

## MONTANA SUPREME COURT PUBLIC MEETING MINUTES

Tuesday, March 24, 2026, 11:00 a.m.

Joseph P. Mazurek Justice Building

215 N. Sanders, Helena

Attorney's Lounge

Chief Justice Swanson called the meeting to order at 11:00 a.m. In attendance were the Chief Justice and Justices Baker, Bidegaray, McKinnon, Shea, and Rice. Justice Gustafson attended via Zoom.

Also in attendance were Bowen Greenwood, Supreme Court Clerk of Court; Harley Ternes, DV Community Justice Worker Team Lead; Alison Paul, Montana Legal Services Association Executive Director; William Hooks, Montana Legal Services Association Director of Advocacy; Katy Lovell, Access to Justice Program Director; Aislinn Brown, President of the State Bar of Montana; John Mudd, Executive Director of the State Bar of Montana; Pam Bucy, Chief Disciplinary Counsel; Mick Taleff, Chair of the Commission on Practice; and John Oldham, Erin Brosten, and Elizabeth Webster, Law Clerks.

Attending via Zoom were Jill Diveley, State Bar of Montana; Ellie Tinsley, Pro Bono Coordinator of the Montana Legal Services Association; Jamie Jansen, law student intern at Montana Legal Services Association; Brad Belke, Commission on Practice; Sheena Broadwater, Office of Disciplinary Counsel; Kyla Hailstone, Montana Family Court Awareness Project; Monique Voigt, Montana Legal Services Association Intake Navigator; Emma Koster, Montana Legal Services Association Justice for Montanans AmeriCorps Member; Frances King, Montana Legal Services Association Intake Manager; Jacob Bachmeier, Montana Legal Services Association Intake Manager; Megan Dishong, Montana Legal Services Association Deputy Director; Hayden Ramsey, Montana Legal Services Association Community Justice Worker Project Coordinator; Jill Hickson, Montana Legal Services Association Staff Attorney Montana Health Justice Project; Andelina Miller, Montana Legal Services Association Justice for Montanans AmeriCorps member; Valerie Falls Down, Montana Legal Services Association Tribal Advocacy Coordinator.

### **Item 1: Minutes from February 17, 2026, Public Meeting**

- The Court unanimously approved the minutes as corrected from the previous public meeting.

### **Item 2: Amendments to the Rules for Lawyer Disciplinary Enforcement**

- Chief Justice Swanson introduced the matter, noting the substantive comment from the State Bar regarding the Commission on Practice petition.
- Justice Baker requested that Chief Disciplinary Counsel respond to the State Bar's suggested changes. In response Pam Bucy stated the changes address deficiencies for ambiguities identified as a result of litigation over the past few years and noted she was available for questions regarding the information outlined in the petition. She then addressed the issues presented by the State Bar.
- Bucy expressed her understanding of the State Bar's concern regarding Rule 2(A) and noted her only concern with the State Bar's recommendation was conflict issues that may result from electing an alternate from the same jurisdiction.
- Justice Baker questioned whether the rule could be clarified to provide an option to choose alternates from any jurisdiction and Bucy expressed her support for this idea.
- Bucy addressed the standing issue by stating the Office of Disciplinary Counsel (ODC) made a conscious decision not to use the cognizable interest standard because there are already established standards for how attorneys and judges report to ODC and the cognizable interest standard only applies to outside interested parties who might make a complaint.
- Bucy agreed with the State Bar's streamlined certification proposal under Rule 34. Justice Baker requested clarification regarding the language in Rule 34(B)(2) that states "The State Bar of Montana shall create a confirmation process for Designated Interim Administrators to confirm that they are willing to serve as Interim Administrators" and both Bucy and John Mudd agreed with Justice Baker that sentence could be removed.
- Bucy addressed the State Bar's concern with the proposed use of the Lawyer Fund for Client Protection to fund trustee activity in Rule 34(j) and suggested tabling that discussion due to a more robust conversation that is necessary regarding ODC's budget. Mudd introduced the possibility that the State Bar could help with funding from its reserves upon further discussion. Mudd also requested the order direct the State Bar to conform its bylaws to the order.
- In response to a question from Justice Rice regarding the cognizable interest standard, Bucy explained in her experience, ODC does not see many claims from parties unless they are an interested party or attorney in the matter.
- Kyla Hailstone noted public concerns with rules being upheld and questioned how those concerns are being addressed. She also noted her concerns with the public struggling to frame complaints in such a way that they are taken seriously. Bucy responded, stating ODC investigates all complaints that come in and staff work with the public to seek more information if complaints are insufficient. Justice Baker added the ODC files an annual report with all disciplinary information which is released to the public. Mick Taleff added that all proceedings are open to the public, and the Commission on Practice (COP) makes every effort to respond to questions and ensure the process is fair and efficient. In addition, Taleff noted the appeal process available for grievances that are dismissed by the ODC.

- The Court was unanimous in conceptually adopting the following rule changes:
  - Rule 2(A) changes with the conceptual amendment from the State Bar that in the event of a conflict, an alternate member from any district may be elected.
  - Rule 34(A) change with the addition of language “beginning in 2027 and annually thereafter, an attorney shall submit to the State Bar . . .” and striking the language in Rule 34(B)(2) that states “The State Bar of Montana shall create a confirmation process for Designated Interim Administrators to confirm that they are willing to serve as Interim Administrators”
  - Rule 34(J)(1) changes with the amendment to strike the following language: “or the Montana Lawyers Fund for Client Protection.”
- The Court also agreed to create a working group between ODC and the State Bar to address funding and include language in the order that directs the State Bar to conform its bylaws to the order. The Court unanimously rejected any changes to Rule 33(G) or Rule 10(A)(2).
- Justice Baker suggested the Supreme Court Staff Attorney, Jeanine Blaner, draft the proposed conceptual changes.
- Chief Justice Swanson inquired about the ideal effective date of the proposed changes. After some discussion, it was decided that the ideal effective date would be January 1, 2027.

### **Item 3: Adoption of Rules Providing Limited Legal Services in Justice and City Courts**

- Chief Justice Swanson introduced the matter, noting there was substantial public comment in support of adoption of the rules and one comment against.
- Justice Baker discussed the shortage of lawyers in Montana, particularly in rural areas, and the limited scope of the proposed rule changes. She explained that the Access to Justice Commission had been exploring lay advocacy options for some time and supports this proposal. Justice Baker moved to approve the proposal as a conceptual amendment in the limited cases proposed and suggested a working group be appointed to flesh out the details.
- The Justices discussed potential members for the working group and decided it should include at least: Katy Lovell, the Access to Justice Program Director; the executive directors of the State Bar and Montana Legal Services Association; Brianne Holland-Stergar or another designated representative from the law school; a representative from courts of limited jurisdiction; and Justice Bidegaray as a representative of the Court.
- Justice Shea raised a question regarding how, procedurally, the working group’s proposed order would be circulated. Justice Baker explained there would have to be an order to begin the process and then once the proposed changes are submitted there would need to be an additional public comment period. Justice Baker volunteered to draft the initial order.

- Justice Rice raised a concern regarding the current absence of clear guidelines and regulations that define the scope of practice and the ability to monitor the impact of the program. Alison Paul explained that the Montana Legal Services Association would be able to work with the State Bar on oversight, and the working group would need to generate the details. Justice Baker added that the Access to Justice Commission could also play a role.
- John Mudd commented on the State Bar's potential oversight by creating a class of members who follow the guidelines under the program.
- Kayla Hailstone commented the State of Washington issues limited legal licenses but struggles with lack of infrastructure. Hailstone suggested opening the program beyond Montana Legal Services by building a more permanent structure for limited legal licenses to have a larger impact. Justice Baker expressed concern that expansion of the program would be a large undertaking. Justice Baker suggested evaluating the impact of the current program before expanding it further.
- The Court unanimously agreed to the conceptual motion to accept the program and appoint a working group.

#### **Item 4: Amendments to the Uniform District Court Rules**

- Chief Justice Swanson introduced the matter, noting there was no public comment on the issue.
- Justice Baker raised a question regarding whether the change on electronic service could be used by self-represented litigants. Alison Paul added her concern regarding the language "through an electronic filing service provider" because pro se litigants do not have access to the electronic filing service provider.
- Chief Justice Swanson noted the first part of the rule states "upon written agreement" which would allow pro se parties to avoid electronic service if so desired. Alison Paul noted her concern with the power differential between the court, the attorneys, and the pro se litigants and instances where pro se litigants will agree to terms not realizing they have another option.
- Justice Shea proposed striking the last portion of the language that states "through an electronic filing service provider" to allow pro se litigants to serve documents by other electronic methods.
- The Justices unanimously approved the amendment proposed by Justice Shea.
- Kyla Hailstone commented on issues with Rule 6 of the Montana Rules of Civil Procedure and proposed giving pro se litigants' access to electronic filing system. Justice Baker explained that currently not all courts are participating in e-filing, but it is a work in progress to expand access. Alison Paul noted that the Montana Legal Services Association has access to a grant and will be approaching the Commission on Technology and the Court to use the grant to increase electronic access to pro se litigants. Justice Baker explained that the Rules of Civil Procedure are not currently on the agenda, so the Rule 6 concern would have to be discussed at a later date.

- The Justices unanimously adopted the rule changes with the amendment.

**Item 5: Approval of the Bond Schedule for Courts of Limited Jurisdiction**

- Chief Justice Swanson introduced the matter, noting that the publication of the 2025 MCA's is pending the approval of the bond schedule.
- Justice Gustafson noted her concern for the inclusion of set bonds for felonies and suggested a risk stratification strategy over a set bond amount.
- After the Justices discussed the bond book's use for misdemeanors as compared to felonies, Justice Baker suggested the Court designate a group, directed by Justice Gustafson, to research the issue for future discussion.
- The Justices unanimously approved the bond schedule and tabled further discussion.

**Item 6: Appointments to the Commission on Practice**

- Elections were previously held to appoint members of the Commission on Practice for Areas B, F, G, and A. Thorin Geist, Lindsey Simon, Sheryl Wambsgans, and Charlotte Beatty received the most votes for their respective areas. Geist was appointed as a member for Area B, Simon was appointed as a member for Area F, Wambsgans was appointed for Area G, and Beatty was appointed for Area A.
- The Justices unanimously approved the appointments.

**Item 7: Appointments to the Commission on Technology**

- Chief Justice Swanson recommended to reappoint of Justice Shea, Dave McAlpin, and Bowen Greenwood to the Commission on Technology, noting their terms expire March 31, 2026.
- The Justices unanimously approved the reappointments.

**Item 8: Appointments to the Commission on Character and Fitness**

- Justice Baker nominated Lorrie Corette Campbell, noting her background and qualifications.
- The Justices unanimously approved the appointment.

The meeting adjourned at 12:36 p.m.