL is limited to: (A) attorneys representing the defendant or the State; (B) expert witnesses whose review of the material is necessary for the presentation of the party's case; (C) law clerks, investigative agents, paralegals, and assistants employed by defendant or the State, whose review of the material is required for the preparation and presentation of the party's case; and (D) the defendant.

ii. Documents shall not be left in the defendant's possession without defense counsel present.

iii. Documents shall be used in connection with a matter pending before this court and for no other purpose. Attorneys shall expressly advise every authorized person who reviews the documents as to this limitation on lawful use.

iv. It shall be the responsibility of the attorneys of record in the action to employ, consistent with this rule, reasonable measures to control duplication of, access to, and distribution of the documents.

v. Failure to comply with the terms of this rule may constitute

contempt of court and will subject the offending person to sanction to the full extent permitted by these rules, Montana law, and the Court's inherent authority.

Rule 9 - Court Security - Potentially Violent Situations; Duty of Party

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

Amended: October 27, 2023

Effective: January 1, 2024

KATHY SEELEY
District Court Judge

MIKE MENAHAN
District Court Judge

MICHAEL F. McMAHON
District Court Judge

CHRISTOPHER D. ABBOTT
District Court Judge

HANNAH D. ROE
Standing Master