**IN THE \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

*Justice Court, Justice Court of Record, Municipal Court, City Court, City Court of Record),*

 **COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, STATE OF MONTANA**

 *(County)*

|  |  |
| --- | --- |
| State of Montanavs. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Defendant. | **Case No:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_OMNIBUS MEMORANDUM |

#### APPEARANCES

* 1. Prosecutor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ appeared
	2. Defendant [ ]  appeared in person [ ]  without a lawyer

[ ]  failed to appear [ ]  personal appearance excused

[ ]  appeared through attorney \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* 1. [ ]  Defendant’s attorney appearance is excused
	2. [ ]  As a courtesy, defense attorney \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ appeared.

# PLEA AGREEMENT

* 1. Have plea negotiations been entered into? [ ]  Yes [ ]  No
	2. Is a plea agreement probable? [ ]  Yes [ ]  No [ ]  N/A
	3. Has a plea agreement been reached? [ ]  Yes [ ]  No [ ]  N/A

#### DISCOVERY

* 1. **Prosecutor** must comply with §46-15-322, M.C.A. Prosecutor must give Defendant the following information or evidence:
		1. Disclose the names of witnesses (including experts) and all witness statements or if no statement exists, a short summary of their anticipated testimony.
		2. Disclose and make available for inspection all physical or documentary evidence in the prosecution’s possession.
		3. Disclose Defendant’s oral, written or recorded statements to investigating officers or to a third person
		4. Disclose all exculpatory evidence known to Prosecutor.
		5. If any of this information changes, promptly disclose those changes to Defendant.
	2. Defendant must comply with §46-15-323, M.C.A. Defendant must give Prosecutor the following information or evidence:
		1. Disclose the names of witnesses (including experts) and all witness statements or if no statement exists, a short summary of their anticipated testimony.
		2. Disclose and make available for inspection all physical or documentary evidence in Defendant’s possession that will be used at trial.
		3. If any of this information changes, promptly disclose those changes to Prosecutor.
	3. Prosecutor gave all discovery or evidence to Defendant [ ]  Yes [ ]  No
	4. Defendant gave all discovery or evidence to Prosecutor [ ]  Yes [ ]  No
	5. Outstanding Discovery \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* 1. All discovery must be given to the other side by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**PROSECUTOR’S PRE-TRIAL NOTIFICATIONS**

The Prosecution intends to use evidence of other crimes, wrongs, or acts of the Defendant at trial [ ]  Yes [ ]  No

Notice of other crimes, wrongs, or other acts to be filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Defendant may file a motion to keep this evidence from being presented at trial.

**DEFENDANT’S DEFENSES**

Defendant makes a general denial

Defendant makes an affirmative defense [ ]  Yes [ ]  No

 If yes, Defendant raises the affirmative defense of:

 [ ]  Alibi [ ]  Compulsion [ ]  Entrapment [ ]  Mistaken Identity

 [ ]  Justifiable Use of Force [ ]  Other: (be specific) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Defendant must give in writing to the Prosecutor the names and addresses of all trial witnesses who will support the affirmative defense and all written reports or statements made by them by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Prosecutor must give in writing to Defendant the names and addresses of all trial witnesses who will rebut the affirmative defenses by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**PROSECUTOR’S PRE-TRIAL MOTIONS**

* 1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
	2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
	3. [ ]  None

**DEFENDANT’S PRE-TRIAL MOTIONS**

* 1. Motion to suppress any admissions or confessions [ ]  Yes [ ]  No
	2. Motion to suppress physical evidence [ ]  Yes [ ]  No
	3. Motion to dismiss [ ]  Yes [ ]  No

Motion to keep out other crimes, wrongs, or acts [ ]  Yes [ ]  No

Other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [ ]  Yes [ ]  No

**MOTION SCHEDULE**

* 1. Motions to be filed on or before \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
	2. Response to be filed on or before \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
	3. Reply to be filed on or before \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
	4. Expected length of hearing \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**NOTICE: if a motion is not filed, the evidentiary hearing will be canceled.**

**TRIAL**

* 1. Trial will be by [ ]  Jury [ ]  Judge
	2. Written waiver of jury trial submitted [ ]  Yes [ ]  No [ ]  N/A
	3. Expected Length of Trial \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
	4. Number of witnesses Prosecutor intends to call at trial \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
	5. Number of witnesses Defense intends to call at trial \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Motions in Limine to be filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Jury Instructions to be filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**THIS CASE IS CONTINUED FOR:**

[ ]  Evidentiary Hearing \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_ at \_\_\_\_ \_\_\_\_

[ ]  Judge Trial \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_ at \_\_\_\_ \_\_\_\_

[ ]  Final pretrial hearing \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_ at \_\_\_\_ \_\_\_\_

[ ]  Jury Trial \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_ at \_\_\_\_ \_\_\_\_

[ ]  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_

 at \_\_\_\_ \_\_\_\_

**NOTICE TO DEFENDANT:** *Choose all that apply*

* 1. [ ]  Defendant and Defendant’s attorney, if any, **must appear in person** for:

 [ ]  Evidentiary Hearing [ ]  Final Pretrial [ ] Trial [ ] Other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* 1. [ ]  In a case set for jury trial, if Defendant does not appear in person at the final pretrial hearing or at the jury trial, defendant waives (or gives up) the right to a jury trial. The court will cancel the jury trial and a judge trial will be held.
	2. [ ]  If Defendant does not appear in person at the trial, the court may hold the trial without him/her. If convicted, the court may sentence Defendant to the maximum penalties
	3. [ ]  If Defendant does not appear in person as ordered, his/her driver’s license may be immediately suspended and the court may issue an immediate arrest warrant.

**OTHER:**

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|  |
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|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Dated: |  |  | Prosecutor |  |
| Dated: |  |  | Defendant |  |
| Dated: |  |  | Defendant’s Attorney |  |
|  |  |  |  |  |
| Dated: |  |  |  |
|  |  |  | (City Court Judge/ Municipal Court Judge / Justice of the Peace) |

cc: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [ ]  Prosecutor [ ]  Defendant’s attorney [ ]  Defendant

 [ ]  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_