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Montana Rules of Court

Title: Montana Uniform Rules for Justice & City Courts

Date of Last Amendment to these Rules: 25JUN2019

Administrative File Number for these Rules: AF 19-0073

Most, but not all, Montana Rules of Court are kept in Administrative Files (AF) by the Clerk of the Montana Supreme Court. If you are interested in the history or amendments made to court rules, you can reference the above file number and contact the Clerk's office at (406) 444-3858, or via mail at Justice Building, 215 N. Sanders, Room 323, P.O. Box 203003, Helena, Montana 59620-3003.

The rules provided on our website are for state courts in Montana. Please note that Montana courts may have their own local rules about procedure. You will need to research and apply those rules in certain circumstances. If you are in federal court, you will need to research and apply federal rules.

MONTANA UNIFORM RULES FOR THE JUSTICE AND CITY COURTS

Codified at Title 25, Ch. 24, Part 1, of the Montana Code Annotated

Rule 1. Scope of rules.

(a) These rules, together with the Montana Justice and City Court Rules of Civil Procedure, govern the practice in all justice and city courts of the State of Montana.

(b) No local rules shall be adopted in conflict with these rules.

Rule 2. Multi-judge courts -- allocation of cases.

(a) If there is more than one justice of the peace in the same county, or more than one city judge in the same city, the judges shall by agreement divide the court caseload, civil and criminal, among the judges.

(b) In the event that an agreement cannot be reached, upon application of one of the judges listed above, the district judge of the judicial district or the chief district judge in a multi-judge district, shall enter an order which equitably apportions the caseload among the judges considering whether the judges are full or part time.

(c) All law enforcement agencies within the court's jurisdictional area shall be informed of the order dividing the jurisdictional area. Complaints shall be filed with the court in compliance with the division order of the judges. A complaint improperly filed shall be reassigned to the proper judge and not dismissed.

Rule 3. Files and exhibits.

(a) The court is the custodian of all court files. Files shall not be taken from the court without the consent of the judge.

(b) Every exhibit placed on file or offered in evidence shall be held in the custody of the court. Unless there be good reason why the original of an exhibit should be retained, upon application, the court may order a copy filed in its place. Public records offered in evidence may be withdrawn at the conclusion of the hearing on order of the court.

(c) Exhibits may be withdrawn by the party offering them thirty days after a judgment has become final. Forty-five days after a judgment has become final, a party may apply to the court for an order to dispose of exhibits, and shall notify the other party of said application. Twenty days after mailing of said notice the court may enter its order authorizing disposition of exhibits.

Rule 4. Docket and index.

(a) The court shall assign each citation and complaint a docket or case number. All docket or case numbers shall be in numerical order.

(b) The court shall maintain an alphabetical index to the docket as provided under Section 3-10-503, MCA.

Rule 5. Form and quality of paper filed.

(a) All papers, except the Uniform Complaint and Notice to Appear, shall be written in ink or typed on a good grade of white paper 8 1/2" by 11" in size.

(b) At the upper left margin of the first page of all papers filed with the court, shall be the name, address and telephone number of the responsible attorney or party. Below the responsible party information shall appear the title of the court, the case title and the docket number.

Rule 6. Motions.

(a) All motions or application for orders in civil or criminal cases must be made in writing as required by Rule 9 of the Montana Justice and City Court Rules of Civil Procedure. This rule does not apply to motions made during the progress of a trial.

(b) At the time of filing the motion, there shall be filed supporting affidavits or documents, if referred to in the motion or notice of motion.

(c) Failure to file briefs may subject the motion to summary ruling. Failure to file a brief within five days by the moving party shall be deemed an admission that the motion is without merit. Failure to file an answer brief by the adverse party within ten days shall be deemed an admission that the motion is well taken. Reply briefs are optional and failure to file will not subject a motion to summary ruling.

(d) The court may order oral argument on the motion.

(e) Unless oral argument is ordered, or unless the time is enlarged by the court, the motion is deemed submitted at the expiration of the applicable time limits.

(f) The requirement of a brief is fulfilled by a written statement or summary setting forth the facts and basis of the motion. The brief may be made a part of or attached to the motion.

Rule 7. Ex parte matters.

All requests for extension of time or continuances and other permissible ex parte matters shall be in writing. The request must provide that the opposing party has been contacted and given reasonable notice of:

(a) the time and place of the ex parte conference or meeting,

(b) the substance of the order sought, and

(c) whether the party opposes the matter.

Rule 8. Presenting orders etc.

(a) It shall be the duty of a party obtaining any order, judgment, warrant, summons, subpoena or like order to present the same in written form for the signature of the judge at the time of applying for the same.

(b) Two copies of any order, warrant, summons, subpoena, or like order requiring service shall be presented to the judge for signature, both shall be signed by the judge as original orders. One shall be retained as part of the court file, and the other used for service and returned to the court after service.

Rule 9. Witnesses subpoenas.

(a) When a case is set for trial the parties shall file with the court a written request for subpoenas for all known witnesses, and for any additional witnesses as soon as they are ascertained.

(b) The requesting party shall cause the subpoenas to be served as provided by law.

(c) No motion for continuance will be entertained unless a substantial compliance with this rule is shown.

Rule 10. Duty to make service.

(a) It shall be the duty of the parties when personal service is required of an order, warrant, summons, subpoenas, or any such order, to cause it to be delivered to the chief of police, sheriff or other qualified person for service.

(b) It shall be the duty of the parties in all cases to simultaneously serve their adversaries with a copy of all motions, pleas and briefs on the same day as filing with the court.

Rule 11. Filing of discovery.

Depositions upon oral or written examinations, interrogatories and answers thereto, requests for production of documents and responses thereto, shall not be routinely filed. When any motion is filed making reference to discovery, the party filing the motion shall submit with the motion relevant portions of unfiled documents.

Rule 12. Request for jury trial.

A request for a jury trial made within seven (7) days of the time set for trial may be treated by the court as a motion for continuance and the trial date vacated and reset.

Rule 13. Decorum.

(a) When the court convenes all persons in attendance in the courtroom shall rise until the judge has taken the bench.

(b) The judge of the court shall, when presiding in open court, wear judicial robes.

(c) All persons shall, when in the courtroom, wear appropriate clothing.

Rule 14. Representation.

(a) A party may represent oneself, or be represented by counsel.

(b) Except as provided in (c) below, no representation can be made on behalf of a party by another person except an attorney duly licensed by the State of Montana. A nonresident attorney may be permitted to represent a party upon motion of a licensed resident attorney as allowed under Section IV, Pro Hac Vice, of the 1998 Rules for Admission to the Bar of Montana.

(c) Unless the articles of organization state otherwise, a member with a majority interest in a limited liability company may represent the limited liability company as an attorney in justice's court as provided in 25-31-601.

(d) Death or removal of an attorney shall be governed by Rule 10 of the Uniform District Court Rules.

Rule 15. Office hours.

(a) On judicial days, regular office hours shall be designated by the court for the transaction of business. Notice of the hours shall be posted in the court's office.

(b) The court shall establish a regular time for initial appearances and arraignments on traffic and criminal actions. Notice of the time set shall be posted in the court's office.

Rule 16. Pre-trial conference.

(a) Pre-trials conferences shall be governed by Rule 14 of the Montana Justice and City Court Rules of Civil Procedure.

(b) Unless otherwise ordered by the court no pre-trial conference will be set. A party may request a pre trial conference not less than seven (7) days before trial.

(c) An attorney representing a party at a pre-trial conference shall appear with sufficient authority from the party so as to expedite the settlement of the action.

Rule 17. Payment of bonds.

(a) Bonds established by the judge in a schedule of bail for offenses may be paid to the court during business hours on every day except nonjudicial days. The schedule of bail shall be posted in the court's office.

(b) Bonds shall only be returned in the name of the person who deposited the same.

Rule 18. Continuances.

(a) A continuance or resetting of a trial or hearing may be granted upon a showing of good cause. The motion for continuance must be made in writing and served upon the opposing party or counsel.

(b) No continuance will be granted if not timely made. A continuance will not be granted if a party appears at the time set for a hearing or trial unprepared.

(c) A continuance will not be granted except for good cause, without timely notice given to all parties.

Rule 19. Jury instructions.

(a) In criminal actions, the general criminal jury instruction set forth in the Montana Judges Deskbook: Municipal, Justice and City Courts shall be given.

(b) In civil actions the general civil jury instruction set forth in the Montana Judges Deskbook: Municipal, Justice and City Courts shall be given.

(c) Any party may request special jury instructions. All proposed jury instructions and verdict forms must be delivered to the court in duplicate and a copy served upon all opposing parties not less than twenty-four (24) hours before trial.

Rule 20. Voir dire.

Unless for good cause shown, voir dire examination shall be limited to thirty (30) minutes for each party. Requests for additional time are to be made prior to voir dire examination.

Rule 21. Time computation.

(a) Time shall be computed as provided under Rule 6 of the Montana Justice and City Courts Rules of Civil Procedure.

(b) When the period of time prescribed or allowed is ten days or less, intermediate Saturdays, Sundays, and legal holidays shall be excluded.