

FILED

MAR 07 2024

ANGIE SPARKS, Clerk of District Court
By H. Coleman Deputy Clerk

**MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY
AND
BROADWATER COUNTY**

IN RE THE ESTABLISHMENT OF
A DISTRICT STANDING MASTER
FOR ALL DISTRICT COURT
DEPARTMENTS

Cause No. DV-2023-11

**SECOND AMENDED
STANDING MASTER
PROCEDURE ORDER**

The Montana First Judicial District Judges established a District Standing Master (Master) for all District Court Departments pursuant to Mont. Code Ann. §§ 3-5-124 to 3-5-126 and Mont.R.Civ.P. 53 and outlined the Master's authority and procedure regarding referenced cases. Said Order was filed April 5, 2023.

The 68th Regular Session of the Montana Legislature subsequently passed House Bill 322 to "[g]enerally revise laws related to standing masters" which became formally effective May 18, 2023. This Amended Order incorporates procedural changes in conformity with the recently enacted legislation.

////

Accordingly, **IT IS HEREBY ORDERED** that:

1. **Appointment.** Any district judge, in his or her sole discretion, may by order refer cases to the Master to adjudicate a case. Once appointed to a case, the Master shall be responsible for the administration and disposition of proceedings on the case. Mont.R.Civ.P. Rule 16.

A party may object to a reference to the Master within 20 days of the reference order but before the first meeting with the standing master. On objection, the matter shall be returned to the active docket of the district court. Unless the reference order provides otherwise, the Master shall set a "meeting of the parties or their attorneys" within twenty days after the expiration of the objection period. The Master shall have the authority to issue temporary orders before the expiration of the period.

Mont. Code Ann. §§ 3-5-124 through 3-5-125.

When a hearing is required, the Master shall notice and conduct a hearing as soon as possible. The Master shall file findings of fact and conclusions of law on matters submitted to the Master by order of reference. Mont. Code Ann. § 3-5-126.

2. **Governing Laws, Procedure, Rules, and Authority.** All proceedings before the Master shall be governed by Mont.R.Civ.P. 53 and Mont. Code Ann. §§ 3-5-124 through 3-5-126, and any other statute specifically applicable to Masters.

The Master shall perform his/her duties subject to and in accordance with the terms of this Order, state statute, prevailing case law, and all substantive and procedural law, rules, and regulations otherwise applicable to proceedings before the court, including but not limited to the Montana Rules of

1 Civil Procedure, Montana Rules of Evidence, Montana Uniform District Court
2 Rules, and the First Judicial District Court's Local Rules. The referring district
3 court may, by way of the order of referral, more particularly specify or limit the
4 Master's authority scope, function, or duty in a particular case. Mont. Code Ann.
5 § 3-5-124(2)(a) (2021); Mont.R.Civ.P. 53(c)(1). The referring district court shall
6 retain and exercise supervisory control over the Master on cases referred when
7 extraordinary circumstances and the interests of justice require supervision and
8 ordinary district court review under Mont. Code Ann. § 3-5-126(2) is not an
9 adequate remedy. In the interests of justice and in the sole discretion of the
10 district court, the referring judge may by order rescind a case referral and
11 reassume primary administration of the case.

12 The Master shall record all contested proceedings either by means
13 of a certified court reporter or audio or video recording suitable to facilitate
14 production of a verbatim transcription of proceedings for district court and
15 appellate review. Mont. Code Ann. §§ 3-5-124(2)(c) (2021). The Master shall file
16 the evidence, a recording of all contested proceedings, and original exhibits with
17 the Clerk of District Court. Mont. Code Ann. § 3-5-126(1) (2021). The Clerk of
18 District Court shall attend all contested proceedings before the Master and act as
19 the clerk of proceedings before the Master in the same manner as proceedings
20 before the district court. Mont. Code Ann. § 3-5-501 (2021). In cases referred to
21 the Master, the parties and Clerk of Court shall file all pleadings, motions, briefs,
22 and other filings in the ordinary course in the court file for the subject cause.

23 ////

24 ////

25 ////

1 3. **Authority in Civil Proceedings.** The Master has the
2 authority and power of an elected district court judge to try any civil action at the
3 direction of a district court judge. All proceedings must be conducted in
4 accordance with the rules of evidence and procedure governing district courts.

5 4. **Authority in Criminal Proceedings.** The Master has the
6 authority to conduct preliminary proceedings and any matters otherwise under
7 the authority of a special master. Additionally, the Master is authorized to review
8 and sign search warrants, warrants for arrest, and may conduct any portion of a
9 criminal matter at the direction of a district court judge, with the exception of
10 issuing sentencing. A district court judge may call on the Master to hear any
11 portion of a case where that judge finds it to be in the interest of justice.

12 5. **Emergency Protective Services (EPS) Hearings.** The
13 Master is authorized to preside over EPS hearings and shall set aside a specified
14 period of time weekly to hear these proceedings.

15 6. **Final Orders and Decrees.** The Master, pursuant to Mont.
16 Code Ann. § 3-5-126(1), Mont.R.Civ.P. 52(a) and Mont.R.Civ.P. 53(e) shall file
17 and serve written factual findings, conclusions of law, and a dispositive order for
18 all contested proceedings tried upon the facts. The Master shall file and serve a
19 written decision and dispositive order for all contested proceedings not tried upon
20 the facts. The filing and service of a Master dispositive order shall trigger the
21 beginning of the ten-day in which a party may file and serve objections or apply
22 for an extension pursuant to Mont. Code Ann. § 3-5-126(2). If no objections or
23 granted extensions are filed within the ten days, the Master's factual findings and

24 /////

25 /////

1 conclusions of law and/or order or decree are the final Court order. Mont. Code
2 Ann. § 3-5-126(2) (2021). In this situation, no further action by the appointing
3 district judge is necessary.

4 7. **Objections.** When a party files objections to the Master's
5 dispositive order within the ten-day statutory period, and the objections conform
6 to requirements set forth below, the case will proceed in accordance with Mont.
7 Code Ann. § 3-5-126(2).

8 All Master Report or Order objections shall:

- 9 a. be written;
10 b. specifically identify the factual finding or conclusion of law
11 asserted to be in error; and
12 c. for each assertion of error, state with particularity the
13 asserted factual or legal basis or reason for the
14 assertion with citation to relevant legal authority.

15 8. **Master's Order or Report Effect and Enforceability.**

16 Upon filing and except as otherwise stayed by a Master or district judge order,
17 the Master's Orders or Report shall be immediately effective and enforceable as
18 an Order of the Court, subject to subsequent district judge order upon review in
19 the event of a timely objection meeting the aforementioned requirements. Upon
20 motion of a party, the Master or district judge may order a stay of execution of
21 the Master's Order or Report pending expiration of the ten-day objection deadline
22 under Mont. Code Ann. § 3-5-126(2), or final judgment entry by the district
23 judge upon review a timely-filed objection. The Master and district judge shall
24 retain jurisdiction to enforce all Order or Report provisions that are not subject to
25 objection or district court review. Mont. Code Ann. § 3-5-126(2) (2021). In

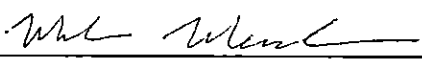
1 addition, the Master also retains jurisdiction to hear and rule on all other pending
2 and new issues raised by the parties in the proceeding.

3 9. **Master Dissolution Decree Finality.** Pursuant to Mont.
4 Code Ann. § 40-4-108(1), the filing of objections to a Master's Final Dissolution
5 Decree that do not challenge a finding that the marriage is irretrievably broken
6 will not delay the finality of that Decree provision and therefore the marriage
7 remains dissolved in accordance with the Master's Order.

8 10. **Decorum, Orders and Contempt.** All parties and counsel
9 shall formally treat and address the Master with the same formality decorum, and
10 respect required and customary in proceedings before a presiding district judge.
11 All parties and counsel shall obey and comply with Master orders in the same
12 manner as a district court order. Failure to comply with a Master order may
13 subject a party or counsel to contempt by the Master or the district court.

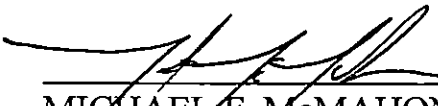
14 11. **Effective Date.** This Order is effective immediately.

15
16 **ORDERED** this 6th day of March 2024.

17
18 
19 MIKE MENAHAN
20 Chief District Court Judge

18 
19 KATHY SEELEY
20 District Court Judge

21 
22 CHRISTOPHER ABBOTT
23 District Court Judge

22 
23 MICHAEL F. McMAHON
24 District Court Judge

25 /////

cc: Hannah Roe, Standing Master
Angie Sparks, Lewis and Clark County Clerk of Court
Val Hornsveld, Broadwater County Clerk of Court