

GALLATIN COUNTY CLERK
OF DISTRICT COURT
SANDY ERHARDT

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BY  DEPUTY

MONTANA EIGHTEENTH JUDICIAL DISTRICT COURT, GALLATIN COUNTY

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IN THE MATTER OF REFERRING
CASES TO THE STANDING MASTER

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**FOURTH AMENDED
STANDING ORDER
OF REFERENCE**

On July 1, 2010, the Court issued a Standing Order of Reference to refer specific cases to the Standing Master. The Court amended the Standing Order of Reference on July 30, 2012, April 1, 2013, and September 21, 2021. This Fourth Amended Standing Order of Reference is issued to vacate and replace the Third Amended Standing Order of Reference that was effective as of September 21, 2021. The guidelines and procedures for the powers of the Standing Master are governed by §§ 3-5-124 through 3-5-126, MCA. Specifically, § 3-5-124(1), MCA, authorizes the Court to issue a standing order for referring cases to the Standing Master. The Court may also refer a case to the Standing Master by separate order. This Standing Order is issued to establish a specific reference for certain cases to the Standing Master.

IT IS HEREBY ORDERED:

1. At the discretion of the Court, the Standing Master shall be responsible for the administration and disposition of the following matters:
 - A. uncontested dissolution, legal separation, parenting plan, child support, and adoption proceedings under Title 40, MCA;

- B. contested dissolution, legal separation, parenting plan, child support and adoption proceedings, including any amendment/modification proceedings, under Title 40, MCA;
- C. temporary child support, family support and spousal maintenance proceedings and interim parenting plan proceedings, including any amendment/modification proceedings, arising under Title 40, MCA;
- D. temporary injunction and temporary restraining order proceedings, including any modification proceedings, arising under § 40-4-121, MCA;
- E. order of protection proceedings, including any modification proceedings, arising under Title 40, Chapter 15, MCA;
- F. guardianship and conservatorship proceedings arising under Title 72, Chapter 5, MCA;
- G. change of name proceedings under Title 27, Chapter 31, MCA; and
- H. other types of proceedings on a case referral basis of a District Court Judge.

2. Pursuant to §§ 3-5-124 through 3-5-126, MCA, the Court hereby charges, delegates, vests, and confers the following specific and general powers, authority, and duties upon the Standing Master under this Standing Order:

- A. to assume jurisdiction over and adjudicate all procedural and substantive aspects or proceedings referred for disposition pursuant to this Standing Order;
- B. to schedule, compel attendance at, and conduct all evidentiary hearings, bench trials, oral arguments, or other proceedings required, necessary, or proper within the scope of this Standing Order;
- C. to administer oaths and issue subpoenas on behalf of the Court in the manner otherwise provided by law;
- D. to compel and take evidence and rule on its admissibility as required, necessary, or proper;
- E. to issue intermediate, preliminary and final orders, including but not limited to scheduling and discovery orders pursuant to Rules 16 and 26-27, M.R.Civ.P., in the same manner as otherwise provided by law for district courts;

- F. to control and regulate all proceedings before the Standing Master;
and
- G. to perform any other lawful acts or measures necessary or proper within the scope of this Standing Order in the same manner as the District Court within the lawful scope and authority of the District Court.

3. The Standing Master shall not be required to issue Findings of Fact and Conclusions of Law on non-evidentiary matters.

4. The Standing Master shall be governed by the procedures set forth in §§ 3-5-124 through 3-5-126, MCA, and all substantive and procedural laws, rules, and regulations otherwise applicable to proceedings before the Court, including but not limited to the Montana Rules of Civil Procedure, Montana Rules of Evidence, Montana Uniform District Court Rules, and Montana Eighteenth Judicial District Court Rules.

5. The Standing Master's obligation to hold a first meeting of the parties or their attorneys pursuant to § 3-5-125(1), MCA, is waived. Either party may request a first meeting and the Standing Master shall schedule a first meeting.

6. Uncontested Proceedings. In uncontested proceedings, the Court presumes that the parties are appearing before the Standing Master upon agreement for resolution of the issues presented to the Standing Master and for which there would be no objections to the findings of fact and conclusions of law and/or order or decree filed by the Standing Master. Accordingly, in an uncontested proceeding the Standing Master's findings of fact and conclusions of law and/or order or decree shall be deemed to be the final order of the Court. Consequently, the objection procedure specified in § 3-5-126, MCA, shall not apply to an uncontested proceeding.

7. Contested Proceedings. Pursuant to § 3-5-126(1), MCA, and Rule 52(a), M.R.Civ.P, the Standing Master shall file and serve written findings of fact, conclusions of law, and a dispositive order for all contested proceedings tried upon the facts. The Standing Master shall file and serve a dispositive written decision and order for all contested proceedings not tried upon the facts. The filing and service of a dispositive order of the Standing Master shall constitute the filing and notice of the "master's report" for purposes of §§ 3-5-125(1) and 3-5-126, MCA, thereby triggering the 10-day objections and district court review deadline under § 3-5-126(2), MCA.

If no objections are filed within the 10 days provided by § 3-5-126(2), MCA, then the Standing Master's findings of fact and conclusions of law and/or order or decree shall be deemed to be the final order of the Court. If objections are filed within the 10 days provided, then the case will proceed according to the provisions of § 3-5-126(2), MCA. Pursuant to § 3-5-126(2), MCA, cursory or general objections to the Standing Master's Order or Report shall not be valid and sufficient to trigger Court review of the Standing Master's reported findings, conclusions or judgments. Objections to the Standing Master's Report must:

- A. be written;
- B. be timely filed;
- C. specifically identify the subject finding of fact or conclusion of law asserted to be in error; and
- D. for each such assertion of error, specifically state with particularity the asserted factual or legal basis or reason for the assertion with citation to relevant legal authority and, as applicable or necessary, precise citation to the pertinent sections of the hearing record or transcript.

Pursuant to § 3-5-126(2), MCA; Rule 7(b), M.R.Civ.P.; and Rule 2, M.U.D.C.R., an objecting party's failure to comply with these procedural and substantive requirements for objections to the Standing Master's Report or Order may, in the discretion of the Court, subject the party's objections to adverse summary ruling.

8. Effect/Enforceability of Standing Master's Order or Report Pending Review.

Upon filing and except as otherwise stayed by written order of the Court, the Standing Master's Orders or Report shall be immediately effective and enforceable as an Order of the Court, subject to Court review of timely objections. Upon such review, the Court may modify, reject in whole or in part, receive further evidence or recommit the matter to the Standing Master with instructions. Upon motion of a party, the Court may by written order stay execution of the Standing Master's Order or Report pending expiration of the 10-day objection deadline under § 3-5-126(2), MCA, or entry of a final judgment by the Court. Unless otherwise provided by subsequent written order of the Court, the mere timely filing of objections or a motion for Court review under § 3-5-126(2), MCA, does not and shall not nullify, stay, or otherwise impair the continued effectiveness or enforceability of the Standing Master's Order or Report pending review of objections.

The Standing Master retains jurisdiction to enforce all provisions of an Order or Report that are not subject to Court review pursuant to § 3-5-126(2), MCA. The Standing Master also retains jurisdiction to hear and rule on all other pending and new issues raised by the parties in the proceeding.

9. Pursuant to § 40-4-108(1), MCA, the filing of objections to a Final Decree of Dissolution issued by the Standing Master that do not challenge the finding that the

marriage is irretrievably broken does not delay the finality of that provision of the Decree and the marriage remains dissolved.

10. Pursuant to § 3-5-501, MCA, the Clerk of the District Court shall attend all proceedings before the Standing Master in the same manner as proceedings before the Court. In cases referred to the Standing Master, the parties and the Clerk of the District Court shall file all pleadings, motions, briefs, and other filings in the ordinary course in the court file for the subject cause.

11. All parties and counsel shall treat and address the Standing Master with the same formality, decorum and respect required and customary in proceedings before a presiding District Court Judge. All parties and counsel shall obey and comply with orders of the Standing Master in the same manner as orders of the Court. The Court may address, remedy, and sanction or punish any violation of this Order as a contempt of court. This provision does not preclude, limit, or impair the authority of the Standing Master to otherwise address and remedy contempts within the authorized scope of the Standing Master's authority under this Order, any specific order of reference and §§ 3-5-124 through 3-5-125, MCA.

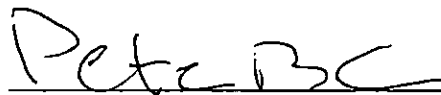
12. A copy of this Fourth Amended Standing Order of Reference is posted on the Montana Judicial Branch website at <https://courts.mt.gov/courts/rules/district> pursuant to § 3-5-124(1), MCA.

13. A party who objects to a referral to the Standing Master shall file an objection within twenty (20) days after the date the matter was referred to the Standing Master, but before the first meeting of the Standing Master, pursuant to § 3-5-124(2). On objection, the Court shall return the matter to the active docket of the district court.

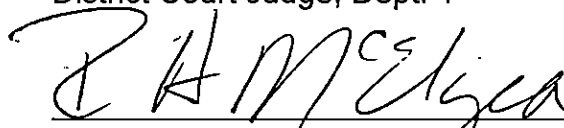
14. The Third Amended Standing Order of Reference effective September 21, 2021, is **VACATED** and replaced by this Fourth Amended Standing Order of Reference.

15. This Fourth Amended Standing Order of Reference is effective on June 22, 2023, for all cases pending on the effective date of this Order and all cases filed after the effective date of this Order.

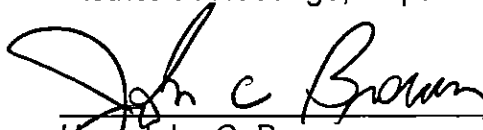
Dated this 22nd day of June 2023.



Hon. Peter Ohman
District Court Judge, Dept. 1



Hon. Rienne H. McElyea
District Court Judge, Dept. 2



Hon. John C. Brown
District Court Judge, Dept. 3



Hon. Andrew J. Breuner
District Court Judge, Dept. 4

c: Magdalena C. Bowen, Standing Master
Sandy Erhardt, Clerk of the District Court
Kevin Cook, IT Supervisor