

ORIGINAL

MONTANA SUPREME COURT PUBLIC MEETING

Tuesday, October 3, 2017, 1:00 p.m.

Joseph P. Mazurek Justice Building

215 North Sanders, Helena

Attorney's Lounge, 4th floor

IN ATTENDANCE:

- Chief Justice McGrath, and Justices Rice, Sandefur, McKinnon, Baker, Wheat, and Shea
- Chris Manos, on behalf of the State Bar of Montana;
- Kathie Lynch, on behalf of the State Bar of Montana Board of Bar Examiners;
- Beth Brennan and Kate McGrath Ellis, Members of the State Bar of Montana;
- Chris Wethern, Staff Attorney for the Montana Supreme Court;
- Hannah Cail, Erika O'Sullivan, Danielle Shyne, Victoria Dettman, and Kristin Bannigan, Law Clerks for the Montana Supreme Court.

AGENDA

AF 06-0652 APPOINTMENTS TO THE UNIFORM DISTRICT COURT RULES COMMISSION

- Chief Justice McGrath stated the terms of the Honorable Mike Salvagi and Monte Beck have expired and the terms of Cathy Lewis and the Honorable Gregory G. Pinski will expire on November 17, 2017. The Supreme Court expressed its gratitude for their service.
- Chief Justice McGrath noted that the Honorable Amy Eddy, Jim Molloy, and Rebekah French indicated their willingness to serve on the Uniform District Court Rules Commission.
- Justice Wheat moved, Justice Baker seconded the motion, and the Court agreed and signed an order appointing the Honorable Amy Eddy, Jim Molloy, and Rebekah French to the Uniform District Court Rules Commission.

FILED

NOV 07 2017

Ed Smith

CLERK OF THE SUPREME COURT
STATE OF MONTANA

AF 14-0745 AMENDMENTS TO THE TEMPORARY ELECTRONIC FILING RULES

- Justice Baker noted the temporary rules for electronic filing with the Supreme Court of Montana should be modified to include:
 - requiring a paper copy of the judgment or order from which the Appellant is appealing;
 - changing the requirement that copies of paper briefs be “submitted promptly” to requiring submission “within seven days” of e-filing;
 - eliminating the requirement to file paper copies of the Appendix; however, electronically filed Appendices should be in a uniform and searchable file format for ease of use.
- Justice Baker moved to adopt the amendments to the temporary electronic filing rules, Justice Wheat seconded, and the Court unanimously adopted the amendments.

AF 11-0244 AMENDMENT TO MONTANA SUPREME COURT BOARD OF BAR EXAMINERS’ RULE 104

- Chief Justice McGrath thanked everyone for their comments and opened the floor for new comments. Receiving none, Chief Justice McGrath asked for discussion on the proposed amendment that would provide accommodation for nursing mothers during the Bar Examination.
- Justice Baker stated the Rule amendment should be flexible and provide for accommodations based on an individual’s circumstances. Justice Baker proposed amendments to the Board of Bar Examiner’s proposed Rule 104(f) change as follows (highlights represent additions and strike throughs represent deletions):

F. Breastfeeding — Related Requests.

Although breastfeeding is not a disability as defined above, and is not to be considered one for purposes of granting accommodations, the Board will afford breastfeeding applicants accommodations in a manner consistent with public policy and law. Any breastfeeding applicant seeking such an accommodation shall submit a letter request for breastfeeding accommodation to the Bar Admissions Administrator by the filing deadline for the relevant Uniform Bar Examination administration stating the type of accommodation desired. The applicant need not submit the request for breastfeeding accommodations on the form otherwise required for a disability-based accommodation. A doctor's statement need not be submitted with the request but may be asked for by the Board at a later date. The request for breastfeeding

accommodations should include documentation of the child's date or expected date of birth. Individual accommodations may vary, in the Board's discretion, depending upon each applicant's request or circumstances and whether such accommodations are medically necessary for the health of the applicant or the infant. The types of accommodations that may be granted by the Board include but are not limited to the following, depending on each individual applicant's circumstances:

1. Permission to bring to the exam and store at the testing site necessary medical equipment and supplies, including a breast pump, storage supplies and a cooler;
 2. A private or semi-private location with an electrical outlet, if requested, to breastfeed or express breast milk. A semi-private location is defined as one that is located away from other applicants, except other applicants who are also breastfeeding or expressing milk; and
 3. Stop-the-clock breaks during each three-hour testing period to be used solely for the purpose of breastfeeding the infant or breast pumping, if existing breaks are insufficiently frequent for an individual's circumstances.
- Justice Baker moved to adopt the new rules as amended, Justice Shea seconded, and the Court unanimously adopted the changes. Chief Justice McGrath and Justice Baker agreed the rule change should be in effect for the February 2018 Bar Exam.

Chief Justice McGrath adjourned the meeting at 1:13 pm.

Duly Submitted
Hannah Cail,
Erika O'Sullivan,
Law Clerks